

**TITLE XI: BUSINESS REGULATIONS**

Chapter

- 110. MISCELLANEOUS BUSINESS LICENSING AND REGULATIONS**
- 111. AMUSEMENTS**
- 112. ALCOHOLIC BEVERAGES**
- 113. TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE**
- 114. RAFFLES**
- 115. HORSE-DRAWN CARRIAGES**
- 116. PEDDLERS AND ITINERANT VENDORS**
- 117. OUTDOOR DINING**
- 118. TOBACCO PRODUCTS**

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2

## **Rockton - Business Regulations**

## **CHAPTER 110: MISCELLANEOUS BUSINESS LICENSING AND REGULATIONS**

### Section

#### ***Operation of Rummage, Garage, Yard and Basement Sales***

- 110.01 Permit required
- 110.02 Records of permit application
- 110.03 Refusal of permits
- 110.04 Violation

#### ***Business Dealers of Junk, Rags and Second-Hand Articles***

- 110.30 License
- 110.31 Application
- 110.32 Bond
- 110.33 Automotive vehicles
- 110.34 Fees
- 110.35 Restrictions
- 110.36 Enclosures
- 110.37 Records
- 110.38 Prohibited purchases
- 110.39 Minors
- 110.40 Stolen goods
- 110.41 Hours of purchases
- 110.42 Operating of balers, presses or cutters

#### ***Vehicle Sales***

- 110.50 Titled vehicle sales

### ***OPERATION OF RUMMAGE, GARAGE, YARD AND BASEMENT SALES***

#### **' 110.01 PERMIT REQUIRED.**

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Before any individual, group of persons or organization, corporate, charitable or otherwise, shall sell or offer for sale any second-hand household goods, clothing or other miscellaneous article of personal property for any purposes or for the benefit of themselves, their own organization or society

## **Rockton - Business Regulations**

at what is commonly called a rummage, garage, yard or basement sale, they shall first obtain a permit from the Village Clerk. The permit shall be required regardless of the place where such sale is held or given, and the permit shall be issued for a specific address for a period of not longer than four days per sale, nor more frequently than two times per calendar year.

(Ord. 2000-19, passed 8-21-00)

### **' 110.02 RECORDS OF PERMIT APPLICATION.**

The Village Clerk shall maintain records of any and all individuals or entities applying for permits granting permission to hold rummage, garage, yard or basement sales and shall issue such permits without fee.

(Ord. 2000-19, passed 8-21-00)

### **' 110.03 REFUSAL OF PERMITS.**

In the event that any person, entity or organization applies for or attempts to obtain a permit to hold a sale contrary to the foregoing terms and conditions, the Village Clerk shall not issue such permit and shall notify the Village Board of Trustees of such requests. The Village Board of Trustees under such circumstances shall have the authority after due consideration of all pertinent facts to bar such person, entity or organization from obtaining a permit in the future for the holding of such intermittent or occasional sales for such period as deemed appropriate by the Village Board of Trustees.

(Ord. 2000-19, passed 8-21-00)

### **' 110.04 VIOLATION.**

It shall be unlawful for any person, entity or organization to hold a rummage, garage, yard or basement sale or any other intermittent or occasional sale of similar type within the village without first obtaining a permit regarding same as pursuant to the procedures that are set out above.

(Ord. 2000-19, passed 8-21-00) Penalty, see ' 10.99

## ***BUSINESS DEALERS OF JUNK, RAGS AND SECOND-HAND ARTICLES***

### **' 110.30 LICENSE.**

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No person, firm or corporation shall operate or carry on the business of keeper of a junk shop, store or yard for the purchase, sale or storage of junk, rags, paper, bags, cartons, old iron, steel, brass,

## Miscellaneous Business Licensing and Regulations

copper, tin, lead, sacks, barrels, bottles, tires or batteries, discarded motors, automobiles, trucks, automobile bodies, truck bodies or farm machinery or equipment or cause to be collected or gathered by means of any vehicle or otherwise any of the aforesaid articles or things without first having obtained a license therefor, as herein provided.

(Ord. 1954-1, passed 1-4-54)

### ' 110.31 APPLICATION.

All applications for a license hereunder shall be made in writing to the Village Clerk and shall contain the name of the applicant and, if a corporation, shall contain the names of the principal officers, the name of the registered agent and the location of the premises on which it is proposed to carry on such business, together with the number and description of all vehicles to be used in such business. Upon the receipt of such application, the Village Clerk shall immediately refer the same to the Plan Commission of the village and the Zoning Board of Appeals of the village, and no such application shall be issued by the Clerk unless and until the application has been approved for conformity with the Plan Commission ordinance and the zoning code of the village, as amended. If it shall appear that all the ordinances relating to the applicant, the subject matter of the license and the premises have been fulfilled, the Board of Trustees may authorize the Clerk to issue a license to the applicant authorizing engagement in such business on the premises designated in the application, upon payment to the Clerk of the fee herein provided. Renewals of licenses may be had hereunder if the applicant complies with all the provisions of this subchapter.

(Ord. 1954-1, passed 1-4-54)

### ' 110.32 BOND.

All applicants for licenses hereunder to operate or carry on the business of keeper of a junk shop, store or yard shall submit with their application a bond in the sum of \$1,000, with surety or sureties to be approved by the Village Board of Trustees, conditioned upon the due observance of all the ordinances of the village now in force or to be in force with reference to the keeping of a junk shop, store or yard; provided, however, that the applicant for a license hereunder to collect or gather by means of any vehicle or otherwise any of the articles or things mentioned in ' 110.30 shall submit with his or her application a bond in the sum of \$500, with surety or sureties to be approved by the Board of Trustees and conditioned as above.

(Ord. 1954-1, passed 1-4-54)

### ' 110.33 AUTOMOTIVE VEHICLES.

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For the purposes of this subchapter, a junk shop, store or yard shall be construed to include a motor vehicle wrecking or parts business and a motor vehicle junk yard, defined as any business and any place

## **Rockton - Business Regulations**

of storage or deposit, whether in connection with any other business or not, which displays or in or upon which there are displayed or exposed to view from a public street two or more unregistered motor vehicles which are unfit for reconditioning for use on the public highways or used or stripped parts of motor vehicles or trucks or old iron or steel, metal, glass or other waste or discarded material which has been a part or intended to be a part of any motor vehicle, the total of which parts or materials shall be equal in bulk to one or more motor vehicles.

(Ord. 1954-1, passed 1-4-54)

### **' 110.34 FEES.**

The annual fee for a license to operate or carry on any business regulated hereby shall be \$250 per year, and in addition, \$25 per year for each vehicle with four or more wheels, not including a trailer of any kind operated in the furtherance of the business. The annual license fee for operation of a vehicle with no more than two wheels and propelled by the licensee himself or herself or to collect or gather any of the articles or things named herein, by hand, and without the use of any vehicle, shall be \$5.

(Ord. 1954-1, passed 1-4-54)

### **' 110.35 RESTRICTIONS.**

No license shall be issued hereunder in violation of the zoning code of the village nor of the Plan Commission ordinance of the village. No license shall be issued hereunder to any person not a resident of the village at the time of making application and who has not been such resident for at least one year prior to the time of making application for such license.

(Ord. 1954-1, passed 1-4-54)

### **' 110.36 ENCLOSURES.**

Any person, firm or corporation operating any business or place licensed hereunder shall keep the premises so licensed in a neat and sanitary condition. All such premises shall be enclosed by a tight board fence at least seven feet high which shall be kept in a neatly painted condition and in good repair. No material used in such business shall be allowed to remain outside such fence.

(Ord. 1954-1, passed 1-4-54)

### **' 110.37 RECORDS.**

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Every person, firm or corporation licensed hereunder to operate or carry on the business of keeper of a junk shop, store or yard shall keep a permanent record book in which shall be legibly written at the time of each purchase an accurate account and description of the article or thing so purchased and the

## Miscellaneous Business Licensing and Regulations

name and residence of the person from whom such purchase was made. The record book as well as every article of value purchased in the course of such business shall at all reasonable times be open to the inspection of any police officer of the village.

(Ord. 1954-1, passed 1-4-54)

### ' 110.38 PROHIBITED PURCHASES.

No keeper of a junk shop, store or yard or person or persons operating a vehicle for the collection of junk shall buy or sell any coin of any kind, any article of gold or silver, any precious or semi-precious stones, any wearing apparel, any article of household furniture or any implement, tool or utensil which is in a sound, unbroken or undamaged condition, nor shall such keeper receive in the course of his or her business any article or thing by way of pledge or pawn, nor shall he or she loan or advance any sum of money on the security of such article or thing. The keepers of junk shops, stores or yards and collectors of junk shall keep and not sell, trade or otherwise dispose of the articles purchased by them as junk, except waste paper and rags for a period of ten days from and after the date of such purchase.

(Ord. 1954-1, passed 1-4-54)

### ' 110.39 MINORS.

No licensee operating under this subchapter shall purchase any goods, articles or things whatsoever, except rags, waste paper or bottles from any minor, without the consent of the parent or guardian of such minor, given in the presence of the licensee.

(Ord. 1954-1, passed 1-4-54)

### ' 110.40 STOLEN GOODS.

Every licensee hereunder shall produce for inspection any article, at all reasonable hours, upon the premises licensed, at the request of any police officer of the village.

(Ord. 1954-1, passed 1-4-54)

### ' 110.41 HOURS OF PURCHASES.

It be unlawful for any licensee hereunder to purchase in the course of such business any goods, articles or things whatsoever from any person between the hours of 10:00 p.m. and 8:00 a.m. of the following day, nor shall any person gather or cause to be collected or gathered in any way any goods,

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articles or things herein named as junk between the hours of 8:00 p.m. and 6:00 a.m. on the following day.

(Ord. 1954-1, passed 1-4-54) Penalty, see ' 10.99

**Rockton - Business Regulations**

**' 110.42 OPERATING OF BALERS, PRESSES OR CUTTERS.**

No licensee hereunder shall operate or allow to be operated upon any premises licensed hereunder any baler, press or cutter or any other noisome machinery between the hours of 9:00 p.m. and 8:00 a.m. of the following day, nor shall any such apparatus or machinery be operated on Sundays or any other legal holiday.

(Ord. 1954-1, passed 1-4-54)

***VEHICLE SALES***

**' 110.50 TITLED VEHICLE SALES.**

(A) Before any person shall allow any titled vehicle, including but not limited to automobiles, trucks or boats requiring title to transfer ownership, to be displayed for sale or sold on property within the village which is not zoned for the sale of vehicles or otherwise covered by a special use permit allowing for the sale of vehicles, they shall first obtain a permit issued from and by the village Police Department. The Police Department shall visit the property site from which vehicles are to be sold and issue said permit on site.

(B) A permit shall be issued for a specific address for a period of not longer than 60 days provided:

- (1) No more than two permits shall be allowed per calendar year for each property address;
- (2) There is only one permit per vehicle;
- (3) The applicant must provide a copy of the current vehicle title or certificate of registration;
- (4) The vehicle must be kept on or adjacent to the primary driveway of the property;
- (5) The applicant is an owner and/or an occupant of the property.

(C) Permits shall be affixed to the windshield of the vehicles to be displayed for sale.

(D) The Police Department shall be allowed to enter upon the property, during reasonable hours, for which the permits are issued to inspect the permits.

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(E) The Police Department shall maintain records of any persons applying for a permit as required herein.

(F) Any property owner in violation of this section shall be subject to a fine in the amount of \$75.  
(Ord. 2003-21, passed 8-21-03)

2005 S-1

## CHAPTER 111: AMUSEMENTS

### Section

- 111.01 Definitions
- 111.02 License required
- 111.03 Identification of licensed machines
- 111.04 Impounding; procedure; redeeming machines; sale
- 111.05 Regulations
- 111.06 Fee doubled for noncompliance
- 111.07 Fine for unlicensed machines

#### ' 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***AUTOMATIC MUSICAL INSTRUMENT.*** Any phonograph, piano player, music box, juke box or other music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening or by the payment of any price operates or may be operated for the emission of songs, music or similar amusement.

***SKILL OR AMUSEMENT MACHINES.*** Any pinball machine, ski-ball machine, baseball machine, basketball machine, shuffleboard machine, pool table or any similar type of game or machine manipulated directly or indirectly for the purpose of amusement or test of skill.

***VENDING MACHINE.*** Any machine used for the sale of candy, peanuts, soft drinks, milk beverages, ice, ice cream, dairy products, popcorn, gum, all food products, cigarettes, cigars, prophylactics or any merchandise sold for more than five cents.  
(Ord. 1985-3, passed - -)

#### ' 111.02 LICENSE REQUIRED.

No person shall keep or permit to be kept for gain or profit from the operation within the village any automatic musical instrument, skill or amusement machine or vending machine without first having

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obtained a license.

(Ord. 1985-3, passed - -)

' **111.03 IDENTIFICATION OF LICENSED MACHINES.**

Each machine for which the applicant makes application for a license shall be identified in a permanent and conspicuous manner with the name, business address and telephone number of the applicant.

(Ord. 1985-3, passed - -)

' **111.04 IMPOUNDING; PROCEDURE; REDEEMING MACHINES; SALE.**

Any machines for which licenses are required under the terms of this chapter are subject to immediate impounding by the Village Clerk, or any agent in the village employ he or she may designate, if machines are discovered unlicensed for the license year then current; provided however, that whenever a machine bears the identification required by this chapter, a five-day written notice by first class mail addressed according to the identification shall be given to the operator whose name appears thereon before such machine is impounded. Any machines so impounded may be redeemed by their owner only upon representation of evidence of ownership satisfactory to the Village Clerk and upon payment of \$5 per day storage charge per machine, plus any costs incurred by the village in such impounding, in addition to any other penalties exacted under the terms of this chapter. The village will in no way be liable for damage to any machines so impounded while they are in the custody of the village. If any machine so impounded is not redeemed within 60 days of the impounding, the Village Clerk, at his or her discretion, may dispose of them at auction sale to be held one week after the sale is advertised at least once in a newspaper of general circulation in the village. Any machine so advertised and not sold at auction may be otherwise disposed of by the Village Clerk in the best interest of the village.

(Ord. 1985-3, passed - -)

' **111.05 REGULATIONS.**

(A) No license issued hereunder shall permit the operator of any automatic musical instrument at any place or in any manner which will disturb the peace and quiet of persons outside the licensed premises. No lewd or pornographic selections shall be offered or played on any such instrument.

(B) It shall be the duty of the President or his or her duly appointed agent, and he or she is authorized and empowered to inspect and examine all food or drink or tobacco products being offered for sale by means of automatic vending machines for the purpose of ascertaining, whether the laws of the state and of the village in relation to sales from such vending machines are complied with and that the food, drink or tobacco products so offered for sale has been kept fresh, clean and wholesome, and it shall be the duty of all persons operating the vending machines upon the demand of the official for him or her to furnish to

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him or her for his or her inspection samples of all food, drink and tobacco products, which samples may be analyzed by or under the official and a record of such analysis shall be made and kept in his or her office for the inspection of the public.

(Ord. 1985-3, passed - -)

**' 111.06 FEE DOUBLED FOR NONCOMPLIANCE.**

(A) For each machine so operated, the applicant shall pay an annual license fee payable on the first day of September of each year as follows:

- |                                   |       |
|-----------------------------------|-------|
| (1) Automatic musical instrument: | \$25. |
| (2) Skill or amusement machine:   | \$25. |
| (3) Vending machine:              | \$25. |

(B) The applicant shall pay a double fee for any such machine operated without a permit.  
(Ord. 1985-3, passed - -)

**' 111.07 FINE FOR UNLICENSED MACHINES.**

The lessee of the premises, or the owner in the event that the premises are not leased, upon which any unlicensed machine is found shall be presumed to be the operator of the unlicensed machine. It shall be unlawful for any person to operate any machine regulated by this chapter without a license.

(Ord. 1985-3, passed - -) Penalty, see ' 10.99

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## CHAPTER 112: ALCOHOLIC BEVERAGES

### Section

#### *General Provisions*

112.01 Definitions

#### *Licenses*

112.20 License required

112.21 Applications

112.22 Term

112.23 Bond

112.24 Classification and fees

112.25 Disposition of fees

112.26 Transfer of license

#### *Regulations*

112.40 Change of location

112.41 Sanitary conditions

112.42 Persons of non-age

112.43 Hours of operation

112.44 Restricted sales

112.45 Employment

112.46 Gambling

112.47 Consumption on premises

112.48 Revocation

112.49 Beer gardens

***GENERAL PROVISIONS***

**' 112.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALCOHOLIC LIQUOR.*** Any spirits, wine, beer, ale or other liquor containing more than .5% of alcohol by volume which is fit for beverage purposes.

***HOTEL (MOTEL).*** A building or buildings kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or resident, in which 25 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms where meals are served to such guests.

***SELL OR SALE AT RETAIL.*** Sales for use or consumption and not for resale in any form.  
(Ord. 1997-7, passed 8-4-97)

***LICENSES***

**' 112.20 LICENSE REQUIRED.**

It shall be unlawful for any person, firm or corporation to sell, offer for sale or keep with the intention of selling either by draught, in bottles, cases, cartons, containers or otherwise in the village, any beer, wine or alcoholic liquor without first obtaining a license permitting the sale thereof as herein provided.

(Ord. 1997-7, passed 8-4-97) Penalty, see ' 10.99

**' 112.21 APPLICATIONS.**

(A) Applications for such licenses shall be submitted to the Village Clerk in writing upon the form provided for such purpose by the village and which will include in part information required by 235 ILCS 5/6-2 *et seq.*, or any subsequent amendment thereto, to determine the fitness as required thereunder or as

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to public good and convenience, a description of the premises and the location thereof and that the applicant will abide by the laws of the State of Illinois of the United States and the ordinances of the village in the conduct of his or her place of business.

## Alcoholic Beverages

(B) If the applicant does not comply with the restrictions set forth in 235 ILCS or any subsequent amendments thereof (the reasons specifically enumerated therein prohibiting the issuance of a license), no license shall be issued, and any license fee paid with such application shall be returned to the applicant.

(Ord. 1997-7, passed 8-4-97)

### ' 112.22 TERM.

A license shall be issued for a period of one year, from July 1 to June 30 of the succeeding year, and may be renewed only upon proper application as if for a new license. If applicant does not own the premises described in the application, a signed copy of a lease valid for the term of the license must accompany the application.

(Ord. 1997-7, passed 8-4-97)

### ' 112.23 BOND.

Before the issuance of any retail license under this chapter, the applicant shall at the time of filing his or her application execute and deliver to the village a bond in the penal sum of \$500, payable to the village, with a surety company and sufficient sureties to be approved by the Board of Trustees, conditioned that such applicant shall at all times keep and maintain a good and orderly establishment and that such applicant shall well and truly pay all fines, penalties and costs which such applicant may incur for violation of this chapter or any other ordinance relating to the conduct of his or her business. The bond shall be filed in the office of the Village Clerk, and any violation of any of the provisions of this chapter or of any ordinance amendatory thereof, or any breach or violation of any of the other conditions or provisions of the bond shall result in a forfeiture of the bond and the full amount of the bond shall be recovered by the village in an action of debt.

(Ord. 1997-7, passed 8-4-97)

### ' 112.24 CLASSIFICATION AND FEES.

(A) *Authorization.* The President and Board of Trustees may, at their discretion, upon the application of any reputable person, firm or corporation, authorize the issuance of a license in one of the following classes. Prior to the issuance of a liquor license, the applicant shall deposit \$5,000 with the village. The deposit shall be placed in the General Fund of the village and is nonrefundable, unless the initial license is not approved.

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(B) *Class A.* This class shall permit the retail sale of alcoholic liquor for consumption on the premises as well as sales for carriage from the premises in the original and unbroken packages only. The annual fee for such license shall be \$1,500. Number of licenses permitted: no limitation.

## Rockton - Business Regulations

(1) Any holder of a Class A license may apply for a Class K license, which Class K license shall also be required in order for the applicant to have, locate, maintain and operate Video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class A licensed establishment. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act.

(2) The annual fee for a Class K License shall be \$500 and which fee is in addition to the annual fee for a Class A license.

(C) *Class B.* This class shall permit the retail sale for consumption on the premises by a licensee operating a hotel, as herein defined. The annual fee for such license shall be \$1,500 per building in which the licensee operates one or more permanent bars. (The joinder of any building by walkway, canopy or other shelter shall not cause two buildings to be construed as one.) Number of licenses permitted to issue: no limitation.

(1) An application for this Class B license shall also state in its application the number of bars to be operated and their location; service bars (those of temporary construction and use) shall be excluded, but their location must also be stated.

(2) Any holder of a Class B license may apply for a Class K license, which Class K license shall also be required in order for the applicant to have, locate, maintain and operate video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class B licensed establishment. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act.

(3) The annual fee for a Class K license shall be \$500 and which fee is in addition to the annual fee for a Class B license.

(D) *Class C.* This class shall permit the sale of alcoholic beverages, including beer in original and unbroken packages only for carriage from the premises and shall not permit sale for consumption on the premises. A Class C license holder may allow for alcoholic liquor taste testing and consumption within the area of the licensed premises used for display of package alcoholic liquor. No display, taste testing or consumption related thereto shall occur outside the area within the licensed premises used for display of package alcoholic liquor. The annual fee for such license shall be \$1,500. Number of licenses permitted to issue: no limitation.

(1) (a) Any holder of a Class C license may apply for a Class K license which Class K license shall also be required in order for the applicant to have, locate, maintain and operate video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class C licensed establishment, provided such establishment meets all the requirements to be considered a

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**LICENSED TRUCK STOP ESTABLISHMENT** as defined under the Illinois Gaming Act (i.e. is a facility:

1. That is at least a three-acre facility with a convenience store,

2013 S-7

## Alcoholic Beverages

2. With separate diesel islands for fueling commercial motor vehicles,
3. That sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month,  
and
4. With parking spaces for commercial motor vehicles.

(b) **COMMERCIAL MOTOR VEHICLES** has the same meaning as defined in 625 ILCS 5/18b-101 of the Illinois Vehicle Code. The requirement of division (A)(1)(a)3. above may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act.

(2) The annual fee for a Class K license shall be \$500 and which fee is in addition to the annual fee for a Class C license.

(E) *Class D.* This class shall permit the retail sale of alcoholic liquor for consumption on the premises of a club, a club being defined in 235 ILCS 5/1-3.24, or any amendment thereof, provided further that such club shall have been chartered and continuously in active operation within the village for a period of at least ten years prior to the date of application for such license. The annual fee for such license shall be \$750. Number of licenses permitted to issue: no limitation.

(1) To the extent any holder of a Class D license also qualifies as a licensed fraternal establishment or a licensed veterans establishment under the provisions of the Illinois Video Gaming Act, such holder may apply for a Class K license, which Class K license shall also be required in order for the applicant to have, locate, maintain and operate video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class D licensed establishment. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act.

(2) The annual fee for a Class K license shall be \$500 and which fee is in addition to the annual fee for a Class D license.

(F) *Class E.* This class shall permit the sale of beer and wine by restaurants for consumption on the premises only, provided that at least 50% of the gross receipts of the restaurant shall be from revenue sources other than the sale of beer and wine. The annual license fee for such license shall be \$1,500. Number of licenses permitted to issue: no limitation.

(1) Any holder of a Class E license may apply for a Class K license, which Class K license shall also be required in order for the applicant to have, locate, maintain and operate video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class E licensed establishment. Any person holding a Class K license shall comply with all provisions of the

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### Illinois Video Gaming Act.

(2) The annual fee for a Class K license shall be \$500 and which fee is in addition to the annual fee for a Class E license.

2013 S-7

(G) *Class SE (special event).*

(1) This license shall constitute a special and limited license. A Class SE license shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer), and authorizes the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form, and only at the location and on the specific dates designated for the special event in the license.

(2) The Liquor Commissioner may grant a special event license only to any not-for-profit organization or club such as a church, order or lodge, veterans organization, civic organization or other similar not-for-profit organization, authorizing the sale of alcoholic beverages approved by the Liquor Commissioner at any special event, including, but not limited to any dance, concert, races, runs, walks, block parties, festivals, picnics, or similar function sponsored by such not-for-profit organization or club. Number of licenses permitted to issue: no limitation. The following restrictions are applicable for a special event license:

(a) A Class SE license holder shall be entitled to dispense alcoholic liquor at events on no more than 12 occasions in one license year.

(b) A license fee of \$10 shall be deposited by the licensee with the application for said special event license. Sufficient evidence of dram shop liability insurance must be provided with the applicant's application.

(c) All sales and consumption pursuant to the special event license shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.

(d) Any alcoholic beverages sold pursuant to a special event license must be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with applicant's application.

(e) All sales and consumption pursuant to the special event license shall be conducted only during the hours specified on the license.

(f) Proof of receiving a state special event retailer's liquor license shall be required prior to the event.

(H) *Class SU (special use permit) license.* This license shall allow an Illinois-licensed liquor retailer to transfer a portion of its inventory approved by the Liquor Commissioner from its licensed retail

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premises to a designated site, and to sell or offer for sale at retail, only at the designated site, the transferred alcoholic liquor for use and consumption, but not for resale in any form. Number of licenses permitted to issue: no limitation. The following restrictions shall be applicable to a special use permit:

2013 S-7

## Alcoholic Beverages

(1) A special use permit license must be obtained for each location and may be granted for the following time periods: one day or less; two or more days to a maximum of four days per location with no more than four special use permit licenses being issued to any applicant within one license year.

(2) A license fee of \$100 per day shall be deposited by the licensee with the application for said special use permit license. Sufficient evidence of dram shop liability insurance must be provided with the applicant's application.

(3) All sales and consumption pursuant to the special use permit license shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.

(4) Any alcoholic beverages sold pursuant to a special use permit license shall only be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with applicant's application.

(5) All sales and consumption pursuant to the special use permit license shall be conducted only during the hours specified on the license.

(6) Proof of receiving a state special use permit liquor license shall be required prior to the event.

(I) *Class I.* This class shall permit the retail sale of alcoholic beverages for consumption on the premises as well as sales for carriage from the premises in the original and unbroken packages only. This license shall be valid only for the months of July, August, September, October, May and June. The annual fee for such license shall be \$500. Number of licenses permitted: no limitation.

(J) *Class J.* Shall permit the retail sale of alcoholic liquor for consumption on the premises only of sidewalk cafés, as defined by Chapter 117 of this Code. All applicants for such sidewalk café liquor license shall have a valid Class A or Class E liquor license at the time of application for a sidewalk café liquor license. A Class J liquor license permit shall comply with all provisions of Chapter 117 including all regulations of ' 117.05. The sale, service and consumption of alcoholic beverages shall be prohibited in a sidewalk café between 11:00 a.m. and 12:00 midnight, except in conjunction with a meal, as defined by ' 117.05. Further, the sale, service and consumption of alcoholic beverages in a sidewalk café shall be prohibited between the hours of 12:00 midnight and 11:00 a.m. The annual fee for a Class J permit shall be \$50.

(K) *Class K.* Any holder of a Class A, B, D, or E liquor license may apply for a Class K license, which Class K license shall be required, in order for the applicant to have, locate, operate, or maintain

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video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class A, B, D, or E licensed establishment. Any person holding a Class K license shall comply with all provisions of the Illinois Video Gaming Act. The annual fee for a Class K license shall be \$500 and which fee shall be in addition to the annual Class A, B, D, E license fee.

2013 S-7

## Rockton - Business Regulations

### (L) *Class BB (bar-boutique gaming).*

(1) Class BB shall authorize the retail sale of alcoholic liquor on the premises specified for consumption on the premises only provided the licensed premises also has, locates, maintains and lawfully operates video gaming terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class BB licensed establishment. The annual fee for such license shall be \$2,000.

(2) A Class BB License and the holder thereof, shall be subject to the following limitations:

(a) The licensed premises shall not exceed 2,000 square feet.

(b) Live music, DJ, karaoke, and/or juke boxes are prohibited on the licensed premises. Notwithstanding the foregoing, a music system, operated solely by the licensee, shall be permitted so long as such system is operated at such levels so as to not be heard outside of the licensed premises.

(c) Licensee shall not be permitted to have a patio or beer garden of any kind.

(d) No alcohol related signs which are visible from the outside of the licensed premises shall be permitted on the licensed premises.

(e) No games, other than the video gaming terminals as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, shall be permitted on the licensed premises, including, but not limited to, pool tables, dartboards, and shuffle board.

(M) *Change of class.* Any license holder may apply to change its class at the discretion of the President and the Board of Trustees, providing that all of the laws of the state and the village ordinances and zoning are complied with and upon payment of a transfer fee of \$500.

(Ord. 1997-7, passed 8-4-97; Am. Ord. 1997-8, passed 8-18-97; Am. Ord. 2000-18, passed 7-5-00; Am. Ord. 2002-4, passed 4-2-02; Am. Ord. 2013-19, passed 9-17-13)

### ' 112.25 DISPOSITION OF FEES.

All fees shall be paid to the Clerk at the time of application and shall be deposited by the Treasurer in the General Corporate Fund or in such other fund as shall have been designated by the Board of Trustees. At the option of the applicant, the license fee may be paid in two equal installments, one on July 1 and one on January 1.

(Ord. 1997-7, passed 8-4-97)

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**' 112.26 TRANSFER OF LICENSE.**

A license shall be purely a personal privilege and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or

2013 S-7

involuntarily or subject to being encumbered or hypothecated. The license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors or administrators of the estate of any deceased licensee and the trustee of any bankrupt licensee, when such estate constitutes in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under order of the appropriate court and may exercise the privileges of the deceased or bankrupt licensee after the death of such decedent or bankrupt, until the expiration of such license, but not longer than six months after the death or bankruptcy of such licensee. There shall be no refund or rebate made of that portion of the license fees paid for any period in which the licensee shall be prevented from operating under such license in accordance with the provisions of this section.

(Ord. 1997-7, passed 8-4-97)

***REGULATIONS***

**' 112.40 CHANGE OF LOCATION.**

A license shall permit the sale of alcoholic liquor only on the premises described in the application. The location may be changed only upon a written permit to make such change issued by the Liquor Commissioner. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the laws of this state and the ordinances of the village.

(Ord. 1997-7, passed 8-4-97)

**' 112.41 SANITARY CONDITIONS.**

(A) All premises used for the retail sale of alcoholic liquor for consumption on the premises, or for the storage of such liquor for such sale shall be kept clean and in a sanitary condition, shall comply with the health codes currently in force in the village and shall be equipped with two sanitary, well-lighted toilets, one for the use of the men and the other for the use of the women.

(B) All persons who shall work under a license issued hereunder shall annually file a certificate of health with the license application, and it shall be unlawful to employ or continue the employment of any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with, or a carrier of, any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor.

(Ord. 1997-7, passed 8-4-97) Penalty, see ' 10.99

**' 112.42 PERSONS OF NON-AGE.**

(A) It shall be unlawful for any holder of a retail liquor dealer=s license or his or her agent or employee to sell, give or deliver any alcoholic liquor to any person under the age of 21 years.

## Rockton - Business Regulations

(B) It shall be unlawful for any person under the age of 21 years of age to purchase or to attempt to purchase or otherwise obtain alcoholic liquor, or to make false statements, or to furnish, present or exhibit any fictitious or false registration card, identification card or other document indicating that the person is of the age of 21 years or over or to engage or utilize the services of any other person, whether for remuneration or not, to procure for such person any alcoholic liquor.

(C) It shall be unlawful for any licensee, his or her agent or employee to suffer or permit any person under the age of 21 years to be on or remain on a licensed premises, provided that this division shall not apply to any person of non-age who is accompanied by his or her parent or guardian or to any licensed premises which derives its principal business from the sale or service of other commodities than alcoholic liquor, and further excepting persons properly employed by the licensee.

(D) It shall be unlawful for any parent or guardian to permit any minor child of which he or she may be parent or guardian to violate any provision of this chapter.

(E) Notwithstanding the provisions of ' 134.11(C), it shall be unlawful for any person under the age of 21 years to consume any alcoholic liquor or any other beverages containing alcoholic liquor or to be under the influence of alcoholic liquor. It shall also be unlawful for any person to knowingly permit a gathering of two or more persons at a residence which he or she occupies, where any one or more of the persons is under 21 years of age and any such person is in possession of or consuming any beverage containing alcoholic, subject to the provisions of ' 134.11(C).

(Ord. 1997-7, passed 8-4-97; Am. Ord. 2010-19, passed 9-21-10) Penalty, see ' 10.99

### ' 112.43 HOURS OF OPERATION.

(A) Any business or establishment licensed under this chapter may sell, offer for sale, give away or allow alcoholic liquor to be consumed on the premises if permitted by the particular license between the following hours:

- (1) Monday through Saturday: 6:00 a.m. to 2:00 a.m. of the next day;
- (2) Sunday: 10:00 a.m. to 2:00 a.m. of the next day.

(B) No alcoholic liquor shall be sold, offered for sale, given away, carried out of or consumed by anyone, including the owners and employees thereof on or in any premises licensed under this chapter on Monday through Saturday between the hours of 2:00 a.m. and 6:00 a.m.; on Sunday between the hours of 2:00 a.m. and 10:00 a.m.; and on New Year=s Day between the hours of 2:00 a.m. and 6:00 a.m., unless New Year=s Day is on a Sunday, then the hours prohibited would be between 2:00 a.m. and 10:00 a.m.;

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providing, further, however, that alcoholic liquor may be sold or offered for sale on Sundays in original containers with an unbroken seal on any premises licensed under this chapter for an additional four hours between the hours of 6:00 a.m. and 10:00 a.m.

(Ord. 1997-7, passed 8-4-97; Am. Ord. 1998-24, passed 9-21-98)

2013 S-7

**' 112.44 RESTRICTED SALES.**

(A) No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21 years to any intoxicated person or to any person known by him or her to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years, except in the performance of a religious ceremony or service.

(B) For the purposes of preventing the violation of this section, any licensee, or his or her agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years.

(C) Adequate written evidence of age and identity of the person is a document issued by a federal, state, county or municipal government or subdivision or agency thereof, including but not limited to a motor vehicle operator=s license, a registration certificate issued under the Federal Selective Service Act or any identification card issued to a member of the Armed Forces. Proof that the defendant-licensee, or his or her employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon. (Ord. 1997-7, passed 8-4-97)

**' 112.45 EMPLOYMENT.**

(A) It shall be unlawful to knowingly employ any person in any capacity whatsoever who has been convicted of a felony.

(B) The following minimum ages shall apply for employees in establishments where alcoholic liquors are sold:

- (1) Sales in original containers for consumption elsewhere: 18 years or older;
- (2) Sales in glasses and cans, but not including the pouring or mixing of that alcoholic liquor: 18 years or older;
- (3) Pouring or mixing at a bar which has no access to the general public or club members, for example, bars located in kitchens or service areas which serve the wait staff of the establishment: 18 years or older;

[www.rocktonpolice.org](http://www.rocktonpolice.org)

2013 S-7

22B

**Rockton - Business Regulations**

- (4) Pouring or mixing at a bar which has access to the general public or club members:

directly

least

19 years or older;  
 provided they are  
 supervised by a person  
 that has obtained at  
 the age of 21 years;

- (5) Stocking shelves and allied service, employment for usual services of a bus person, bell person or chamber maid:

16 years or older;

- (6) Entertainers:

21 years or older.

(Ord. 1997-7, passed 8-4-97; Am. Ord. 1999-11, passed - -99)

**' 112.46 GAMBLING.**

It shall constitute a violation of this chapter to suffer or permit any person to play for money or other valuable thing at any cards, dice, checks or with any article or instrument or thing whatsoever which may be used for the purpose of playing or betting and thereby winning or losing money or any other thing or article of value or shall suffer or permit any person to bet on any game others may be playing or shall keep or suffer to be kept in or upon the premises any implements such as are used in gambling in order that the same may be used for hire, gain or reward by gambling. Notwithstanding the foregoing, any licensed premises shall be permitted to have, locate maintain and operate **VIDEO GAMING TERMINALS** (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) so long as such Video gaming terminals are duly licensed pursuant to and in conformance with the Illinois Video Gaming Act and such location, maintaining and operation of video gaming terminals on the licensed premises otherwise conforms to all applicable provisions of the Video Gaming Act.

(Ord. 1997-7, passed 8-4-97; Am. Ord. 2012-9, passed 6-5-12; Am. Ord. 2013-19, passed 9-17-13)  
 Penalty, see ' 10.99

**' 112.47 CONSUMPTION ON PREMISES.**

When alcoholic liquor has been purchased for consumption on the premises, it shall be unlawful to consume such liquor in any other place than the premises upon which it was purchased.

(Ord. 1997-7, passed 8-4-97) Penalty, see ' 10.99

**' 112.48 REVOCATION.**

The President may suspend under statute or revoke any liquor license for the violation of any provision of this chapter or for the violation of any state law pertaining to the sale of alcoholic liquor upon immediate notice and hearing, and such suspension or revocation shall be in addition to any fine assessed by any court for such violation.

(Ord. 1997-7, passed 8-4-97)

**' 112.49 BEER GARDENS.**

The holder of a liquor license that permits the consumption on the premises shall be allowed to establish a beer garden, provided that they comply with the following conditions:

(A) *Closing hours.* It shall be unlawful to sell or offer for sale or the consumption of any alcoholic liquor within the beer garden located in the village on Sunday, Monday, Tuesday, Wednesday and Thursday after the hour of 10:00 p.m. and on Friday and Saturday after the hour of 12:01 a.m.

(B) *Opening hours.* Opening hours shall be no earlier than the opening hours established in ' 112.43.

(C) *Live entertainment.* No live entertainment shall be allowed within the beer garden.

(D) *Fencing.* The area containing the beer garden shall be entirely fenced with a solid decorative fence of not less than eight feet in height and no more than ten feet in height.

(E) *Entry and exiting.* No person may be permitted to enter or exit the beer garden from the street, sidewalk or outside with the exception of physically, handicapped persons.

(Ord. 1997-7, passed 8-4-97) Penalty, see ' 10.99

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2013 S-7

[www.rocktonpolice.org](http://www.rocktonpolice.org)

22D

**Rockton - Business Regulations**

## CHAPTER 113: TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

### Section

- 113.01 Definitions
- 113.02 Simplified municipal telecommunications tax imposed
- 113.03 Collection of tax by retailers
- 113.04 Returns to department
- 113.05 Resellers
- 113.06 Rebates and exemptions
- 113.07 Effect of future repeal

### 113.01 DEFINITIONS.

As used in this chapter, the following definitions shall apply unless the context clearly indicates or requires another meaning.

**AMOUNT PAID.** The amount charged to the taxpayer=s service address in such municipality regardless of where such amount is billed or paid.

**DEPARTMENT.** The Illinois Department of Revenue.

**GROSS CHARGE.** The amount paid for the act or privilege of originating or receiving telecommunications in such municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. **GROSS CHARGES** for private line service shall include charges imposed at each channel termination point within this state, charges for the channel mileage between each channel termination point within this state, and charges for that portion of the interstate inter-office channel provided within Illinois. However, **GROSS CHARGES** shall not include:

- (1) Any amounts added to a purchaser=s bill because of a charge made pursuant to:
  - (a) The tax imposed by this chapter;



## Rockton - Business Regulations

(b) The tax imposed by the Telecommunications Excise Tax Act, 35 ILCS 630/1 *et seq.*;

(c) The tax imposed by Section 4251 of the Internal Revenue Code;

(d) 911 surcharges; or

(e) Charges added to customers= bills pursuant to the provisions of 220 ILCS 5/9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers= bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act, 220 ILCS 5/9-202, 9-221, 9-222 and 9-222.1;

(2) Charges for a sent collect telecommunication received outside of such municipality;

(3) Charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;

(4) Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

(5) Charges to business enterprises certified as exempt under 220 ILCS 5/9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs;

(6) Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly-owned subsidiaries or between wholly-owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly-owned subsidiaries or between wholly-owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;

(7) Bad debts (***BAD DEBT*** means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the

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reporting period in which the payment is made);

## Telecommunications Infrastructure Maintenance Fee

(8) Charges paid by inserting coins in coin-operated telecommunication devices; or

(9) Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

**INTERSTATE TELECOMMUNICATIONS.** All telecommunications that either originate or terminate outside this state.

**INTRASTATE TELECOMMUNICATIONS.** All telecommunications that originate and terminate within this state.

**PERSON.** Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the federal and state governments, including state universities created by statute, or any city, town, county, or other political subdivision of this state.

**PURCHASE AT RETAIL.** The acquisition, consumption or use of telecommunications through a sale at retail.

**RETAILER.** Every person engaged in the business of making sales at retail as defined in this section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this state, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this state in the same manner and subject to the same requirements as a retailer maintaining a place of business within this state. The permit may be revoked by the Department at its discretion.

**RETAILER MAINTAINING A PLACE OF BUSINESS IN THIS STATE.** Includes any like term. Any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this state.

**SALE AT RETAIL.** The transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the federal and state governments, and state universities created by statute and other than between a parent corporation and its wholly-owned subsidiaries or between wholly-owned subsidiaries for their use or consumption and not for resale.

## Rockton - Business Regulations

**SERVICE ADDRESS.** The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, **SERVICE ADDRESS** shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

**TAXPAYER.** A person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by this chapter.

**TELECOMMUNICATIONS.** In addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this chapter, **PRIVATE LINE** means a dedicated nontraffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of **TELECOMMUNICATIONS** shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. **TELECOMMUNICATIONS** shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered telecommunications subject to the tax imposed under this Act. For purposes of this section, **PREPAID TELEPHONE CALLING ARRANGEMENTS** means that term as defined in Section 227 of the Retailers' Occupations Tax Act. (35 ILCS 635/10) (Ord. 2002-13, passed 9-17-02)

**Telecommunications Infrastructure Maintenance Fee**

**113.02 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.**

A tax is hereby imposed upon any and all the following acts or privileges:

(A) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer.

(B) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this section to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in this state.

(c) The tax imposed by this chapter is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

(Ord. 2002-13, passed 9-17-02; Am. Ord. 2004-23, passed 9-20-04)

**113.03 COLLECTION OF TAX BY RETAILERS.**

(A) The tax authorized by this chapter shall be collected from the taxpayer by a retailer maintaining a place of business in this state and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this chapter and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the state. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this chapter shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this chapter shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

(Ord. 2002-13, passed 9-17-02)

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2005 S-1

**' 113.04 RETURNS TO DEPARTMENT.**

Commencing on February 1, 2003, the tax imposed under this chapter on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act. (Ord. 2002-13, passed 9-17-02)

**' 113.05 RESELLERS.**

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this chapter on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person=s having discontinued the making of resales.

(C) Except as provided hereinabove in this section, the act or privilege of originating or receiving telecommunications in this state shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is nontaxable because of being a sale for resale.

(Ord. 2002-13, passed 9-17-02)

**' 113.06 REBATES AND EXEMPTIONS**

(A) To the extent that the municipality=s territory includes part of another unit of local government or a school district, the municipality may, by separate ordinance, rebate some or all of the amount of the tax authorized by this chapter paid by the other unit of local government or school district. Any such rebate shall be paid by the municipality directly to the other unit of local government or school district qualifying for the rebate as determined by the municipality=s ordinance, which shall not be filed with the Department.

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(B) The municipality may, by separate ordinance, rebate some or all of the amount of the tax authorized by this chapter paid by persons 65 years of age or older. Any tax related to such rebate shall

be rebated from the municipality directly to persons qualified for the rebate as determined by the municipality's ordinance, which shall not be filed with the Department.

(Ord. 2002-13, passed 9-17-02)

**' 113.07 EFFECT OF FUTURE REPEAL.**

If Public Act 92-0526, entitled the Simplified Municipal Telecommunications Tax Act, is repealed or becomes ineffective for any reason, or if Ord. No. 2002-13 is repealed or becomes ineffective for any reason, then former Ord. No. 2000-23 shall be deemed in full force and as of the date Public Act 92-0526 or Ord. No. 2002-13 is repealed or becomes ineffective.

(Ord. 2002-13, passed 9-17-02)

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## CHAPTER 114: RAFFLES

### Section

#### *General Provisions*

- 114.01 Title
- 114.02 Purpose
- 114.03 Definitions
- 114.04 License required
- 114.05 Classification of licenses

#### *Qualifications and Applications*

- 114.20 Qualifications of applicant
- 114.21 Application; contents for Class A, B and C licenses
- 114.22 Application for Class D and E licenses
- 114.23 Issuance

#### *Operation and Conduct*

- 114.35 General restrictions
- 114.36 Manager; fidelity bond
- 114.37 Record keeping of gross receipt; expenses; net proceeds
  
- 114.99 Penalty

### **GENERAL PROVISIONS**

#### **' 114.01 TITLE.**

This chapter shall be known, cited and referred to as the Raffle Ordinance of Winnebago County. (Ord. 1998-27, passed 12-21-98)



**114.02 PURPOSE.**

The purpose of this chapter is to regulate and control the conduct of raffles within the unincorporated areas of the county and within the corporate limits of any municipality that is a party to any intergovernmental cooperation agreement for raffle licenses with the county.

(Ord. 1998-27, passed 12-21-98)

**114.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words not defined in this section shall be interpreted in accordance with definitions contained in the most current edition of Webster's New Collegiate Dictionary.

**CHARITABLE ORGANIZATION.** An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit upon the public.

**EDUCATIONAL ORGANIZATION.** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

**FRATERNAL ORGANIZATION.** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of the government by caring for those who otherwise would be cared for by the government.

**LABOR ORGANIZATION.** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

**LICENSEE.** An organization which has been issued a license to operate a raffle.

**NET PROCEEDS.** The gross receipts from the conduct of raffles, less sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

**NON-PROFIT.** Organized, operated and conducted on a not-for-profit basis, with no personal

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profit inuring to anyone as a result of the operation.

**RAFFLE.** A form of lottery, as defined in ' 28-2(b) of the Criminal Code of 1961, (720 ILCS 5/28-2) conducted by an organization licensed under this chapter in which:

(1) The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means, one or more of which chances is to be designated the winning chance; and

(2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

**RELIGIOUS ORGANIZATION.** Any church, congregation, society or organization founded for the purpose of religious worship.

**VALUE OF NON-CASH PRIZES.** The retail value of such prizes.

**VETERANS ORGANIZATION.** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

(Ord. 1998-27, passed 12-21-98)

#### **' 114.04 LICENSE REQUIRED.**

No person, firm or corporation shall conduct a raffle or sell chances for a raffle in the county without first having obtained a license pursuant to this chapter. Licenses for raffles shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans organizations which operate without profit to their members, which have been in existence continuously for a period of five years immediately before making application for a license and have had during the entire five-year period a bona fide membership engaged in carrying out their objectives and which maintain an office in this county, or to a non-profit fund raising organization that the county board determined is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

(Ord. 1998-27, passed 12-21-98)

#### **' 114.05 CLASSIFICATION OF LICENSES.**

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(A) *Class A: general raffle license.* A general raffle license shall permit the conduct of a raffle with a maximum single cash prize or the maximum retail value of a single cash prize or the maximum retail

## Rockton - Business Regulations

value of a single non-cash prize not exceeding \$150,000 and an aggregate maximum value of all cash and non-cash prizes awarded not exceeding \$250,000. Multiple drawings may be held to award the prizes but all drawings must occur on the same day and at the same location.

*(B) Class B: one ticket, multiple raffles license.*

(1) A Class B license allows up to four raffles to be conducted with the same raffle tickets. Each ticket shall specify the dates of ticket sales and the dates of each drawing. Each drawing date shall be considered a separate raffle and will require a separate license and fee. Each license will allow one drawing event for the prizes awarded.

(2) Although a Class B license allows up to four raffles, the maximum value of a cash or non-cash prize or prizes awarded to a single winner shall not exceed \$150,000 and the aggregate value of all prizes awarded in all of the raffles shall not exceed \$250,000.

(3) The fees for Class A raffle licenses will apply for each of the licenses secured for Class B raffles.

*(C) Class C: one time emergency raffle license.*

(1) A Class C raffle license allows a not-for-profit fund-raising organization or group, organized for the sole purpose of providing financial hardship assistance to an identified individual or group of individuals suffering severe financial hardship as a result of an injury, disability, accident or disaster to conduct one raffle for that purpose.

(2) The fee for a Class C license shall be \$10 payable to the County Clerk at the time of application.

*(D) Class D: 12-month raffle license.*

(1) A 12-month raffle license shall permit the conduct of a raffle or raffles, or the sale of chances for a raffle or raffles, in which the maximum value of all cash or non-cash prizes for a single drawing shall not exceed \$5,000.

(2) Class D raffles shall be licensed annually for a 12-month period commencing on the day the license is approved by the County Board. Such license shall permit no more than 52 raffles. The aggregate value of all prizes awarded annually shall not exceed \$250,000.

(3) The fee for a Class D license shall be \$200 payable to the County Clerk at the time of application. Such 12-month licenses shall not be prorated as to term or fee.

(E) *Class E: limited annual raffle license.*

(1) A limited annual raffle license permits an organization to regularly conduct raffles among its own membership at a regularly scheduled organizational meeting. Chances for these raffles may only be sold and the drawings held on the day of the meeting. The aggregate value of the prizes awarded at each of these drawings may not exceed \$100. Class E raffles shall be licensed annually on a calendar year basis.

(2) The licenses shall permit no more than 60 raffles per year. The aggregate value of all prizes awarded annually shall not exceed \$5,200.

(3) The fee for a Class E license shall be \$25 payable to the County Clerk at the time of application. Renewal applications shall be made on or before November 1 for the following year. Class E licenses shall not be prorated as to term or fee.

(F) *Fee not refundable.* The application fees are not refundable, even in the event that the application is rejected by the County Board, or if the raffle is canceled.  
(Ord. 1998-27, passed 12-21-98)

***QUALIFICATIONS AND APPLICATIONS***

**' 114.20 QUALIFICATIONS OF APPLICANT.**

(A) Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five years or more immediately before making application for a license and which have had during the entire five-year period a bona fide membership engaging in and carrying out their objectives or to a not-for-profit fund raising organization or group that is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering severe financial hardship as a result of an illness, disability, accident or disaster.

(B) The following groups or individuals are ineligible for any raffle license:

(1) Any person who has been convicted of a felony;

(2) Any person who is or has been a professional gambler or gambling promoter;

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(3) Any person who is not of good moral character;

**Rockton - Business Regulations**

(4) Any organization in which a person described in subsections (1), (2) or (3) of this division (B) has a proprietary, equitable or credit interest or in which such person is active and employed;

(5) Any organization in which a person described in subsections (1), (2) or (3) of this division (B) is an officer, director or employee, whether compensated or not; and

(6) Any organization in which a person described in subsections (1), (2) or (3) of this division (B) is to participate in the management or operation of a raffle.  
(Ord. 1998-27, passed 12-21-98)

**' 114.21 APPLICATION; CONTENTS FOR CLASS A, B AND C LICENSES.**

(A) Any person seeking to conduct or operate a raffle described in ' 26-30(A), (B) or C, shall file an application with the County Clerk on forms provided by the County Clerk. Applications must be submitted to the County Clerk at least ten days prior to the County Board meeting at which approval is desired.

(B) The application shall contain the following information:

(1) The name, address and type of organization;

(2) The length of existence of the organization and, if incorporated, the date and state of incorporation;

(3) The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffle manager(s) and any other members responsible for the conduct and operation of the raffle(s);

(4) The aggregate value of all prizes to be awarded in the raffle;

(5) The maximum value of each prize to be awarded in the raffle;

(6) The maximum price charged for each raffle chance issued or sold;

(7) The maximum number of raffle chances to be issued;

(8) The areas in which the raffle chances will be sold or issued;

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- (9) The dates raffle chances will be issued or sold;
- (10) The date and location at which winning chances will be determined;

(11) A sworn statement attesting to the not-for-profit character of the applicant or organization, signed by its presiding officer and secretary; and

(12) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(Ord. 1998-27, passed 12-21-98)

**' 114.22 APPLICATION FOR CLASS D AND E LICENSES.**

(A) Any organization seeking to conduct or operate a raffle described in ' 26-30(D) and (E) shall file an application with the County Clerk on forms provided by the County Clerk. Applications must be submitted to the County Clerk at least ten days prior to the County Board meeting at which approval is desired.

(B) The application shall contain the following information:

(1) The name, address and type of the organization;

(2) The length of existence of the organization and, if incorporated, the date and state of incorporation;

(3) The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffle manager and any other members responsible for the conduct and operation of the raffle;

(4) The location at which the chances are to be sold and the drawing held;

(5) The dates the drawings are to be held;

(6) A sworn statement, signed by the presiding officer of the organization, attesting to its not-for-profit status and length of existence;

(7) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct;

(8) The number of drawings to be held during the 12-month period.

(Ord. 1998-27, passed 12-21-98)

**114.23 ISSUANCE.**

(A) *Review of application; acceptance or rejection.* Organizations shall submit applications to the County Clerk's office at least 10 days prior to the County Board meeting at which approval is desired. The County Clerk shall review all raffle license applications, recommend approval or denial and submit them to the County Board. The County Board shall, within 30 days from the date of application, accept or reject a raffle license application. If an application is accepted, the County Clerk shall forthwith issue a raffle license to the applicant. Chances for each raffle may be issued or sold for a period of 30 days prior to and including the date winning chances are to be determined, unless the County Board has specifically authorized a longer period of time, but in no event longer than 365 days prior to and including the date winning chances are to be drawn.

(B) *Contents of license.* A raffle license shall show the following, with respect to each raffle:

- (1) The area in which raffle chances may be sold or issued;
- (2) The period of time during which raffle chances may be sold or issued; and
- (3) The date and location at which winning chances will be determined.

(C) *Display.* The license shall be prominently displayed at the time and location of the determination of the winning chances.

(D) *Validity.* Each Class A or Class C license shall be valid for one raffle. Each Class B license shall be valid for up to four raffles. Each Class D or Class E license shall be valid for a specific number of raffles to be conducted during a specified period of time not to exceed one year.

(Ord. 1998-27, passed 12-21-98)

***OPERATION AND CONDUCT***

**114.35 GENERAL RESTRICTIONS.**

The operation and conduct of raffles are subject to the following restrictions:

(A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee;

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(B) No person except a bona fide member of the licensee may participate in the management or operation of the raffle;

## Raffles

(C) No person may receive remuneration or profit for participating in the management or operation of the raffle;

(D) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this chapter;

(E) Raffle chances may be sold, offered for sale, conveyed, issued or otherwise transferred for value only within the area determined on the license; the winning chances may be determined only at the location specified on the license;

(F) The maximum price which may be charged for each raffle chance sold, offered for sale, conveyed, issued or otherwise transferred for value shall not exceed \$250;

(G) No cash prize in excess of \$150,000 may be awarded and the value of all prizes to be awarded shall not exceed \$250,000;

(H) Each raffle chance shall have printed thereon the cost of the chance, the aggregate retail value of all prizes to be awarded in the raffle and the maximum number of raffle chances to be issued, except as provided below:

(1) When raffle chances are sold, conveyed, issued or otherwise transferred only at the time and location at which winning chances will be determined and only to persons then in attendance;

(2) When the raffle chance is also a ticket to an event and a portion of the cost of the ticket is designated for a dinner, gold or other item of value to be consumed or used by the purchaser at the event;

(I) No person under the age of 18 years may participate in the operation or conduct of raffles, except with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his or her parent or guardian;

(J) Raffle drawings must be held on the date and at the location listed on the raffle license. If a raffle drawing is unable to be held due to an extreme emergency or a natural disaster, the licensee must seek approval of the County Board before the drawing can be held on a different date. If a drawing is canceled due to inadequate sale of raffle tickets or due to some reason other than an extreme emergency or a natural disaster, the licensee must notify all ticket purchasers, refund all monies and return all prizes within 30 days. The cancellation will be reported to the County Clerk with a full explanation.

(Ord. 1998-27, passed 12-21-98)

‘ **114.36 MANAGER; FIDELITY BOND.**

The operation and conduct of all raffles shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in amount to the aggregate retail value of all prizes to be awarded in favor of the licensee conditioned upon his or her honesty in the performance of his or her duties. The terms of the bond shall provide that notice shall be given in writing to the county not less than 30 days prior to its cancellation.

(Ord. 1998-27, passed 12-21-98)

‘ **114.37 RECORD KEEPING OF GROSS RECEIPT; EXPENSES; NET PROCEEDS.**

(A) Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles shall be segregated from other revenues of the licensee, including bingo gross receipts, if bingo games are also conducted by the same not-for-profit organization pursuant to the license therefor issued by the State Department of Revenue and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.

(C) Each licensee shall report to its membership and to the county its gross receipts, expenses and net proceeds from the raffle and the distribution of net proceeds itemized as required in this section. A report must be turned in within 30 days of each raffle drawing, with the exception of weekly raffles, which may be reported once a month.

(D) Raffle records shall be preserved for three years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

(E) No new raffle licenses will be issued to an organization until all reports from the organization's previous raffles have been completed and submitted to the County Clerk's office.

(Ord. 1998-27, passed 12-21-98)

**' 114.99 PENALTY.**

(A) *Penalties.* Failure to comply with any of the requirements of this chapter shall constitute a violation, and any person, upon conviction thereof, shall be fined not more than \$750. Each day the violation continues shall be considered a separate offense. In addition, the County Board is authorized to revoke the license of any Class D licensee that fails to comply with the reporting requirements of ' 114.37(C) in a timely manner.

(B) *Abatement.* The imposition of the penalties in this section prescribed shall not preclude the state's attorney from instituting appropriate action to prevent unlawful raffles or to restrain, correct or abate a violation of this chapter of the conditions of a raffle license issued pursuant hereto.  
(Ord. 1998-27, passed 12-21-98)

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## CHAPTER 115: HORSE-DRAWN CARRIAGES

### Section

- 115.01 Definitions
- 115.02 Compliance required
- 115.03 Permit required
- 115.04 Application for permit; approval or denial of application
- 115.05 Liability and indemnification
- 115.06 Compliance with traffic regulations; stands
- 115.07 Sanitation
- 115.08 Carriages; equipment; animals
- 115.09 Revocation of permits
- 115.10 Drivers

### ' 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***HORSE-DRAWN CARRIAGE.*** Any vehicle drawn by a horse, donkey, mule or mini-mule which is designed or intended for use of passengers for hire.

***OPERATE or OPERATION.*** Operation by the owner or any agent of the owner, or by any person with the owner's knowledge, consent or permission, express or implied.

***OWNER.*** An individual, a firm, a co-partnership, a corporation, a company or any association of joint stock that owns a horse-drawn carriage.

***PERMIT.*** The grant by the village to operate a horse-drawn carriage upon the public streets of the village.

***PERMITEE.*** An owner of a horse-drawn carriage that has been issued a permit to operate that horse-drawn carriage upon the public streets of the village.

(Ord. 2012-6, passed 4-3-12)

2012 2-6

44

**Rockton - Business Regulations**

**115.02 COMPLIANCE REQUIRED.**

The operation of horse-drawn carriages within and upon the public streets of the village shall be subject to the conditions, regulations and restrictions set forth in this chapter. It shall be unlawful for any person to engage in the business of operating a horse-drawn carriage in the village unless the procedures and requirements of this chapter have first been met.

(Ord. 2012-6, passed 4-3-12)

**115.03 PERMIT REQUIRED.**

It shall be unlawful to operate or cause to be operated any horse-drawn carriage upon the public streets of the village where the owner of the carriage has not been issued a permit. A copy of the permit must be displayed in the carriage, and available for inspection.

(Ord. 2012-6, passed 4-3-12)

**115.04 APPLICATION FOR PERMIT; APPROVAL OR DENIAL OF APPLICATION.**

(A) Any person desiring to obtain a permit to operate a horse-drawn carriage in the village shall submit to the Village Clerk a completed application which shall contain the following information:

(1) The name, address, telephone number and form of business of the applicant. If the applicant is a corporation, it shall also state the names, addresses and occupations of its officers, directors and major stockholders and names and addresses of any parent or subsidiary companies, the date and place of incorporation, and if incorporated outside the state, whether or not it has been qualified to do business within the state. If the applicant is a corporation controlled by another corporation, the names, addresses and occupations of the officers, directors and major stockholders of the controlling corporation shall also be stated. If the applicant is a partnership or other unincorporated association, the names and addresses of each member, whether active or inactive, shall be set forth, and if one or more partners or members are corporations, the names and addresses and occupations of such corporation's officers, directors and

major stockholders shall also be stated; and

(2) The trade name, if any, under which the applicant proposes to do business; and

(3) A thorough description, including photographs, of the proposed horse-drawn carriage business to be operated; the manner in which the applicant proposes to install, maintain and operate the business; the proposed hours of operation; proposed location from which the business is to be operated; the proposed route or routes to be served or utilized, the numbers of horse-drawn carriages to be operated under the proposed business; and

(4) A certificate of soundness of each animal that will be pulling a permitted carriage issued by a veterinarian licensed in the state, finding such animal to be free from infectious disease, in good health and fit for carriage service under this chapter; and

## Horse-Drawn Carriages

(5) An insurance certificate providing that the applicant has met the insurance requirements of this chapter; and

(6) A sworn statement acknowledging that any and all drivers employed by the applicant shall be safe and experienced in handling of such carriages and animals and that the animals so used shall be thoroughly broken and properly restrained. It shall further state that the permittee shall be responsible for the actions of his or her drivers and animals; and

(7) Any such information the village shall at any time demand in order to reasonably determine whether the request for a permit should be granted.

(B) Upon receipt and acceptance of a complete application for a permit, the Village Clerk shall forward copies of the application to the Village Chief of Police and the Village Department of Public Works.

(C) Any applicant whose application for a permit has been denied may, within 30 days after the denial, appeal to the Village Board of Trustees.

(D) Once the application has been approved the Village Clerk shall issue a permit to the applicant upon payment of a \$25 fee for each permit. The permit shall be valid for one calendar year or partial calendar year which is remaining at the time of the issuance of permit.

(E) No more than ten permits shall be issued and active in the village at any given time.

(F) If a permit issued under this chapter is lost or destroyed the permit holder may obtain a duplicate upon payment of a \$10 service charge.

(Ord. 2012-6, passed 4-3-12)

### **115.05 LIABILITY AND INDEMNIFICATION.**

(A) A permittee shall pay, and by its acceptance of a permit specifically agrees to pay, any and all damages or penalties which the village may be legally required to pay as a result of the permittee's operation or maintenance of a horse-drawn carriage under this chapter, whether or not the acts or omissions complained of are authorized, allowed or prohibited by the village.

(B) A permittee shall also pay all expenses incurred by the village in defending itself with regard to any and all damages and penalties mentioned in division (A) of this section. These expenses shall include all out-of-pocket expenses, including a reasonable attorney's fee and the reasonable value of services

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rendered by any employee of the village.

(C) The permittee shall maintain, throughout the term of the permit, liability insurance insuring the Village and permittee with regard to all damages mentioned in division (A) of this section caused by the grantee or its agents, in the minimum amounts of:

2012 S-6

## Rockton - Business Regulations

(1) Workers and unemployment compensations insurance as provided by the laws of this state;

(2) One hundred thousand dollars for bodily injury or death to any one person within the limit and \$500,000 for bodily injury or death resulting from any one accident and \$100,000 for property damage resulting from any one accident.

(D) The insurance policies obtained by the permittee in compliance with this section shall be issued by a company or companies acceptable to the village and a current certificate or certificates of insurance, along with written evidence of payment of all required premiums, shall be filed and maintained with the village during the term of the permit. The policies shall name the village as an additional insured and shall contain a provision that written notice of cancellation or reduction in coverage of the policy shall be delivered by registered mail to the village at least 30 days in advance of the effective date.

(Ord. 2012-6, passed 4-3-12)

### ‘ 115.06 COMPLIANCE WITH TRAFFIC REGULATIONS; STANDS.

(A) A permittee, having been issued a permit under this chapter to engage in the business of operating a horse-drawn carriage, shall be subject to all traffic provisions of this code and all other ordinances, rules and regulations now in effect in the village or the state and all traffic ordinances, rules and regulations which may pertain to the operation of horse-drawn carriages, hereafter enacted or adopted by the village or the state, and such rules and regulations formulated and promulgated under authority of this chapter.

(B) Horse-drawn carriages shall not stand or park upon any street in any business district at any place other than a designated taxi-cab stand, except that this provision shall not prevent the driver of any such carriage from temporarily stopping for the purpose of and while actually engaged in loading and unloading passengers, provided that same is conducted in accordance with other stopping or parking regulations.

(Ord. 2012-6, passed 4-3-12)

### ‘ 115.07 SANITATION.

All permittees shall comply with the following sanitation requirements:

(A) All horses, mules and other animals shall be equipped with adequate devices to prevent manure and other excrement from falling upon the streets of the village. Any excrement which should fall upon the streets of the village shall be removed at the expense of the permittee.

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(B) All animal waste for disposal shall be promptly transported to sites or facilities legally empowered to accept it for treatment or disposal. The village reserves the right to approve or disapprove sites taking into account routes within the village and the rules and regulations of the governmental body having jurisdiction over said sites and facilities.

2012 S-6

## Horse-Drawn Carriages

(C) A permittee shall further comply with all applicable health and sanitation provisions of the County Health Department and all rules and regulations promulgated thereunder.  
(Ord. 2012-6, passed 4-3-12)

### ' 115.08 CARRIAGES; EQUIPMENT; ANIMALS.

(A) All carriages must be equipped with a step to allow persons to enter and exit safely. Rubber tires and wheels shall be used on all carriages to provide for maximum passenger comfort and for consideration of passing public.

(B) All animals shall be thoroughly broken, trained to harness and properly restrained; no animal may be allowed to go untended. All animals shall be equipped with properly fitting and appropriate equipment for street service, including properly fitting shoes for street work. Steel shoes must have borium grabs, and no aluminum shoes will be permitted at any time. In addition, animals shall have a minimum of 20 minutes of rest for every two hours of heavy work and shall be offered clean water at least every two hours depending on weather.

(C) It shall be the duty of the permittee to immediately remove any injured, diseased or deceased animal from the streets and to dispose of same properly.  
(Ord. 2012-6, passed 4-3-12)

### ' 115.09 REVOCATION OF PERMITS.

(A) Whenever there is a reasonable cause to believe that a permittee is violating the provisions of this chapter, the Village Clerk may, upon written, certified notice of the violation to the permittee, suspend the permits issued to such person until such time as the violations are corrected to the satisfaction of the village or within a period of 30 days, whichever is less. If the violation is not corrected within 30 days, the permits will be automatically revoked. Any permittee whose permits have been revoked under this division may, within 30 days after the revocation, appeal to the Village Board of Trustees.

(B) If, upon investigation, the Chief of Police finds that the permittee and/or the driver hired by the permittee to operate a horse-drawn carriage has violated any provision of this chapter or has been arrested for or convicted of the following: murder, kidnapping, aggravated battery, burglary, robbery, sexual battery, prostitution, exposure of sexual organs, lewd, lascivious or indecent assault or act upon or in the presence of a child, any crime involving the sale of controlled substance, manslaughter or negligent homicide resulting from the use of a motor vehicle, then the Village Clerk may immediately

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revoke the permit. Any person having his or her permit so revoked may appeal, by filing notice thereof, with the Village Clerk within 30 days from the time of such revocation. Such appeal as filed shall not act as superseding until such time as the Village Board of Trustees shall take final action on such appeal. (Ord. 2012-6, passed 4-3-12)

2012 S-6

**' 115.10 DRIVERS.**

Drivers of all horse-drawn carriages shall have and keep in full effect a valid Illinois driver's license. All drivers shall be safe and experienced in handling of the animals and all equipment.  
(Ord. 2012-6, passed 4-3-12)

*[Chapter 116 begins on Page 51]*

[www.rocktonpolice.org](http://www.rocktonpolice.org)

2012 S-6

## CHAPTER 116: PEDDLERS AND ITINERANT VENDORS

### Section

- 116.01 Definitions
- 116.02 Exemptions
- 116.03 Registry of licenses
- 116.04 Peddlers, solicitors, vendors, itinerant and canvassers; license required
- 116.05 General restrictions
- 116.06 Vending from vehicle
- 116.07 Solicitation of charitable donations upon public street or highways prohibited

### ' 116.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CANVASSER.** Any person who travels from place to place within the village by foot or other conveyance distributing product samples, advertisements, leaflets, or any item of similar nature or who, for any reason other than private personal activity, contacts citizens of the village without request, invitation, or appointment.

**ITINERANT MERCHANT.** Any person engaged in any business for profit who uses, leases, or occupies all or part of any structure or vacant lot within the village on a temporary basis of not more than 120 days. Notwithstanding the foregoing, those participating at the Rockton River Market or the Art in the Park craft show shall not be considered to be itinerant merchants.

**PEDDLER.** Any person who travels from place to place within any residential areas of the village by foot or other conveyance, selling for profit or offering for sale any commodity, article, or service and rendering immediate delivery thereof.

**SALES VEHICLE.** A licensed and registered, enclosed motorized vehicle in which food products are carried for purposes of retail sale on the streets of the village and which is equipped with functioning kitchen equipment, including but not limited to, refrigerators, freezers, and stoves to keep and prepare such food products in accordance with any and all applicable, federal, state and local laws, including, but

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not limited to, health and food safety laws, regulations, and codes.

***SLOW SIGNAL ARM.*** A safety arm that can be extended horizontally from the left or right side of the truck and which is meant to promote pedestrian safety, similar to the safety arms on school buses.

## Rockton - Business Regulations

The minimum length of the slow signal arm shall be equal to the distance between the headlights of the sales vehicle as measured from the center of each headlight. The bottom of the slow signal arm shall be approximately 42 inches above the roadway or highway.

**SOLICITOR.** Any person who travels from place to place within the residential areas of the village by foot or other conveyance, selling for profit or offering for sale any commodity, article, or service, the delivery of which is not made at the time the sale, subscription, contract, or order is entered into; or any person seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any person, business, corporation, organization, project, association, or charity.

**VENDING.** Retail sale of ice cream, ice milk, frozen dairy products, ice flavored syrup, confection or any other food or beverage for human consumption from a sales vehicle for purposes of retail sale of such items on the streets of the village.

(Ord. 2014-16, passed 6-3-14)

### ' 116.02 EXEMPTIONS.

The following are exempt from the licensing requirements of this chapter:

(A) Organizations which have received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c)(3) and which, because of their recognized civic, patriotic, philanthropic, or eleemosynary accomplishments, have received the specific approval of the President and Board of Trustees to peddle, make solicitations and canvasses within the village;

(B) Persons under the age of 18 years who live within the village who are peddling, soliciting or canvassing on behalf of or as a member of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c)(3);

(C) Schools (public or private) or clubs which are recognized and affiliated with a public or private school, having a campaign programs to support the public or private school or school club; and

(D) Political campaigning.

(Ord. 2014-16, passed 6-3-14)

### ' 116.03 REGISTRY OF LICENSES.

The Chief of Police, or his/her designee, shall maintain a register of each license issued pursuant to

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this chapter. This register shall, by license number, contain complete and accurate information concerning each person who is granted a license and the purpose and anticipated duration of the activity licensed under this chapter.

(Ord. 2014-16, passed 6-3-14)

2014 S-8

**116.04 PEDDLERS, SOLICITORS, VENDORS, ITINERANT AND CANVASSERS;  
LICENSE REQUIRED.**

(A) *Required.* Except as otherwise provided for in this chapter, it shall be unlawful for any person, company, business, or organization, to engage as a peddler, solicitor, itinerant merchant or canvasser within the village unless a license is first obtained therefore from the Village Clerk. This includes every employee, agent, or member of a company, business or organization who is to participate in any peddling, soliciting, itinerant merchant operations or canvassing.

(B) *Application; issuance.* Each application for a license to engage as a peddler, solicitor, itinerant merchant or canvasser shall be made on a form to be provided by the Village Clerk. Each applicant shall submit to a criminal background check, if the village, in the sole discretion, desires to have such check performed. All statements made by the applicant upon the application shall be under oath. The information to be provided on the application by the applicant shall include, but not be limited to:

(1) The applicant's name, address and telephone number; and to the extent the applicant is a business, company or corporation, the name, address and telephone number of each owner, principal, member or shareholder.

(2) The age of the applicant.

(3) A physical description of the applicant.

(4) A description, sufficient for identification of the subject matter, of the type of peddling, soliciting, vending, itinerant merchant operations or canvassing that the applicant will engage in.

(5) The period of time for which such peddling, solicitation, itinerant merchant operations or canvassing will be conducted.

(6) A statement as to whether the applicant has ever been previously denied, or had a license issued under this chapter, revoked.

(7) A statement as to whether the applicant has ever been convicted of the commission of a felony under the laws of the village, State of Illinois or any other state or federal laws of the United States.

(8) A fingerprint based criminal history conviction report, generated by the Illinois State Police, other police agency, within the last 6 months. Costs associated with the report and verifications thereof shall be borne by the applicant.

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(9) Any such other information as the Chief of Police and/or Village Code Enforcement Officer may deem necessary to the process the application.

2014 S-8

**Rockton - Business Regulations**

*(C) Review of application and grounds for denial.*

(1) Upon receipt of a fully completed application by the Village Clerk, such application shall be forwarded to the Chief of Police, or his/her designee, and the Village Code Enforcement Officer for review. Upon consideration of the application and all other relative information, the Chief of Police and the Village Code Enforcement Officer shall either recommend approval or denial of the application. Upon the recommendation of approval by the Chief of Police and the Village Code Enforcement Officer, the Village Clerk shall notify the applicant of such approval in writing and issue said license upon payment of all applicable fees by the applicant. Upon the recommendation of denial by the Chief of Police and/or the Village Code Enforcement Officer, the Village Clerk shall notify the applicant of such denial in writing.

(2) By way of example and not limitation, any falsification of information by an applicant for any license within the purview of this chapter shall be prima facie reason for the denial of the license. Further, no license shall be issued to any applicant who has been convicted of the commission of a felony within five years of the date of the application, nor to any applicant who has been convicted of or found to be in violation of any provision of this chapter, nor to any applicant whose license issued under this chapter has previously been revoked.

(3) To the extent an application is denied, the applicant may appeal such denial to the Village Board of Trustees by filing a written request for appeal with the Village Clerk. The Village Board shall then consider the matter and either sustain or overrule the denial of the application.

(D) *Contents.* Each license issued pursuant to this section shall bear an identifying number and shall reflect the exact and inclusive dates of the licensed activity and the nature of the activity. Further, each license shall contain a photograph of the licensee.

(E) *Fees.* The fee for each license to engage as a peddler, solicitor, itinerant merchant or canvasser shall be \$25 per month or \$5 per day. Such fee shall be paid after approval of an application but prior to issuance of said license.

(F) *Possession.* Each peddler, solicitor, itinerant merchant or canvasser shall have in his or her possession the license issued to him or her pursuant to this section during the hours that he or she is engaged in that activity and shall display such license so it can be readily seen at all times.

(Ord. 2014-16, passed 6-3-14)

**116.05 GENERAL RESTRICTIONS.**

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All peddlers, solicitors, and canvassers shall:

(A) Refrain from trespassing upon private and public properties, except on designated walks or paths; and

2014 S-8

## Peddlers and Itinerant Vendors

(B) Restrict the delivery of pamphlets, literature, or merchandise to receptacles designated for such deliveries by the tenants, homeowners, or proprietors, or to entryways, porches and the like and in accordance with any applicable local, state or federal laws. In no event shall pamphlets, literature, or merchandise be hurled at doorways, porches, or other entrances to properties. In all instances, reasonable care shall be taken to protect the delivered matter from inclement weather.

(C) The occupant or occupants of the residence shall make the determination as to whether solicitors, peddlers, or canvassers shall be, or shall not be, invited to their respective residences. To the extent the occupant or occupants of any residence have posted a "No Solicitors" or similar type sign upon or near the main entrance door of the residence, such solicitor, peddler or canvasser shall immediately and peacefully depart from the premises without attempting to contact the occupant or occupants of the residence. It shall be unlawful for any solicitor, peddler or canvasser to go upon any premises and ring the doorbell, knock or create any sound in any other manner calculated to attract the attention of the occupant or occupants of such residence if a "No Solicitors" or similar type sign has been posted upon or near the main entrance door of the residence.

(D) It shall be unlawful for any person, business, corporation, or organization, whether licensed under this chapter or not, to engage in solicitation, peddling, or canvassing between the hours of 8:00 p.m. and 9:00 a.m., Monday through Saturday, or 8:00 p.m. and 10:00 a.m. on Sunday.  
(Ord. 2014-16, passed 6-3-14)

### ' 116.06 VENDING FROM VEHICLE.

(A) *Generally.* It shall be unlawful for any person to conduct any vending from any sales vehicle, on any public street or sidewalk in the village, except as expressly permitted under this section.

(B) *Equipment required.* Any and all vending must be from a sales vehicle which shall have the following equipment, in addition to any other such equipment required by state, local, or federal regulation:

(1) A slow signal arm that can be extended horizontally from the left or right side of the vehicle unless the distance between the windshield and the front bumper of a sales vehicle does not exceed 6 feet in length, in which case a slow signal arm shall not be required.

(2) A convex mirror mounted on the front of the sales vehicle so the driver in his or her normal seating position can see the area in front of the truck obscured by the hood.

(3) Signs or decals on both the front and rear of the sales vehicle identifying the vehicle as an

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ice cream truck, or other food vending vehicle, and displaying the words "SLOW: CHILDREN CROSSING" in distinctive lettering at least six inches in height which is visible at 300 feet to the front and rear in normal sunlight upon a straight level roadway or highway.

(4) An outside passenger side mirror that provides the driver with visibility to the right side and to the rear of the vehicle.

2014 S-8

**Rockton - Business Regulations**

(5) A sign or decal that is visible at all times with the business address and telephone number of the business license holder printed on the side of the vehicle in letters of not less than two inches.

(6) A trash receptacle to dispose of all litter that is generated from products sold from the vehicle.

*(C) License required.*

(1) *Required.* It shall be unlawful for any vending to occur or sales vehicle to operate upon the streets of the village unless a license is first obtained from the Village Clerk.

(2) *Application; issuance.* Each application for a license to operate a sales vehicle and conduct vending as regulated in this section shall be made on a form to be provided by the Village Clerk which shall include the information to be provided under ' 116.04(B). Such application shall also indicate the number of sales vehicles the applicants intends to operate under the license.

*(3) Criminal history certification.*

(a) The applicant shall certify that he or she or his or her employees are in good standing and that there is no criminal issue existing that would disqualify them from holding this license.

(b) The license applicant shall provide to the Chief of Police, as part of the application, an original, fingerprint based, criminal history conviction report generated by the Illinois State Police, or other police agency, within the last six months. The applicant shall be solely responsible for providing the required report, and shall provide to the Chief of Police a report for the applicant, and each of its employees who shall be operating the sales vehicles within the village.

*(4) Review of application and grounds for denial.*

(a) Upon receipt of a fully completed application by the Village Clerk, such application shall be forwarded to the Chief of Police, or his/her designee, and the Village Code Enforcement Officer for review. Upon consideration of the application and all other relative information, the Chief of Police and Village Code Enforcement Officer shall either recommend approval or denial of the application. Upon the recommendation of approval by the Chief of Police and the Village Code Enforcement Officer, the Village Clerk shall notify the applicant of such approval in writing and issue said license upon payment of all applicable fees by the applicant. Upon the recommendation of denial by the Chief of Police and/or Village Code Enforcement Officer, the Village Clerk shall notify the applicant of such denial in writing.

(b) By way of example and not limitation, any falsification of information by an applicant for any license within the purview of this chapter shall be prima facie reason for the denial of the license. Further, no license shall be issued to any applicant who has been convicted of the commission of a felony within five years of the date of the application, nor to any applicant who has been convicted of or found to be in violation of any provision of this chapter, nor to any applicant whose license issued under this chapter has previously been revoked.

## **Peddlers and Itinerant Vendors**

56A

(c) To the extent an application is denied, the applicant may appeal such denial to the Village Board of Trustees by filing a written request for appeal with the Village Clerk. The Village Board shall then consider the matter and either sustain or overrule the denial of the application.

(5) *Contents.* Each license issued pursuant to this section shall bear an identifying number and shall reflect the exact and inclusive dates of the licensed activity and the nature of the activity. Further, each license shall contain a photograph of the licensee.

(6) *Fee.* The fee for each license shall be \$250 per truck per year.

(7) *Display.* Each vendor shall display in a conspicuous manner upon or within each sales vehicle, a copy of the license issued to him or her pursuant to this section.

(8) *Number of licenses.* The number of licenses issued by the village for vending shall be limited to a maximum of three licenses authorizing vending within the village at any given time.

### **(D) *Insurance required.***

(1) Each sales vehicle regulated in this section that operates within the village must carry insurance. This shall include, but not be limited to a \$2,000,000 general liability policy.

(2) All insurance policies required under this section shall name the village as an additional insured within the policy.

(3) The village must be given 30 days notice of the cancellation of any policy required under this section. Cancellation or expiration of an insurance policy required under this division (D) shall automatically revoke the license granted to the license holder, by the village, under the terms of this section.

### **(E) *Employee requirements.***

(1) All drivers employed to drive a sales vehicle regulated in this section shall possess a valid Illinois driver's license at all times.

(2) All drivers or other employees of the vendor that are to be working out of the vehicle shall be over the age of 18.

(F) *Operation of sales vehicles.* All sales vehicles shall be operated in such a manner so as not to interfere with the flow of traffic. Prior to engaging in sales, the sales vehicle shall be pulled immediately adjacent to the curb and as far to the right as possible. At no time shall the sales vehicle be permitted to be

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"double parked". All sales shall only be made from the right side of the sales vehicle.

(G) *Inspection required.* Every sales vehicle regulated in this section shall be inspected annually as required by the State of Illinois, and the County of Winnebago. A copy of such inspection certificate shall be filed with the Village Clerk annually.

2014 S-8

**Rockton - Business Regulations**

(H) *Cleanliness required.* The interior and exterior of each sales vehicle regulated in this section, and all equipment therein shall be kept clean and sanitary and maintained in good repair at all times.

(I) *Vending restrictions.*

(1) Vehicles regulated in this section may only operate between the calendar dates of May 1 and October 30 of any given year.

(2) It shall be unlawful for any person, business, corporation, or organization, whether licensed under this chapter or not, to engage in vending between the hours of 8:00 p.m. and 9:00 a.m., Monday through Saturday, or 8:00 p.m. and 10:00 a.m. on Sunday.

(3) Vendors regulated in this section shall only vend on residential streets and only where the speed limit does not exceed 30 miles per hour. The village shall provide each vendor with a list of prohibited streets, which may include certain residential streets. A copy of the same shall be on file at the Village Clerk's office.

(4) No vendor regulated in this section may vend within 500 feet of any property used as a school from one hour before the regular school day to one hour after the regular school day when the school is in session.

(5) No sales vehicle or vendor regulated in this section may vend before the vehicle is lawfully parked or stopped.

(6) No vehicle or vendor may vend to a person standing in the roadway.

(7) A copy of a current, valid Winnebago County Health Department permit must be on file in the Village Clerk's office and must also be carried in the vehicle.

(8) The driver of a sales vehicle regulated in this section shall not operate the sales vehicle in reverse in order to make or attempt to make a sale, nor shall the driver operate the sales vehicle in reverse immediately before vending.

(K) *Sound amplification restrictions.*

(1) All sound amplification equipment used must comply with all local, state, and federal laws regulating permissible levels of sound.

(2) Sound amplification, if used, shall be restricted to the playing of non-vocal music and the village reserves the right to regulate volume in a manner to preventing the non-vocal music from being a

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nuisance or otherwise disturbing the peace.

(3) Sound amplification equipment shall not be operated while the sales vehicle is stopped or parked, and shall not be operated while the vehicle is traveling in an area where vending is prohibited under this section.

2014 S-8

(4) Sound amplification equipment shall not be operated within 500 feet of hospitals, schools, or churches.

(Ord. 2014-16, passed 6-3-14)

**' 116.07 SOLICITATION OF CHARITABLE DONATIONS UPON PUBLIC STREET OR HIGHWAYS PROHIBITED.**

No person shall stand on a public street or highway for the purpose of soliciting contributions from the occupant of any vehicle within the village with the exception that the following organizations shall be permitted to solicit such charitable donations:

(A) Rockton Lions Club, once a year at the intersection of Blackhawk Blvd. and Main Street.

(B) Kiwanis Club, once a year at the intersection of Blackhawk Blvd. and Main Street.

(C) Rockton Fire Protection District, once a year at the intersection of Blackhawk Blvd. and Main Street.

(D) Hononegah High School Wrestling Club, once a year at the intersection of Blackhawk Blvd. and Main Street.

(Ord. 2014-16, passed 6-3-14)

[www.rocktonpolice.org](http://www.rocktonpolice.org)

2014 S-8

[www.rocktonpolice.org](http://www.rocktonpolice.org)

56D

**Rockton - Business Regulations**

## CHAPTER 117: OUTDOOR DINING

### Section

- 117.01 Sidewalk cafés; defined
- 117.02 Purpose
- 117.03 Licenses
- 117.04 Application for permit; context
- 117.05 Regulations pertaining to sidewalk cafés where alcohol is served
- 117.06 Permit conditions
- 117.07 Insurance and indemnification
- 117.08 Signs
  
- 117.99 Penalty

#### ' 117.01 SIDEWALK CAFÉS; DEFINED.

*SIDEWALK CAFÉ* shall mean that portion of the public right-of-way kept, used, maintained and held out to the public as a place where food and drink are served for consumption on the premises. (Ord. 2001-13, passed 11-20-01)

#### ' 117.02 PURPOSE.

It is found and declared that sidewalk cafés promote the public interest by:

(A) Providing the opportunity for creative, colorful, pedestrian-focused commercial activities on a day/night limit and seasonable basis;

(B) Encouraging commercial activities which add excitement and diversity to the city;

(C) Encouraging the up-grading of store fronts and the development of compatible and well-designed elements within the city thereby maintaining an aesthetically pleasing atmosphere; and

(D) Promoting land conservation, redevelopment, energy savings and indirect tax revenue.

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(Ord. 2001-13, passed 11-20-01)

**117.03 LICENSES.**

(A) No person shall operate a sidewalk café in the village without first having obtained a license to do so from the Village Clerk.

(B) The license year shall commence on April 1 and end the following March 31. There will be a license fee of \$50.

(C) The record owners or lessees of a property zoned restaurant abutting the public right-of-way space may, subject to the provisions of this section and despite any provisions of the village ordinances to the contrary, obtain a permit to operate a sidewalk café on such space on which their properties abut as the Village Board determines is not needed for the use of the general public. For purposes of this section, a restaurant shall be any establishment which derives 60% or more of its gross income from the sale of food and nonalcoholic beverages.

(D) The initial application shall be accompanied by a scale drawing of the site showing the location of all trees, poles, furniture, equipment and other items that will be located in the sidewalk café. The initial application shall also be accompanied by photographs, pictures from a sales catalog, or detailed renderings of furniture and equipment being considered for use, with dimensions and color included. Applications for renewal of existing sidewalk café licenses must be accompanied by a scale drawing, pictures, and rendering only if the licensee proposes to change the furniture, furnishings and equipment of the sidewalk café. No initial application or renewal application shall be approved unless the applicant has a valid restaurant license.

(Ord. 2001-13, passed 11-20-01)

**117.04 APPLICATION FOR PERMIT; CONTEXT.**

Application for such permits shall be made to the Village Clerk upon a form to be furnished by the village, which application shall set forth the following:

(A) Owner and manager of applicant business;

(B) Hours and days of operation;

(C) Number of patrons to be accommodated;

(D) A statement from a certified public accountant or from a public accountant supported by appropriate documents and/or records indicating that at least 60% of the gross receipts of the

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establishment seeking the permit during the last tax year prior to the application, were derived from the sale of food and nonalcoholic beverages;

(E) The Village Clerk will review all applications to ensure that each application complies with all substantive requirements for issuance of a permit. After approval by the Village Clerk, but before a permit may be issued, the Village Board must approve the layout plans required to be submitted with each application in ' 117.03. Specifically the types and placement of all barriers and furniture are subject to approval of the Board, consistent with the provisions of Ord. 1995-41, regulating the placement of objects upon the village rights-of-way.

(Ord. 2001-13, passed 11-20-01; Am. Ord. 2002-2, passed 4-16-02)

**' 117.05 REGULATIONS PERTAINING TO SIDEWALK CAFÉS WHERE ALCOHOL IS SERVED.**

(A) The licensee has a valid retail alcohol beverage license issued by the village.

(B) The alcohol beverage license permits the sale of the type of alcohol beverages being served in the sidewalk café.

(C) Alcoholic beverages are sold and served only to patrons seated at tables in the sidewalk café.

(D) Sidewalk cafés where alcohol is sold shall be totally enclosed by barriers as described in ' 117.06(C), except that an entrance from the adjacent sidewalk and an entrance from the building of the establishment permitted to operate the café may be provided for by the establishment.

(E) Prohibit the sale, service and consumption of alcohol beverages in the sidewalk café area between 12:00 midnight and 11:00 a.m.

(F) Prohibit the sale, service and consumption of alcohol beverages in the outdoor café between 11:00 a.m. and 12:00 midnight except in conjunction with a meal. Alcoholic beverages are sold, served and consumed in conjunction with a meal if they are served after a meal is ordered and before the table is cleared of the dishes and tableware on which the meal is served. *MEAL* does not include complimentary snacks such as popcorn and potato chips or appetizers.

(Ord. 2001-13, passed 11-20-01)

**' 117.06 PERMIT CONDITIONS.**

Permit conditions shall be as follows:

(A) The service area for any sidewalk café permitted hereunder shall be no less than four feet in

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width when measured toward the street from the side of the building running parallel to said area to meet ADA code.

**Rockton - Business Regulations**

(B) There may be one entrance to the service area of a sidewalk café, from the sidewalk adjacent to said area, and there shall be one entrance to said area from the building of the establishment permitted to operate such sidewalk café;

(C) Except for the entrance required by the preceding section, the service area of a sidewalk café shall be separated from the surrounding sidewalk, by either a fixed or movable ornamental railing, fence, or rope measuring no less than 30 inches and no more than 48 inches in height when measured from the sidewalk.

(D) The licensee shall provide at least four feet of unobstructed sidewalk along the curb on the north side of Main St. and four feet on the south side of Main St. There will be four feet from any obstacle such as trees, grates, or light poles.

(E) At the close of the evening, the licensee shall remove all sidewalk café furniture, furnishings, and equipment from the public sidewalk. During the time that the sidewalk café furniture, furnishings, and equipment are on the public sidewalk, the licensee shall keep that area sufficiently illuminated so as to prevent injury to persons using the same.

(F) The licensee shall use safe, sturdy, weather-proof furniture, furnishings, and equipment in the sidewalk café and shall maintain the same in good repair. The licensee shall also use furniture, furnishings, and equipment which enhance the aesthetics of the surrounding area or, at minimum, do not detract therefrom.

(G) The licensee shall anchor umbrellas in such a way that sudden bursts of wind will not lift them out of their holders or blow them over.

(Ord. 2001-13, passed 11-20-01; Am. Ord. 2002-2, passed 4-16-02)

**117.07 INSURANCE AND INDEMNIFICATION.**

(A) (1) The applicant shall at all times have in full force and effect a policy of liability insurance in the minimum amount of \$300,000 for the injury or death of any number of persons per occurrence, and \$100,000 for property damage per occurrence, and shall obtain and keep in effect at all times liquor liability or dram shop insurance with liability limits equal to the maximum recovery permitted by Illinois Revised Statutes, Chapter 43, Section 135. Such coverage shall name the village as an additional insured. All such policies and certificates of insurance shall be issued by companies authorized to do business in Illinois and shall be approved as to form by the Village Attorney before the commencement of such use and provided that it cannot be canceled until ten days' written notice of such cancellation shall have been filed with the Liquor Commissioner.

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(2) Any termination or lapse of such insurance will automatically revoke any permit issued pursuant to this chapter.

## Outdoor Dining

(B) Any applicant who is licensed to sell alcoholic liquor, shall name the village as a co-insured on any policy of dram shop insurance carried by or required.

(Ord. 2001-13, passed 11-20-01)

### ' 117.08 SIGNS.

(A) No signs shall be allowed in the sidewalk café area except the following:

(1) Table umbrellas with the licensee's business name imprinted thereon;

(2) Portable sandwich board signs consistent in type and size with those used during licensee's regular indoor business hours.

(B) A handheld menu provided to patrons by the licensee or the licensee's employees shall not be considered a sign. Likewise, tabletop documents such as wine lists or information pertaining to the licensee's business shall not be considered signs as long as the documents are not more than 9 inches long and 12 inches wide.

(Ord. 2001-13, passed 11-20-01; Am. Ord. 2002-2, passed 4-16-02)

### ' 117.99 PENALTY.

Any person who violates any section of this chapter is subject to suspension/revocation of their sidewalk café license/permit.

(Ord. 2001-13, passed 11-20-01)

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## CHAPTER 118: TOBACCO PRODUCTS

### Section

- 118.01 Legislative finding and declaration
- 118.02 Definitions
- 118.03 License required
- 118.04 License application
- 118.05 License fee
- 118.06 Prohibited sales and deliveries; signs
- 118.07 Minimum age to sell tobacco
- 118.08 Purchase by minors prohibited
- 118.09 Possession by minors prohibited
- 118.10 Proximity to certain institutions restricted
- 118.11 Certain free distributions prohibited
- 118.12 Vending machines
- 118.13 Responsibility for agents and employees
- 118.14 Suspension or revocation of license; fines, costs
- 118.15 Use of premises after revocation
- 118.16 Penalty for minors
- 118.17 Enforcement and prohibitions

### ' 118.01 LEGISLATIVE FINDING AND DECLARATION.

(A) The Mayor and Board of Trustees expressly find that:

- (1) Cigarette smoking is dangerous to human health;
- (2) There exists substantial scientific evidence that the use of tobacco products causes cancer, heart disease and various other medical disorders;
- (3) The Surgeon General of the United States has declared that nicotine addiction from tobacco is similar to addiction to cocaine, and is the most widespread example of drug dependence in this country;
- (4) The Director of the National Institute on Drug Abuse concluded that the majority of the

320,000 Americans who die each year from cigarette smoking become addicted to nicotine as adolescents before the age of legal consent; and

2009 S-3

64

### **Rockton - Business Regulations**

(5) The present legislative method of prohibiting the sale of tobacco products to persons under the age of 18 has proven ineffective in preventing such persons from using tobacco products.

(B) The Mayor and Board of Trustees expressly declare that the enactment of this chapter directly pertains to, and is in furtherance of, the health, welfare and safety of the residents of the village, particularly those under 18 years of age.

(Ord. 2003-4, passed 2-18-03)

#### **' 118.02 DEFINITIONS.**

For the purpose of this chapter, the following words and phrases shall have the following meanings respectively assigned to them.

**ADMINISTRATION HEARING BOARD.** The Administration Committee of the Village Board of Trustees, consisting of three Village Trustees, who shall be appointed by the Mayor to act as the **ADMINISTRATION HEARING BOARD**, and hold public hearings along with the Mayor or designated agent.

**TOBACCO PRODUCTS.** Substances containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

**VENDING MACHINE.** Any mechanical device that, upon inserting of money, tokens or any other form of payment, dispenses tobacco products.

(Ord. 2003-4, passed 2-18-03)

#### **' 118.03 LICENSE REQUIRED.**

It shall be unlawful to sell or offer for sale at retail, give away, deliver or keep with the intent of selling at retail, giving away or delivering tobacco products within the village, without having first

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obtained a tobacco dealer's license therefor pursuant to this chapter.  
(Ord. 2003-4, passed 2-18-03)

**' 118.04 LICENSE APPLICATION.**

Application for a license hereunder shall be in writing to the Village Clerk, on the application form approved by the village, and shall be processed in accordance with the provisions of this chapter.  
(Ord. 2003-4, passed 2-18-03)

2009 S-3

**Tobacco Products**

65

**' 118.05 LICENSE FEE.**

The license fee for a tobacco dealer's license shall be set at \$75.  
(Ord. 2003-4, passed 2-18-03)

**' 118.06 PROHIBITED SALES AND DELIVERIES; SIGNS.**

(A) It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products to any person under the age of 18 years.

(B) Signs informing the public of the age restrictions provided for herein shall be posted by every licensee at or near every display of tobacco products.

(1) Each such sign shall be plainly visible and shall state:

ATHE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER  
EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW.@

(2) The text of such signs shall be in red letters, at least one inch high, on a white background.  
(Ord. 2003-4, passed 2-18-03)

**' 118.07 MINIMUM AGE TO SELL TOBACCO PRODUCTS.**

It shall be unlawful for any licensee, or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under 16 years of age to sell tobacco products on any licensee premises. The responsibility of ensuring that there are no sales to minors belongs to the licensed seller.

(Ord. 2003-4, passed 2-18-03)

**' 118.08 PURCHASE BY MINORS PROHIBITED.**

It shall be unlawful for any person under the age of 18 years to purchase tobacco products, or to misrepresent their identity or age, or to use false or altered identification for the purpose of purchasing tobacco products.

(Ord. 2003-4, passed 2-18-03)

2009 S-3

66

**Rockton - Business Regulations**

**' 118.09 POSSESSION BY MINORS PROHIBITED.**

It shall be unlawful for any person under the age of 18 years to possess any tobacco products, except when the possession by a person under the age of 18 years is under the direct supervision of the parent or guardian.

(Ord. 2003-4, passed 2-18-03)

**' 118.10 PROXIMITY TO CERTAIN INSTITUTIONS RESTRICTED.**

It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within 100 feet of any school building or child care facility.

(Ord. 2003-4, passed 2-18-03)

**118.11 CERTAIN FREE DISTRIBUTIONS PROHIBITED.**

It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products, or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products free of charge to any person on any right-of-way, park, playground or other property owned by the village, or in any school district, park, forest preserve district or public library.

(Ord. 2003-4, passed 2-18-03)

**118.12 VENDING MACHINES.**

It shall be unlawful for any licensee to use a vending machine to sell or offer for sale, to give away or to deliver, or to keep with the intent to sell, give away or deliver, tobacco products.

(Ord. 2003-4, passed 2-18-03)

**118.13 RESPONSIBILITY FOR AGENTS AND EMPLOYEES.**

Every act of omission of whatsoever nature, constituting a violation of any of the provisions of this chapter by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of such licensee; and such licensee shall be punishable in the same manner as if such act or omission had been committed by the licensee personally.

(Ord. 2003-4, passed 2-18-03)

**118.14 SUSPENSION OR REVOCATION OF LICENSE; FINES, COSTS.**

(A) The Mayor, or designated agent, and Administration Hearing Board shall be charged with the administration of this chapter.

2009 S-3

(2) The Mayor, or designated agent, and Administration Hearing Board may suspend or revoke any license issued under the provision of this chapter, if they determine that the licensee has violated any of the provisions of this chapter.

(3) In lieu of suspension or revocation of a license, the Mayor, or designated agent, and Administration Hearing Board may instead levy a fine on the licensee.

(a) The fine imposed shall not exceed \$750 per violation.

(b) Each day in which a violation continues shall constitute a separate violation.

(B) However, no such license shall be suspended or revoked and no licensee shall be fined except after a public hearing by the Mayor, or designated agent, and the Administration Hearing Board, with a seven-day, written notice to the licensee, affording the licensee an opportunity to appear and defend against charges contained in such notice. The seven days= notice shall begin the day following its delivery by certified mail or personal service.

(C) Within seven days after such a hearing, the Mayor, or designated agent, and Administration Hearing Board shall determine if the license should be revoked or suspended, or if the licensee should be fined, shall state the reason for such determination in a written order, and either the amount of the fine, or the period of time the license has been suspended or revoked, and shall serve a copy of such order upon the licensee within the seven days.

(D) (1) In addition to any fine, any licensee determined by the Mayor, or designated agent, and Administration Hearing Board to have violated any of the provisions of this chapter shall pay to the village the cost of the hearing on such violation.

(2) The Mayor, or designated agent, and Administration Hearing Board shall determine the cost incurred by the village for such hearing, including but not limited to: hearing reporter's fees, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses, including legal fees, incurred by the village; or such lesser sum as the Mayor, or designated agent, and Administration Hearing Board may allow.

(E) (1) The licensee shall pay such costs, as well as such fine, to the village within 30 days of notification of the costs and/or fine by the Mayor, or designated agent, and Administration Hearing Board.

(2) Failure to pay such costs and/or fine within 30 days of notification is a violation of this chapter and may be cause for license suspension or revocation, or the levy of an additional fine.

(Ord. 2003-4, passed 2-18-03)

**' 118.15 USE OF PREMISES AFTER REVOCATION.**

After any license has been revoked for any cause, no license shall be granted to the licensee for a period of six months thereafter for the conduct of business of selling tobacco products as defined in this chapter.

(Ord. 2003-4, passed 2-18-03)

**' 118.16 PENALTY FOR MINORS.**

Fines for violations with respect to possession and/or purchase of tobacco products by persons under 18 years of age shall be as follows:

(A) The fine for violation of ' 118.08 shall not be less than \$10 nor more than \$750.

(B) The fine for violation of ' 118.09 shall not be less than \$10 nor more than \$750.

(Ord. 2003-4, passed 2-18-03)

**' 118.17 ENFORCEMENT AND PROHIBITIONS.**

(A) The Police Department shall enforce this chapter.

(B) Possession of tobacco products in a motor vehicle cannot be the sole basis to stop a motor vehicle; nor can it be the sole basis to search the motor vehicle.

(C) The provisions of this chapter shall be enforced from and after its effective date, February 18, 2003.

(Ord. 2003-4, passed 2-18-03)

[www.rocktonpolice.org](http://www.rocktonpolice.org)

2009 S-3