

## TITLE 4

### BUSINESS LICENSES, OPERATIONS AND REGULATIONS

#### Chapters:

- 4.01 Cablevision System
- 4.02 Alcoholic Liquor
- 4.03 Sale of Package Liquors (original ordinance repealed and regulations now included in 4.02)
- 4.04 Peddlers
- 4.05 Commercial Use of Billiard and Pool Tables
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## Chapter 4.01

### Cablevision System

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**§4.01.01 Statement of Intent and Purpose.** The Village intends, by the adoption of this Franchise, to bring about the development of a Cable Communications System, and the continued operation of it. (Ord. No. 97-5, 10-8-97)

**§4.01.02 Short Title.** This Franchise Ordinance shall be known and cited as the Cable Communications Franchise.

**§4.01.03 Definitions.** For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word “shall” is always mandatory and merely directory. The word “may” is directory and discretionary and not mandatory.

(a) “Basic Cable Service” means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. §543(b)(7)(1993).

(b) “Cable Communications System” or “System” means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, Converters, equipment, or facilities located in Village, and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video and other forms of electronic

signals in Village. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §522(6)(1993).

(c) “Cable Programming Service” means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

- (1) Video programming carried on the Basic Service Tier;
- (2) Video programming offered on a pay-per-channel or pay-per-program basis; or
- (3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
  - a) consists of commonly-identified video programming; and
  - b) is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. §543(1)(2)(1993) and 47 C.F.R. 76.901(b) (1993).

(d) “Cable Communications Service” means the provision of television reception, communications and/or entertainment services distributed over a Cable Communications System. This definition shall not include telecommunications services regulated pursuant to federal and state law as may be amended from time to time.

(e) “Cable Service” means:

- (1) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and
- (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service;

(f) “Converter” means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Cable Communications Services which the Subscriber is lawfully authorized to receive.

(g) “Drop” means the cable that connects the ground block on the Subscriber’s residence to the nearest feeder cable of the System.

(h) “FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

(i) “Grantee” is Triax Midwest Associates, L.P., its agents and employees, lawful successors, transferees or assignees.

(j) “Gross Revenues” means all revenue received from Cable Service directly by the Grantee from the operation of its System within Village. The term Gross Revenues shall not include franchise fees, installation, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.

(k) “Installation” means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.

(l) “Lockout Device” means an optional mechanical or electrical accessory to a Subscriber’s terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.

(m) “Pay Television” means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.

(n) “Person” is any person, firm, partnership, association, corporation, company, or other legal entity.

(o) “Standard Installation” means any residential installation which can be completed using a Drop of one hundred fifty (150) feet or less.

(p) “Street” means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Village.

(q) “Subscriber” means any Person who lawfully receives Cable Service. In the case of multiple office buildings or multiple dwelling units, the “Subscriber” means the lessee, tenant or occupant.

(r) “Village” means Village of Dunlap, a municipal corporation, in the State of Illinois, acting by and through its Village Board.

(s) “Village Board” means the Dunlap, Illinois Village Board.

(Ord. No. 97-5, 10-08-97)

#### **§4.01.04 Grant of Authority and General Provisions.**

A. Franchise Required: It shall be unlawful for any person to construct, operate or maintain a Cable Communications System in Village, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise Ordinance. It shall also be unlawful for any person to provide cable service in Village unless such person shall have first obtained and shall currently hold a valid Franchise Ordinance. All Cable Communications Franchises granted by Village shall contain the same substantive terms and conditions.

B. Grant of Franchise: This Franchise is granted pursuant to the terms and conditions contained herein.

C. Grant of Nonexclusive Authority:

1. The Grantee shall have the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Village, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Village of a Cable Communications System as herein defined.

2. This Franchise shall be nonexclusive, and Village reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this Franchise, provided, however, that any additional Franchises granted shall contain the same substantive terms and conditions as this Franchise.

D. Franchise Term: Franchise shall be in effect for a period of fifteen (15) years from the effective date, unless renewed, revoked or terminated sooner as herein provided.

E. Previous Franchises: Upon acceptance by Grantee as required by Section 4.01.13 herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within Village Ordinance No. 82-3 is hereby expressly repealed.

F. Rules of Grantee: The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise.

G. Territorial Area Involved: This Franchise is granted for the corporate boundaries of Village, as it exists from time to time. In the event of annexation by Village, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present

System boundaries unless there is a minimum of forty-five (45) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

H. Written Notice: All notices, reports or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to Village: Village of Dunlap  
Village Hall  
104 North Second Street  
Dunlap, IL 61525-0116  
Attn: Village Clerk

If to Grantee: Triax Midwest Associates, L.P.  
215 15th Avenue NE, Suite 2010  
Waseca, MN 56093  
Attn: Robert V. Langley

With copies to: Larkin, Hoffman, Daly & Lundgren, Ltd.  
1500 Norwest Financial Center  
7900 Xerxes Avenue South  
Bloomington, MN 55431  
Attn: Jane E. Bremer, Esq.

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

I. Drops to Public Buildings: Grantee shall provide installation of one (1) cable Drop, one (1) cable outlet, and monthly Basic Cable Service without charge to the following institutions: Dunlap Grade School, Dunlap High School, Dunlap Junior High School, Dunlap Public Library and Dunlap Village Hall. Additional Drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for Cable Services are paid. Nothing herein shall be construed as requiring Grantee to extend the System to serve additional institutions as may be designated by Village. Grantee shall have one (1) year from the date of Village Board designation of additional institution(s) to complete construction of the Drop and outlet.

(Ord. No. 97-5, 10-08-97)

#### **§4.01.05 Construction Standards.**

**A. Construction Codes and Permits:**

1. Grantee shall obtain all necessary permits from Village before commencing any construction upgrade or extension of the System, including the opening or disturbance of any street, or private or public property within Village.

2. The Village shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

**B. Repair of Streets and Property:** Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

**C. Building Movers:** The Grantee shall, on request of any person holding a moving permit issued by Village, temporarily moves its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

**D. Tree Trimming:** The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks or public easements of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

**E. No Waiver:** Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

**F. Undergrounding of Cable:**

1. In all areas of Village where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

2. In any area of Village where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

G. Safety Requirements: The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(Ord. No. 97-5, 10-08-97)

**§4.01.06 Operations Provisions.**

A. Channel Capacity: Grantee shall provide a system which utilizes 450MHz and which is capable of delivering sixty (60) channels. Construction shall begin within thirty-six (36) months and be completed within forty-eight (48) months of the Effective Date of this Franchise.

B. Technical Standards: The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communication systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617.

C. Lockout Device: Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

(Ord. No. 97-5, 10-08-97)

**§4.01.07 Services Provisions.**

A. Subscriber Inquiries: Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

B. Refund policy: In the event a Subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

(Ord. No. 97-5, 10-08-97)

**§4.01.08 Franchise Fees and Insurance Provisions.**

A. Franchise Fee:

1. Grantee shall pay to Village a Franchise Fee in an annual amount equal to five percent (5%) of its annual Gross Revenues.

2. Payments due Village under this provision shall be payable annually. The payment shall be made within ninety (90) days of the end of the

Grantee's fiscal year together with a brief report showing the basis for the computation.

B. Insurance.

1. Upon request, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of Village in its capacity as such. The policies of insurance shall be in the sum of not less than One Million Dollars (\$1,000,000) for personal injury or death of any one person, and Three Million Dollars (\$3,000,000) for personal injury or death of two or more persons in any one occurrence, One Million Dollars (\$1,000,000) for property damage to any one person and Three Million Dollars (\$3,000,000) for property damage resulting from any one act or occurrence.

2. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to Village.

(Ord. No. 97-5, 10-08-97)

**§4.01.09 Sale, Abandonment, Transfer and Revocation of Franchise.**

A. Village's Right to Revoke: In addition to all other rights which Village has pursuant to law or equity, Village reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by Subsection B of this Section, it is determined that: (a) Grantee has violated any material provision of this Franchise; or (b) Grantee has practiced fraud or deceit upon Village or Subscriber.

B. Procedures for Revocation:

1. Village shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, Village shall provide Grantee with written findings of fact which are the basis of the revocation.

2. Grantee shall be provided the right to a public hearing affording due process before the Village Board prior to revocation, which public hearing

shall follow the sixty (60) day notice provided in paragraph 1 above. Village shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

3. After the public hearing and upon written determination by Village to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

4. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

5. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

(Ord. No. 97-5, 10-08-97)

**§4.01.10 Protection of Individual Rights.**

A. Subscriber Privacy: Grantee shall comply with the terms of 47 U.S.C.551 relating to the protection of Subscriber privacy.

(Ord. No. 97-5, 10-08-97)

**§4.01.11 Unauthorized Connections and Modifications.**

A. Unauthorized Connections or Modifications Prohibited: It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System.

B. Removal or Destruction Prohibited: It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.

C. Penalty: Any firm, person, group, company, corporation or governmental body or agency found guilty of violating this section may be fined not less than One Hundred Dollars (\$100.00) and the costs of the action nor more than Seven Hundred Fifty Dollars (\$750.00) and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

(Ord. No. 97-5, 10-08-97; Ord. No. 09-3, 6-10-09 §3)

#### **§4.01.12 Miscellaneous Provisions.**

A. Franchise Renewal: Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

B. Amendment of Franchise Ordinance: Grantee and Village may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time if Village and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. Village shall act pursuant to local law pertaining to the ordinance amendment process.

(Ord. No. 97-5, 10-08-97)

#### **§4.01.13 Publication Effective Date; Acceptance and Exhibits.**

A. Publication; Effective Date: This Franchise shall be published in accordance with applicable Illinois law. The Effective Date of this Franchise shall be date of acceptance by Grantee.

B. Acceptance: Grantee shall accept this Franchise within sixty (60) days of its enactment by the Village Board, unless the time for acceptance is extended by the Village. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

C. Grantee shall accept this Franchise in the following manner:

1. This Franchise will be properly executed and acknowledged by Grantee and delivered to the Village.

2. With its acceptance, Grantee shall also deliver the insurance certificate required herein that has not previously been delivered.

(Ord. No. 97-5, 10-08-97)

## Chapter 4.02

### Alcoholic Liquor

#### Sections:

- 4.02.01 Applicability of Illinois Liquor Control Act
- 4.02.02 Definitions
- 4.02.03 Local Liquor Control Commissioner; Powers
- 4.02.04 Local Liquor Control Commissioner; Compensation
- 4.02.05 License Requirement
- 4.02.06 Applications
- 4.02.07 Background Investigation
- 4.02.08 Restriction on Licenses
- 4.02.09 Classes of Licenses
- 4.02.10 License Fee
- 4.02.11 License Term
- 4.02.12 Privilege Granted by License; Nature as to Property; Transfer of License; Tax Delinquencies
- 4.02.13 Violation of Tax Acts; Refusal, Revocation or Suspension of License
- 4.02.14 Books and Records Available for Investigation and Control; Maintenance
- 4.02.15 Sale Near Churches, Schools, and Hospitals
- 4.02.16 Peddling
- 4.02.17 Display of License
- 4.02.18 Advertising Restrictions
- 4.02.19 Change or Enlargement of Location
- 4.02.20 Employees
- 4.02.21 Restrictions on Operating Hours
- 4.02.22 Bond; Filing of, Condition; Forfeiture
- 4.02.23 Prohibited Sales
- 4.02.24 Purchase, Acceptance of Gift, Consumption or Possession of Alcoholic Liquor by Persons Under 21; Identification Cards; Other Prohibitions; Exceptions
- 4.02.25 Gambling; Disorderly Conduct
- 4.02.26 Revocation; Suspension; Fines; Notice; Hearing
- 4.02.27 Granting Licenses after Revocation; Waiting Period; Discretion
- 4.02.28 Violations

**§4.02.01 Applicability of Illinois Liquor Control Act.** All provisions of the Illinois Liquor Control Act (the "Act") are incorporated herein by this reference and shall, in addition to the other provisions hereof, govern the licensing and sale of alcoholic liquor within the Village of Dunlap, Illinois.

**§4.02.02 Definitions.** Unless the context otherwise requires the following terms as used in this Chapter (the “Liquor Code”) shall be construed according to the definitions given below.

**ALCOHOL:** The product of distillation of any fermented liquid, whether reflected or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

**ALCOHOLIC LIQUOR:** Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing one-half of one percent (0.5%), or less, of alcohol by volume.

**BEER:** A beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, larger beer, porter and the like.

**CLUB:** A corporation organized under the laws of this State, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members through the payment of annual dues, and owning, hiring or leasing a building or a space in a building, of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining room space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided, that such club files with the Local Liquor Control Commissioner at the time of its application for a license under this Chapter two (2) copies of a list of names and residences of its members, and similarly files within ten (10) days of the election of any additional member his name and address; and, provided further, that its affairs and management are conducted by a board of directors, executive committee or similar body chosen by the members at their annual meeting and that no member or any officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members beyond the amount of such salary as may be fixed and voted at any annual meeting by the members or by its Board of Directors or other governing body out of the general revenue of the club.

**RETAILER:** A person who sells, or offers for sale, alcoholic liquor for use or consumption and not for resale in any form.

**SALE:** Any transfer, exchange, or barter in any manner, or by any means whatsoever, including the transfer of alcoholic liquors by and through the transfer or negotiation of warehouse receipts or certificates, and includes and means all sales made by any person, whether principal, proprietor, agent, servant, or employee.

SELL AT RETAIL: "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form.

SPIRITS: Any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whisky, gin, or other spirituous liquors when rectified, blended, or otherwise mixed with alcohol or other substances.

TO SELL: "To sell" includes to keep or expose for sale and to keep with intent to sell.

WINE: Any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

**§4.02.03 Local Liquor Control Commissioner; Powers.** The Village President is hereby designated as the Local Liquor Control Commissioner for the Village. The Local Liquor Control Commissioner shall have the duty to administer and enforce this Chapter and the applicable provisions of the Illinois Liquor Control Act of 1934, and to notify the Illinois Secretary of State of any convictions for a violation of Section 6-20 of the Illinois Liquor Control Act of 1934 or Section 19 of this Chapter. The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to liquor licenses, other than licenses to manufacturers, importing distributors, distributors, foreign importers, non-resident dealers, non-beverage users, brokers, railroads, airplanes and boats:

1. To grant and or suspend for not more than thirty (30) days or revoke for cause all Retail Liquor Dealer's Licenses issued to persons for premises within the Village;
2. To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed by the Local Liquor Control Commissioner or the Illinois Liquor Control Commission to determine whether any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934 or any rules or regulations adopted by him or by the Illinois Liquor Control Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;
3. To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act of 1986 or a foreign corporation functioning as a club in the State of Illinois under a certificate of authority issued under that Act has violated this Chapter or the Illinois Liquor Control Act of 1934 by selling or offering for sale at retail alcoholic liquors without a license;
4. To receive complaint from any citizen within the Village that any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such

complaints in the manner hereinafter provided;

5. To receive or authorize the Village Clerk to receive fees for a Retail Liquor Dealer's License and other fees required for the application process;

6. To examine, or cause to be examined, under oath, any applicant for a Retail Liquor Dealer's License or for a renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for information in the performance of these duties, and for such purpose to issue subpoenas which shall be effective in any part of the State of Illinois.

**§4.02.04 Local Liquor Control Commissioner; Compensation.** The Local Liquor Control Commissioner shall receive compensation of \$480.00 per year (\$40 per month) from the Village. This compensation level shall not be increased or decreased during the fiscal year for which the annual appropriation has been made.

**§4.02.05 License Requirement.** No person shall sell, keep for sale, or offer to sell, at retail, alcoholic liquor in the Village without first having a valid liquor license ("License") issued by the Village.

**§4.02.06 Applications.** All License applications must be filed with the Village Clerk and must be accompanied with the required fee. The Village Clerk shall then forward the application to the Local Liquor Control Commissioner for review. License applications shall be signed under oath by the applicant, or by a duly authorized agent if the application is submitted on behalf of a Club or corporation, and shall contain the information set forth below and shall be generally in form as provided by the Village Clerk. The application for a License shall contain the following information and statements under oath:

(A) The applicant's name, sex, date of birth, mailing address, social security number, and position and percentage of ownership in the applicant's business;

(B) The name and address of the applicant's business which is to be operated under such license;

(C) If applicable, the date of the filing of the "assumed name" of the business with the County Clerk;

(D) The name, sex, date of birth, mailing address, social security number, position and percentage of ownership in the business of every owner or partner of the business;

(E) The name, sex, date of birth, mailing address, social security number, position and percentage of ownership of every corporate officer, director, or manager of every owner and any person who owns 5% or more of the shares of the applicant;

(F) In case of a co-partnership, the date of the formation of the partnership; in the case of an Illinois corporation, the date of its incorporation; or in the case of a foreign corporation, the state where it was incorporated and the date of its becoming qualified under the Business Corporation Act of 1983 to transact business in the State of Illinois;

(G) The name and address of the landlord if the premises of the business are leased;

(H) The citizenship of the applicant, his place of birth, and if a naturalized citizen, the time and place of his naturalization;

(I) The character of business of the applicant; and in case of a corporation, the objects for which it was formed;

(J) The length of time that said applicant has been in business of that character, or in case of a corporation, the date on which its charter was issued;

(K) The amount of goods, wares and merchandise on hand at the time application is made;

(L) The applicant's Retailer's Occupation Tax (ROT) Registration Number;

(M) Whether the applicant has made a similar application for a State or local liquor license on the premises described in the application, and the disposition of such application;

(N) Whether the applicant has made a similar application for a State or local liquor license on premises other than described in the application, and the disposition of such application;

(O) Whether the applicant is delinquent in the payment of any taxes to the Village or State;

(P) Whether the applicant has ever been convicted of a felony, gambling offense, pandering, or other offense opposed to decency or morality, or is otherwise disqualified to receive a license by reason of any provision contained in this Chapter, the laws of the State or the Village Code, other than minor traffic violations;

(Q) Whether a previous license by any state or political subdivision thereof or by the Federal government has been suspended or revoked, and the reasons therefore;

(R) Whether the applicant or manager of the applicant's business is a resident of the Village and the length of time the applicant or manager has resided in the Village;

(S) Whether the applicant, or any other person set forth in the application or

otherwise directly involved in the business which is the subject of the application is a public official for any public or governmental body, and if so, the particulars thereof; and

(T) A statement that the applicant will not violate any of the laws of the State or the United States, or any provision of the Village Code in the conduct of his place of business.

**§4.02.07 Background Investigation.** Upon the initial or any new application for a License by an applicant, each applicant for a License shall submit his or her fingerprints to the Illinois Department of State Police in the form and manner prescribed by the Illinois Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Illinois Department of State Police and Federal Bureau of Investigation criminal history databases. After receiving the criminal history for the applicant from the Illinois Department of State Police, the Local Liquor Control Commissioner may use such information to determine whether the applicant qualifies for the issuance of a License or the renewal of a previously issued License under this Chapter. The applicant shall pay a fee in an amount as determined by the Illinois Department of State Police, which shall then be forwarded to the Illinois Department of State Police for the purposes of conducting this criminal history background investigation.

**§4.02.08 Restriction on Licenses.** Except as otherwise provided in this Section, no License shall be issued to:

- (A) A person who has been convicted of a felony under any Federal or State law.
- (B) A person who is not of good character and reputation in the community in which he resides.
- (C) A person who has been convicted of being the keeper or is the keeper of a house of ill-fame.
- (D) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality.
- (E) A person who is not a resident of the Village.
- (F) A person whose license issued under this Chapter has been revoked for cause.
- (G) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon first application.
- (H) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning 5% of the aggregate partner interest in such co-partnership would not be eligible to receive a license hereunder.

(I) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.

(J) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.

(K) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Chapter, or who has forfeited his bond to appear in court to answer charges for any such violation.

(L) A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(M) Any law enforcing public official, including members of Village Liquor Control Commission, the President of the Village Board of Trustees, or any member of the Village Board of Trustees; and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

(N) Any person, association or corporation not eligible for a State retail liquor dealer's license.

(O) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in subsection (a) of section 6-21 of the liquor control act of 1934 found at 235 Illinois Compiled Statutes 5/1-1 et seq., or any successor provision of state law.

(P) A person who is not a citizen of the United States.

(Q) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act of 1983 to transact business in Illinois.

(R) A person who is not a beneficial owner of the business to be operated by the licensee.

(S) A person who has been convicted of a gambling offense as proscribed by any of Subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Illinois Criminal Code of 1961, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(T) A person or entity to whom a federal wagering stamp has been issued by the Federal government, unless the person or entity is eligible to be issued a license under the

Illinois Raffles Act or the Illinois Pull Tabs and Jar Games Act.

A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or State law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions directly contributed to the conviction of the corporation. The Local Liquor Control Commissioner shall determine if all provisions of this provision have been met before any action on the corporation's license is initiated.

**§4.02.09 Classes of Licenses.** There are hereby created and authorized the following Licenses:

A. Class "A", granting the right to sell alcoholic liquor at retail in its original package, for consumption off the premises, of which there shall never be more than one (1) in effect at any given time;

B. Class "B", granting the right to sell alcoholic liquor at retail, either in the original package or not, and for consumption on the premises, of which there shall never be more than two (2) in effect at any given time; and

C. Class "C", granting the right to sell alcoholic liquor at retail in any restaurant which complies with the requirement that fifty percent (50%) or more of the gross revenue in any month from the operation of the licensed premises must be derived from the serving of meals, for consumption on the premises, of which there shall never be more than one (1) at any given time.

**§4.02.10 License Fee.** The fee for any License issued by the Village shall be the sum of Six Hundred Dollars (\$600.00), payable in advance. Except as specifically provided in this Section, such fee shall be non-refundable and it shall not be discounted or prorated for any partial license period. Such fees shall be paid to the Village Clerk at the time of application, and shall be forthwith turned over to the Village Treasurer. In the event the license applied for is denied, the fee shall be returned to the applicant. If the license is granted, then the fee shall be deposited in the Village treasury.

**§4.02.11 License Term.** A License issued under the terms of this Chapter shall generally valid for a period of one year from 12:00 a.m. (midnight) on November 1<sup>st</sup> to 11:59 p.m. on the subsequent October 31<sup>st</sup>, unless suspended or revoked sooner as provided for in this Chapter. Any License issued on or after May 1 and before November 1 shall expire on October 31 following its issuance. Any License issued on or after November 1 and before May 1 shall expire on April 30 following its issuance.

**§4.02.12 Privilege Granted by License; Nature as to Property; Transfer of License; Tax Delinquencies.**

(A) A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as in this Chapter provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntary or involuntarily, or subject to be encumbered or hypothecated. Such 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 insolvent or bankrupt licensee, when such estate consists 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 insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy until the expiration of such license but not longer than six months after the death, bankruptcy or insolvency of such licensee.

(B) Any licensee may renew his license at the expiration thereof, provided the licensee is then qualified at the time of renewal to receive a license and the premises for which such renewal license is sought are suitable for such purpose; and provided further, that the renewal privilege herein provided for shall not be construed as a vested right which shall in any case prevent the Board of Trustees from decreasing the number of licenses to be issued within the Village. No License shall be renewed unless the applicant provides documentation that any tax owed to the Village has been satisfied by payment.

**§4.02.13 Violation of Tax Acts; Refusal, Revocation or Suspension of License.**

(A) In addition to other grounds specified in this Chapter, the Local Liquor Control Commissioner, on complaint of the Illinois Department of Revenue, shall refuse the issuance or renewal of a License, or suspend or revoke the license, of any person, for any of the following violations of any tax Act administered by the Illinois Department of Revenue:

1. Failure to make a tax return.
2. The filing of a fraudulent return.
3. Failure to pay all or part of any tax or penalty finally determined to be due.
4. Failure to keep books and records.
5. Failure to secure and display a certificate or sub-certificates of registration, if required.
6. Willful violation of any rule or regulation of the Illinois Department of Revenue relating to the administration and enforcement of tax liability.

(B) Upon receiving notice from the Illinois Department of Revenue that a violation of any of items 1 through 6 of Subsection (A) have been corrected or otherwise resolved to the Department's satisfaction, the Local Liquor Control Commissioner may vacate an Order of Revocation.

**§4.02.14 Books and Records Available for Investigation and Control; Maintenance.** It shall be the duty of every licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Illinois Liquor Control Commission or the Local Liquor Control Commissioner. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois; however, if access is available electronically, the books and records may be maintained out of state. However, all original invoices or copies thereof covering purchases of alcoholic liquor must be retained on the licensed premises for a period of ninety (90) days after such purchase, unless the Illinois Liquor Control Commission has granted a waiver in response to a written request in cases where records are kept at a central business location within the State of Illinois or in cases where books and records that are available electronically are maintained out of state.

**§4.02.15 Sale Near Churches, Schools, and Hospitals.**

(A) No License shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, or home for aged or indigent persons or for veterans, their spouses or children, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where the church or school has been established within such one hundred (100) feet since the issuance of the original license. In the case of a church, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(B) Nothing in this Section shall prohibit the issuance of a License authorizing the sale of alcoholic liquor incidental to a restaurant if: (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid retail license authorizing the sale of alcoholic liquor at the restaurant for at least part of the twenty-four (24) months before the change of ownership, and (3) the restaurant is located seventy-five (75) or more feet from a school.

(C) Nothing in this Section shall prohibit the issuance of a License to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

**§4.02.16 Peddling.** It shall be unlawful to peddle alcoholic liquor in the corporate limits of the Village.

**§4.02.17 Display of License.** Every licensee shall cause his License to be framed and hung in plain and conspicuous view on the licensed premises and shall keep said license so posted during all of the time said license is in force.

**§4.02.18 Advertising Restrictions.** No licensee shall use the word "saloon" or "bar" in any sign advertising his business operation.

**§4.02.19 Change or Enlargement of Location.** A License shall permit the sale of alcoholic liquor only to the premises described in the application and license, and only one location shall be so described in each license. After a license has been granted for particular premises, such location may be changed or enlarged only upon the written permission to make such change issued by the Local Liquor Control Commissioner and endorsed upon the license. 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 provisions of this Code, and the person requesting the change files with the State Liquor Control Commission and the Local Liquor Control Commissioner a written request in writing and a statement under oath which shall show that the premises to which the change is to be made comply in all respects with the requirements of State law and the provisions of this Code.

**§4.02.20 Employees.**

(A) It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with, or who is a carrier of, any infectious or communicable disease, contained in the list of infectious and communicable diseases published annually by the U.S. Secretary of Health and Human Services, in a capacity that such person may transmit the infectious or communicable disease through the handling, preparation or distribution of food or alcoholic liquor; and it shall be unlawful for any person who is afflicted with, or a carrier of, any such disease to work in a capacity where the disease may be transmitted through the handling, preparation or distribution of food or liquor.

(B) It shall be unlawful to permit any person under the age of 21 in any premises used for the retail sale of alcoholic liquor to serve, mix, dispense or sell alcoholic liquor or to be otherwise involved in the handling of such alcoholic liquor.

**§4.02.21 Restrictions on Operating Hours.** In establishments with Class "A" licenses, no alcoholic liquors shall be sold or served between the hours of 1:00 o'clock A.M. and 7:00 o'clock A.M.

In establishments with Class "B" licenses, no alcoholic liquor shall be sold or served on Sundays from 1:00 o'clock A.M. until 11:00 o'clock A.M. or any other day of the week between the hours of 1:00 o'clock A.M. and 10:00 o'clock A.M.

In establishments with Class "C" licenses, no alcoholic liquor shall be sold or served on Sundays from 1:00 o'clock A.M. until 11:00 o'clock A.M. or any other day of the week between the hours of 1:00 o'clock A.M. and 10:00 o'clock A.M.

**§4.02.22 Bond; Filing of, Condition; Forfeiture.** Each person desiring a License under this Chapter, shall execute a penal bond in the sum of one thousand dollars (\$1,000.00) with at least two (2) personal securities or a solvent surety company licensed to do business in the State of Illinois, to be approved by the President and Board of Trustees. Said bond shall be filed with the President at the same time the application is presented, and shall be conditioned for the faithful observance by the licensee of the provisions of this Chapter and of the laws of the State of Illinois and of the United States of America, applying to the sale and possession of alcoholic liquor. If a licensee shall be convicted of the violation of any of the provisions of this Chapter or the Illinois Liquor Control Act of 1934, or his license shall be revoked and no appeal is taken from said order of revocation or any appeal taken therefrom is decided adversely to the licensee, said bond shall thereupon be forfeited to the Village.

**§4.02.23 Prohibited Sales.**

(A)(1) Except as provided in Subsection (B), it shall be unlawful for any person licensed under this Chapter or any officer, associate, member, representative, agent or employee of such licensee to sell, give, or deliver alcoholic liquor to any person under the age of 21 years or to any intoxicated person. 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. If a licensee or officer, associate, agent, or employee of the licensee is prosecuted under this Subsection (A) for selling, giving, or delivering alcoholic liquor to a person under the age of 21 years, the person under 21 years of age who attempted to buy or receive the alcoholic liquor may be prosecuted pursuant to Section 3-4-24 of this Chapter, unless the person under 21 years of age was acting under the authority of a law enforcement agency, the Illinois Liquor Control Commission, or the Local Liquor Control Commissioner pursuant to a plan or action to investigate, patrol, or conduct any similar enforcement action.

(2) For the purpose of preventing the violation of this Section, any licensee, or his agent or employee shall refuse to sell, deliver, 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, if requested by the licensee, agent, employee, or representative.

However, no agent or employee of the licensee shall be disciplined or discharged for selling or furnishing liquor to a person under 21 years of age if the agent or employee demanded and was shown, before furnishing liquor to a person under 21 years of age, adequate written evidence of age and identity of the person 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 an identification card issued to a member of the Armed Forces. This paragraph, however, shall not apply if the agent or employee accepted the written evidence knowing it to be false or fraudulent.

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 an identification card issued to a member of the Armed Forces. Proof that the defendant-licensee, or his employee or agent demanded, was shown and reasonably relied upon such written evidence in any transaction forbidden by this Section is an affirmative defense in any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon. It shall not, however, be an affirmative defense if the agent or employee accepted the written evidence knowing it to be false or fraudulent. If a false or fraudulent Illinois driver's license or Illinois identification card is presented by a person less than 21 years of age to a licensee or the licensee's agent or employee for the purpose of ordering, purchasing, attempting to purchase, or otherwise obtaining or attempting to obtain the serving of any alcoholic beverage, the law enforcement officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State.

(B) A licensee or an officer, associate, member, representative, agent, or employee of a licensee may sell, give, or deliver alcoholic liquor to a person under the age of 21 years or authorize the sale, gift, or delivery of alcoholic liquor to a person under the age of 21 years pursuant to a plan or action to investigate, patrol, or otherwise conduct a "sting operation" or enforcement action against a person employed by the licensee or on any licensed premises if the licensee or officer, associate, member, representative, agent, or employee of the licensee provides written notice, at least 14 days before the "sting operation" or enforcement action to the Local Liquor Control Commissioner. Notice provided under this Section shall be valid for a "sting operation" or enforcement action conducted within 60 days of the provision of that notice.

#### **§4.02.24 Purchase, Acceptance of Gift, Consumption or Possession of Alcoholic Liquor by Persons Under 21; Identification Cards; Other Prohibitions; Exceptions.**

(A) It shall be unlawful for any person under the age of 21 years to purchase or accept a gift of alcoholic liquor, or consume or have alcoholic liquor in his possession. If a licensee or his or her agents or employees believes or has reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he or she shall, before making such sale or delivery demand presentation of some form of positive identification containing proof of age. This Subsection does not apply to possession by a person under the age of 21 years making a delivery of alcoholic liquor in pursuance of the order of his or her parent.

(B) It shall be unlawful for any person to sell, give, or furnish to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person, or sell, give or furnish to any person under the age of 21 years evidence of age and identification of any other person.

(C) It shall be unlawful to transfer, alter, or deface an identification card or obtain an identification card by means of false information. It shall be unlawful for any person under the age of 21 years to possess any written, printed or photostatic evidence of age and identity that is false, fraudulent, or not actually his or her own. It shall be unlawful for any person under the age of 21 years to present or offer to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity that is false, fraudulent, or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage.

(D) It shall be unlawful for any parent or guardian to permit his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21, in a manner that constitutes a violation of this Section. A parent or guardian is deemed to have permitted his or her residence to be used in violation of this Subsection if he or she knowingly authorizes, enables, or permits such use to occur by failing to control access to either the residence or the alcoholic liquor maintained in the residence.

(E) It shall be unlawful for any person to rent a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of 21 years.

(F) It shall be unlawful for any person to have alcoholic liquor in his or her possession on public school district property on school days or at events on public school district property when children are present, unless the alcoholic liquor (i) is in the original container with the seal unbroken and is in the possession of a person who is not otherwise legally prohibited from possessing the alcoholic liquor or (ii) is in the possession of a person in or for the performance of a religious service or ceremony authorized by the school board.

(G) The possession and dispensing, or consumption by a person under 21 years of age of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent or those persons standing in loco parentis of such person under 21 years of age in the privacy of a home, is not prohibited by this Section.

**§4.02.25 Gambling; Disorderly Conduct.** No gambling shall be permitted and no gambling device shall be kept in any premises licensed hereunder. No riotous, disorderly, indecent, or offensive conduct of any kind shall be allowed in or about said premises.

**§4.02.26 Revocation; Suspension; Fines; Notice; Hearing.**

(A) The Local Liquor Control Commissioner may revoke or suspend any License for any violation of this Chapter or the Illinois Liquor Control Act of 1934. In addition to the suspension, the Local Liquor Control Commissioner may levy a fine on the licensee for such violations not to exceed one thousand dollars (\$1,000.00) for a first violation within a twelve (12) month period, one thousand five hundred dollars (\$1,500.00) for a second violation within a twelve (12) month period, and two thousand five hundred dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than fifteen thousand dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the Village treasury.

(B) No License shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a three (3) day written notice to the licensee affording the licensee an opportunity to appear and defend the charges against him. All hearings shall be open to the public, and the Local Liquor Control Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Local Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, except that if the licensee is also engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to the other business or businesses. If the Local Liquor Control Commissioner determines after the hearing that the license should be revoked or suspended or that the licensee should be fined, he shall within five (5) days after the hearing state the reason or reasons for such determination in a written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the five (5) days upon the licensee.

**§4.02.27 Granting Licenses after Revocation; Waiting Period; Discretion.**

(A) When any License has been revoked for any cause, no license shall be granted to any person for the period of one year thereafter for the conduct of the business of selling alcoholic liquor in the premises described in the revoked license unless the revocation order has been vacated or unless the revocation order was entered as to the licensee only.

(B) Nothing in this Section shall prohibit the issuance of a License authorizing the sale of alcoholic liquor incidental to a restaurant if (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid License authorizing the sale of alcoholic liquor at

the restaurant for at least part of the twenty-four (24) months before the change of ownership, and (3) the restaurant is located seventy-five (75) or more feet from a school.

**§4.02.28 Violations.** Any person, firm, or corporation violating any provisions of this Chapter shall be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense, and separate offenses shall be deemed committed on each day during or on which violation occurs or continues.

(Ord. No. 09-5, 6-10-09)

## **Chapter 4.03**

### **Sale of Package Liquors**

Repealed in its entirety. Regulations included in Chapter 4.02

## Chapter 4.04

### Peddlers

#### Sections:

4.04.01	License Requirement
4.04.02	Granting of Licenses; Application for Licenses; License Fees
4.04.03	Restrictions on Operations; Transfer of Licenses
4.04.04	Penalties for Violations

**§4.04.01 License Requirement.** Every person who shall sell or offer for sale at retail any goods, wares or merchandise, except milk or cream or bakery goods, traveling from place to place in, along and upon the streets and alleys or public places of the Village, or who shall sell and deliver from any vehicle going from place to place in the Village, any goods, wares or merchandise, except milk or cream or bakery goods, shall be deemed a peddler; provided, that no farmer, fruit or vine grower, or gardener selling the produce of his farm, orchard, vineyard or garden shall be considered a peddler; and no person shall engage in the business of a peddler or soliciting business or funds without a license. (Ord. No. 52-6, 9-8-52)

**§4.04.02 Granting of Licenses; Application for Licenses; License Fees.** The mayor shall grant licenses as required in the preceding section upon application to the City Clerk upon applicant's letterhead and payment to the City Treasurer of an annual license fee of Two Hundred Fifty Dollars (\$250.00), and providing bond in the amount of Ten Thousand Dollars (\$10,000.00). (Ord. 03-03, 6-11-03)

**§4.04.03 Restrictions on Operations; Transfer of Licenses.** Said license shall include the right to use only one wagon or vehicle and shall not be transferable without the consent of the mayor. (Ord. 52-6, 9-8-52)

**§4.04.04 Penalties for Violations.** Every person who shall engage in the business of a peddler without a license shall upon conviction of a violation of the provisions of this ordinance be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. (Ord. No. 03-03, 6-11-03)

## Chapter 4.05

### Commercial Use of Billiard and Pool Tables

#### Sections:

4.05.01	License Requirement
4.05.02	Applications
4.05.03	License Fee
4.05.04	Non-transferability of License
4.05.05	Restrictions on Operating Hours
4.05.06	Penalties for Violations

**§4.05.01 License Requirement.** No person shall operate for profit within the Village limits any billiard table or pool table without first obtaining a license therefore. (Ord. No. 72-1, 4-11-72)

**§4.05.02 Applications.** Written applications for any such license shall be submitted to the corporate authorities and such applications shall contain the name of the applicant, describe the location of the intended operation, and state the total number of tables to be operated. (Ord. No. 72-1, 4-11-72)

**§4.05.03 License Fee.** License fees shall be charged on a calendar year basis without proration at the rate of Ten Dollars (\$10.00) per annum for each table. (Ord. No. 72-1, 4-11-72)

**§4.05.04 Non-transferability of License.** Any license issued pursuant to this Ordinance shall be non-transferable and no part of any license fee paid shall be refunded for any reason. (Ord. No. 72-1, 4-11-72)

**§4.05.05 Restrictions on Operating Hours.** Any person licensed hereunder shall be open and operating for business within the following periods and none other:

Monday through Thursday	7:00 A.M. to 11:00 P.M.
Friday and Saturday	7:00 A.M. to 12:00 P.M.
Sunday	1:00 P.M. to 11:00 P.M.

(Ord. No. 72-1, 4-11-72)

**§4.05.06 Penalties for Violations.** Any person violating this Ordinance shall be subject to a penalty of revocation of his license and to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense

and each day of operation without a license shall be deemed a separate offense. (Ord. No. 72-1, 4-11-72; Ord. No. 09-3, 6-10-09 §4)

## Chapter 4.06

### Trailer Parks

#### Sections:

4.06.01	Definitions
4.06.02	License Required
4.06.03	Plan
4.06.04	Fee
4.06.05	Character
4.06.06	Supervision
4.06.07	Spaces
4.06.08	Water Supply
4.06.09	Sanitary Facilities
4.06.10	Garbage
4.06.11	Lights
4.06.12	Additional Regulations
4.06.13	Permanent Use
4.06.14	Exceptions
4.06.15	Penalty

**§4.06.01 Definitions.** As used in this ordinance, the following terms shall have the meanings indicated below: "Trailer Coach shall mean and include any vehicle or similar portable structure constructed so as to permit its being used as a conveyance on a public street and so as to permit the occupancy thereof as a dwelling by one or more persons. "Trailer coach park" shall mean and include an area of land on which two or more occupied trailer coaches are harbored, either free of charge or for revenue, together with any building, structure, or enclosure used as part of the equipment of such park. (Ord. No. 59-2, 7-20-59)

**§4.06.02 License Required.** It shall be unlawful to establish, maintain, or operate any trailer coach park in the Village of Dunlap without first having obtained a license therefor. Application for such licenses shall be made in writing to the Clerk of the Village of Dunlap and shall contain the name of the applicant, the location of the proposed park, and the number of trailers to be accommodated. (Ord. No. 59-2, 7-20-59)

**§4.06.03 Plan.** Each such application shall be accompanied by a plat or sketch showing the size and location of all buildings and structures located or to be located in or upon said proposed trailer coach park. (Ord. No. 59-2, 7-20-59)

**§4.06.04 Fee.** The annual fee for such licenses shall be Two Hundred Dollars (\$200.00) plus Ten Dollars (\$10.00) for each trailer coach over twenty (20) for which

accommodations are provided. Whenever the number of accommodations is increased, this shall be reported to the Clerk of the Village of Dunlap and the additional fee, if any, necessitated by such increase shall be paid before the additional spaces are put to use. When a license is applied for, or accommodations are increased during the license year, the fee shall be prorated on the basis of the number of months remaining in the license year. (Ord. No. 59-2, 7-20-59)

**§4.06.05 Character.** No such license shall be issued to any but a person of good character nor to any corporation if any officer thereof is not a person of good character. It shall be unlawful to hire or keep as manager, superintendent or person in charge of a trailer coach park any person who is not a person of good character or any person who has been convicted of a felony. (Ord. No. 59-2, 7-20-59)

**§4.06.06 Supervision.** Each trailer coach park, while operated, shall be in charge of a responsible attendant or caretaker at all times, who shall be responsible, with the licensee, for compliance with the provisions of this ordinance relating to the conduct of such trailer coach park. (Ord. No. 59-2, 7-20-59)

**§4.06.07 Spaces.** Each trailer coach shall be allotted a site of not less than one thousand (1,000) square feet. No trailer coach shall be parked closer than five (5) feet to the side lot lines of a trailer coach park, if the abutting property is improved property, or closer than ten (10) feet to a public street, alley, or building. Each individual trailer site shall abut or face on a driveway or clear unoccupied space of not less than twenty (20) feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten (10) feet between the sides of every trailer coach and at least five (5) feet between the ends of each trailer coach. (Ord. No. 59-2, 7-20-59)

**§4.06.08 Water Supply.** An adequate supply of pure water for drinking and domestic purposes shall be supplied to meet the requirements of said trailer coach park. Said water shall be obtained from faucets only, conveniently located in said park. No common drinking cups shall be permitted. (Ord. No. 59-2, 7-20-59)

**§4.06.09 Sanitary Facilities.** Each trailer coach park shall provide toilets, baths or showers with separate accommodations for men and women. (Ord. No. 59-2, 7-20-59)

**§4.06.10 Garbage.** It shall be the duty of the owner, his agent or caretaker, to provide for the collection and removal of garbage or other waste material and to otherwise maintain the trailer coach park in a clean and sanitary condition. (Ord. No. 59-2, 7-20-59)

**§4.06.11 Lights.** Each trailer coach park shall be properly and adequately lighted at all times so that the grounds shall be safe for occupants and visitors. (Ord. 59-2, 7-20-59)

**§4.06.12 Additional Regulations.** In compliance with the provisions of this ordinance, it shall be the duty of the licensee and person in charge of a trailer coach park to comply fully with the provisions of "An Act in Relation to the Licensing and Regulation of

Trailer Coach Parks" approved July 13, 1953, as set forth in Illinois Revised Statutes, Ch. 111-1/2, Sections 172, 175, and 176. (Ord. No. 59-2, 7-20-59)

**§4.06.13 Permanent Use.** It shall be unlawful for any person to maintain any trailer coach, used for human habitation, upon any plot of ground in the Village of Dunlap except in a licensed trailer coach park. It shall be unlawful for any person to remove the wheels or other transporting device from any trailer coach or otherwise to affix said trailer coach permanently to the ground so as to prevent ready removal of such trailer coach. It shall be unlawful to occupy for sleeping or other residence purposes any trailer coach which has been rendered immobile by the removal of wheels or placing the same on a foundation or on the ground. (Ord. No. 59-2, 7-20-59)

**§4.06.14 Exceptions.** Nothing in this ordinance shall be construed to prohibit the storage of any trailer coach for any length of time when said trailer coach is not used for living or sleeping purposes. (Ord. No. 59-2, 7-20-59)

**§4.06.15 Penalty.** Any person or firm violating any of the provisions of this ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. No. 59-2, 7-20-59; Ord. No. 09-3, 6-10-09 §5)

## Chapter 4.07

### Pinball and Other Table Games

#### Sections:

4.07.01	License Requirement
4.07.02	Applications
4.07.03	License Fee
4.07.04	Non-transferability of License
4.07.05	Penalties for Violations

**§4.07.01 License Requirement.** No person shall operate for profit within the Village any pinball, bagatelle, or pigeon-hole table or other implements kept for a similar purpose without first obtaining a license therefor. (Ord. No. 74-1, 2-12-74)

**§4.07.02 Application.** Written applications for any such license shall be submitted to the corporate authorities and such applications shall contain the name of the applicant, describe the location of the intended operation, and state the total number of tables to be operated. (Ord. No. 74-1, 2-12-74)

**§4.07.03 License Fee.** License fees shall be charged on a calendar year basis without proration at the rate of One Hundred Dollars (\$100.00) per annum for each table. (Ord. No. 74-1, 2-12-74; Ord. 09-6, 6-10-09 §4)

**§4.07.04 Non-transferability of License.** Any license issued pursuant to this ordinance shall be non-transferable and no part of any license fee shall be refunded for any reason. (Ord. No. 74-1, 2-12-74)

**§4.07.05 Penalties for Violations.** Any person violating this ordinance shall be subject to a penalty of revocation of his license and to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense and each day of operation without a license shall be deemed a separate offense. (Ord. No. 74-1, 2-12-74; Ord. No. 09-3, 6-10-09 §6)

## Chapter 4.08

### Licensing of Adult Entertainment Businesses

#### Sections:

4.08.01	Short Title
4.08.02	Definitions
4.08.03	Adult Use Commissioner and Adult Use Commission
4.08.04	Adult Establishment Licenses Generally
4.08.05	Form and Submission of License Application
4.08.06	Processing of License Application
4.08.07	Standards for Issuance or Denial of License
4.08.08	Inspections by Village
4.08.09	Change in Information
4.08.10	Regulations Applicable to All Adult Entertainment Establishments
4.08.11	Special Regulations for Adult Booths
4.08.12	Special Regulations for Adult Cabarets
4.08.13	Special Regulations for Adult Stores
4.08.14	Special Regulations for Adult Theaters
4.08.15	Licensee Responsibility for Employees
4.08.16	License Revocation or Suspension
4.08.17	Administrative Record
4.08.18	Recordkeeping by Licensee
4.08.19	Penalty
4.08.20	Nuisance Declared
4.08.21	Computation of Time
4.08.22	Severability

**§4.08.01 Short Title.** This Ordinance shall be known as, and may be referred to, as the “Dunlap Adult Use Licensing Ordinance.” (Ord. No. 98-7, 11-11-98)

**§4.08.02 Definitions.** For the purposes of this Ordinance, the following terms, phrases, and words shall have the meanings given herein.

- A. Adult Booth. Any area of an Adult Entertainment Establishment set off from the remainder of such Establishment by one or more walls or other dividers or partitions and used to show, play or otherwise demonstrate any Adult Materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.

- B. Adult Entertainment Establishment. Any of the following Commercial Establishments, as defined herein:
1. Adult Cabaret. Any Commercial Establishment that as a substantial or significant portion of its business features or provides any of the following:
    - (a) Persons who appear Semi-Nude.
    - (b) Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.
    - (c) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind that are distinguished or characterized by an emphasis on the exposure, depiction or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.
  2. Adult Store. Any Commercial Establishment (a) that contains one or more Adult Boots; (b) that as a substantial or significant portion of its business offers for sale, rental or viewing any Adult Materials; or (c) that has a segment or section devoted to the sale or display of Adult Materials.
  3. Adult Theater. Any Commercial Establishment that as a substantial or significant portion of its business features or provides (i) films, motion pictures, video or audio cassettes, slides, or other visual representations or recordings that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas, or the conduct or simulation of Specified Sexual Activities; or (ii) live performances that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas or the conduct or simulation of Specified Sexual Activities.
- C. Adult Establishment Employee. Any individual, including an entertainer, who works in or at, or renders any services directly related to the operation of, an Adult Entertainment Establishment; provided, however, that this definition shall not include persons delivering goods, materials (other than Adult Materials), food and beverages, or performing maintenance or repairs, to the Licensed Premises.

- D. Adult Establishment License. A license issued for an Adult Entertainment Establishment pursuant to the provisions of this Ordinance.
- E. Adult Establishment Patron. Any individual, other than an Adult Establishment Employee, present in or at any Adult Entertainment Establishment at any time when such Adult Entertainment Establishment is open for business; provided, however, that this definition shall not include persons delivering goods, materials (other than Adult Materials), food and beverages, or performing maintenance or repairs, to the Licensed Premises.
- F. Adult Material. Any of the following, whether new or used:
1. (a) Books, magazines, periodicals, or other printed matter, or digitally-stored materials; or
  - (b) Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind,  
  
that are distinguished or characterized by an emphasis on the exposure, depiction, or description of Specified Anatomical Areas, or the conduct or simulation of Specified Sexual Activities.
  2. Instruments, novelties, devices or paraphernalia that are designed for use in connection with Specified Sexual Activities, or that depict or describe Specified Anatomical Areas.
- G. Adult Use Commission. A commission appointed by the Adult Use Commissioner pursuant to Section 4 of this Ordinance.
- H. Adult Use Commissioner. The President of the Village, pursuant to Section 4 of this Ordinance.
- I. Board of Trustees. The Board of Trustees of Dunlap, Illinois.
- J. Commercial Establishment. Any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.
- K. Days. Calendar days, unless otherwise specifically set forth in this Ordinance.
- L. Effective Date. The Effective Date shall be deemed to be upon passage, approval and publication as provided by Law.
- M. Licensed Premises. The place or location described in an Adult Entertainment License where an Adult Entertainment Establishment is

authorized to operate. No sidewalks, streets, parking areas, public rights-of-way, or grounds adjacent to any such place or location shall be included within the Licensed Premises.

- N. Licensee. Any person or entity that has been issued an Adult Establishment License pursuant to the provision of this Ordinance.
- O. Nude or State of Nudity. A state of dress or undress that exposes to view (i) less than completely and opaquely covered human genitals; pubic region; anus, or female breast below a point immediately above the top of the areolae; but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.
- P. Reviewing Departments. Those Village departments or persons on the Village staff, or persons retained by the Village, designated by the Village President from time-to-time to review applications submitted pursuant to this Ordinance.
- Q. Semi-Nude. A state of dress or undress in which clothing covers no more than the genitals, pubic region, anus, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices or by other minor accessory apparel such as hats, gloves, and socks.
- R. Specified Anatomical Areas. Any of the following:
1. Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areolae; but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areolae is not exposed.
  2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.
- S. Specified Criminal Act. Any lawful, lewd, indecent, or immoral conduct, including specifically, but without limitation, any of the lewd, indecent, or immoral criminal acts specified in any of the following statutes:
1. Article II of the Illinois Criminal Code (sex offenses).

2. Section 26-4 of the Illinois Criminal Code, 720 ILCS 5/330 (unauthorized videotaping).
3. Section 33D- of the Illinois Criminal Code, 720 ILCS 5/330-1 (contributing to the criminal delinquency of a juvenile).
4. The Obscene Phone Call Act, 720 ILCS 135/0.01 *et seq.*
5. The Wrongs to Children Act, 720 ILCS 150/0.01 *et seq.*
6. The Improper Supervision of Children Act, 720 ILCS 640/0.01 *et seq.*
7. The Sale of Immoral Publications to Children Act, 720ILCS 670/0.01 *et seq.*
8. The Cannabis Control Act, 720 ILCS 550/1 *et seq.*
9. The Illinois Controlled Substances Act, 720 ILCS 570/100 *et seq.*

T. Specified Sexual Activities. Any of the following:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulation, arousal or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in Paragraphs 1, 2, 3, or 4 of this definition.

U. Straddle Dance. The use by any person, including specifically, but without limitation, an Adult Establishment Employee, of any part of his or her body to touch the genitals, pubic region, buttock, anus, or female breast of any Adult Establishment Patron or any other person, or the touching of the genitals, pubic region, buttock, anus, or female breast of any person by any Adult Establishment Patron. Conduct shall be a "Straddle Dance" regardless of whether the "touch" or "touching" occurs while the person is displaying or exposing any Specified Anatomical Area. Conduct shall also be a "Straddle Dance" regardless of whether the "touch" or "touching" is direct or through a medium. Conduct commonly referred to by the slang terms "lap dance,"

“table dance,” and “face dance” shall be included within this definition of Straddle Dance.

V. Zoning Ordinance. The ordinance known and referred to as the “Zoning Ordinance of the County of Peoria, Illinois” as it may be amended from time to time. (Ord. 98-7, 11-11-98)

**§4.08.03 Adult Use Commissioner and Adult Use Commission.**

A. Adult Use Commissioner. The President of the Village is hereby designated as the Adult Use Commissioner pursuant to the terms and conditions of this Ordinance. The Adult Use Commissioner shall have the following powers and duties:

1. To administer and rule upon the applications for, and the issuance, renewal, suspension, and revocation of, Adult Establishment Licenses as set forth in this Ordinance.
2. To conduct or provide for such inspections of Adult Entertainment Establishments as shall be necessary to determine and ensure compliance with the provisions of this Ordinance and other applicable provisions of law.
3. To periodically review the provisions of this Ordinance and the conduct and operation of Adult
4. To appoint Members of the Board of Trustees to serve on the Adult Use Commission as set forth in Subsection B of this Section.
5. To direct the Adult Use Commission to conduct such hearings, studies, and reports on Adult Entertainment Establishments, and the regulations relating thereto, as the Adult Use Commissioner shall deem necessary.
6. To take such further actions as the Adult Use Commissioner shall deem necessary to carry out the purposes and intent of this Ordinance and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth in this Ordinance.

B. Adult Use Commission.

1. Creation. A Commission, to be known as the “Adult Use Commission,” is hereby created and established for the purposes set forth in this Ordinance.

2. **Composition.** The Adult Use Commissioner may appoint one or more current Members of the Board of Trustees to serve at the will of the Adult Use Commissioner and to advise the Adult Use Commissioner on matters relating to the implementation and enforcement of the regulations set forth in this Ordinance and to the exercise of the Adult Use Commissioner's powers and duties under this Ordinance. The person or persons appointed by the Adult Use Commissioner, along with the Adult Use Commissioner, shall comprise the Adult Use Commission.
3. **Filing of Appointments.** The Adult Use Commissioner shall file a written appointment of each of the members of the Adult Use Commission in the Office of the Village Clerk.
4. **Duties.** The Adult Use Commission shall have the following powers and duties:
  - a. To recommend to the Adult Use Commissioner such further regulations regarding Adult Entertainment Establishments and Adult Establishment Licenses as the members of the Commission may deem necessary to protect the public health, safety, and welfare or to otherwise carry out the purposes and objectives of the regulations established pursuant to this Ordinance.
  - b. To conduct and prepare hearings, studies, and reports upon matters referred to the Commission by the Adult Use Commissioner and to make such reports and recommendations relating thereto as are requested by the Adult Use Commissioner.
  - c. To conduct such hearings on the revocation or suspension of an Adult Establishment License as required pursuant to Section 17 of this Ordinance.

(Ord. 98-7, 11-11-98)

**§4.08.04 Adult Establishment Licenses Generally.**

- A. Adult Establishment License Required. An Adult Establishment License shall be required to establish, operate or maintain an Adult Entertainment Establishment within the Village.
- B. Operation Without License Prohibited. Except as provided in Subsection F of this Section with regard to Adult Entertainment Establishments existing prior to the effective date of this Ordinance, it shall be unlawful for any

person not having a current and valid Adult Establishment License to establish, operate, or maintain an Adult Entertainment Establishment within the Village at any time after the effective date of this Ordinance.

- C. Operation in Violation of License Prohibited. It shall be unlawful for any Licensee to establish, operate or maintain an Adult Entertainment Establishment within the Village except in the manner authorized by, and in compliance with, the provisions of this Ordinance and the Licensee's Adult Establishment License.
- D. Content and Display of License. Every Adult Entertainment License shall be provided by the Village and shall prominently state on its face, among other things the name of the Licensee, the expiration date, and the address of the Adult Entertainment Establishment. Every Licensee shall cause the Licensee's Adult Establishment License to be framed, covered by glass, and hung at all times in plain view in a conspicuous place on the Licensed Premises so that it can be seen and read easily at any time by any person entering the Licensed Premises.
- E. License Term. Except as hereinafter provided, Adult Establishment Licenses shall be operative and valid, unless first terminated, suspended, or revoked, for a term of one year commencing on January 1 of the year following the year of issuance and terminating on December 31 of that same year. Adult Establishment Licenses issued after January 1 of any year for operations to commence in that year shall be operative and valid, unless first terminated, suspended, or revoked, for a term commencing on the date of issuance and terminating on December 31 of that same year.
- F. Existing Establishments.
1. Application Generally. An Adult Entertainment Establishment existing and operating on or prior to the Effective Date ("Existing Establishment") may continue to exist and operate as of the Effective Date; provided, however, that the Existing Establishment (i) shall submit an application for an Adult Establishment License not later than 60 days after Effective Date; (ii) shall cease operations on 60 days after Effective Date (the "Licensure Date"), unless it has secured an Adult Establishment License by the Licensure Date; and (iii) shall comply with, and continue at all times to comply with, the requirements of Paragraph 2 of this Subsection F.
  2. Required Compliance on Effective Date. An Existing Establishment shall, as of the Effective Date, be subject to the provisions of Sections 9, 11.A through 11.C, 11.E through 11.J, 11.L, 12.A, 12.B, 12.F, 12.G, 13 C through 13.E, 14 and 15, and shall at all time continue in compliance with said provisions.

- G. Renewal. An Adult Establishment License may be renewed only by making application as required for an initial License pursuant to Section 6 of this Ordinance. Application for renewal shall be made at least 30 days before the expiration of the then-current License term. The expiration of the License shall not be affected or extended by a renewal application that is made less than 30 days before expiration.

(Ord. No. 98-7, 11-11-98)

**§4.08.05 Form and Submission of License Application.**

- A. Required Form. An application for an Adult Establishment License, or the renewal thereof, shall be made in writing to the Adult Use Commissioner and submitted to the Village Clerk on a form prescribed by the Adult Use Commissioner and shall be signed (i) by the applicant, if the applicant is an individual; (ii) by at least one of the persons entitled to share in the profits of the organization and having unlimited personal liability for the obligations of the organization and the right to bind all such other persons if the applicant is a partnership (general or limited), joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization; (iii) by a duly authorized agent, if the applicant is a corporation; or (iv) by the trustee, if the applicant is a land trust. The application shall be verified by oath or affidavit as to all statements made on or in connection with the application and any attachments thereto. Each application shall specifically identify the applicant and the Licensed Premises for which an Adult Establishment License is sought. Each initial or renewal application shall be accompanied by seven identical copies.
- B. Administrative Processing Fee and Security.
1. Administrative Processing Fee. Every applicant for an Adult Establishment License or for the renewal of an existing Adult Establishment License shall pay an Administrative Processing Fee in the amount of \$100.00 by certified check to the Village at the time of filing such application. The Administrative Processing Fee shall in all cases be non-refundable and shall be deposited in the general corporate fund of the Village.
  2. Bond or Other Security. Each Adult Entertainment License, and any renewals thereof, shall be conditioned on the acquisition and maintenance in good standing by the applicant and Licensee of a surety bond or other similar security in favor of the Village in the amount of \$2,500.00 to the Village. Before an Adult Establishment License may be issued, the applicant shall furnish such bond or security, and before an Adult Establishment License is renewed or

reinstated following revocation or suspension, the Licensee shall submit evidence that the bond or other security, in the amount required pursuant hereto, remains in full force and effect. The bond or other security, or part thereof, for an Adult Entertainment Establishment shall be forfeited automatically pursuant to Paragraph 17.B.4 of this Ordinance in order to reimburse the Village for the Village's costs in association with the proceedings related to the suspension or revocation of the License.

C. Required Information and Documents. Each application shall include the following information and documents:

1. (a) Individuals: The applicant's legal name, all of the applicant's aliases, the applicant's business address and social security number, written proof of the applicant's age, the citizenship and place of birth of the applicant and, if a naturalized citizen, the time and place of the applicant's naturalization.
- (b) Corporations: The applicant corporation's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of all of the directors, officers and managers of the corporation and of every person owning or controlling more than 50 percent of the voting shares of the corporation; the corporation's date and place of incorporation and the objects for which it was formed; proof that the corporation is a corporation in good standing and authorized to conduct business in the State of Illinois; and the name of the registered corporate agent and the address of the registered office for service of process.
- (c) Partnerships (general or limited), joint ventures, or any other type of organization where two or more persons share in the profits and liabilities of the organization: The applicant organization's complete name and official business address; the legal name, all aliases, and the ages, business addresses, and social security numbers of each partner (other than limited partners) or any other person entitled to share in the profits of the organization, whether or not any such person is also obligated to share in the liabilities of the corporation.
- (d) Land trusts: The applicant land trust's complete name; the legal name, all aliases, and the business address of the trustee of the land trust; the legal name, all aliases, and the ages, business addresses, and social security numbers of each beneficiary of the land trust and the specific interest of each

such beneficiary in the land trust; and the interest, if any, that the land trust holds in the Licensed Premises.

2. If a corporation or partnership is an interest holder that must be disclosed pursuant to Subparagraph 6.C.1(b) or 6.C.1(c) above, then such interest holders shall disclose the information required in said Subparagraphs with respect to their interest holders.
3. The general character and nature of the business of the applicant.
4. The length of time that the applicant has been in the business of the character specified in response to Paragraph 3 above.
5. The location, including street address and legal description, and telephone number, of the premises for which the Adult Entertainment License is sought.
6. The specific name of the business that is to be operated under the Adult Establishment License.
7. The identity of each fee simple owner of the Licensed Premises, and evidence of a lease, license, or other proper authority evidencing the right of the applicant to use the Licensed Premises for the proposed Adult Entertainment Establishment.
8. A diagram showing the internal and external configuration of the Licensed Premises, including all doors, windows, entrances, exits, the fixed structural internal features of the Licensed Premises, plus the interior rooms, walls, partitions, stages, performance areas and restrooms. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; provided, however, that each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions to an accuracy of plus or minus six inches and sufficient to show clearly the various interior dimensions of all areas of the Licensed Premises and to demonstrate compliance, either alone or in conjunction with such other documentation as the applicant shall submit, with the Americans with Disabilities Act and the Illinois Accessibility Code and with the other provisions of this Ordinance. The requirements of this Paragraph shall not apply for renewal applications if the applicant adopts a diagram that was previously submitted for the License sought to be renewed and if the Licensee certifies that the Licensed Premises has not been altered since the immediately preceding issuance of the License and that the previous diagram continues to accurately depict the exterior and interior layouts of the Licensed Premises. The approval or use of the diagram required pursuant to this Paragraph shall not be deemed to be, and shall not be interpreted or construed to constitute, any other Village approval otherwise required pursuant to applicable Village ordinances and regulations.

9. The names of each governmental body from which, within five years immediately prior to the date of the present application, the applicant, or any of the individuals identified in the application pursuant to Paragraphs 1 or 2 of this Subsection, has received a license or other authorization to conduct or operate a business (a) substantially the same as an Adult Entertainment Establishment, and the names and addresses of each such business; (b) requiring a federal, state or local liquor license; or (c) requiring a federal, state or local gaming license.
10. The specific type or types of Adult Entertainment Establishments(s) that the applicant proposes to operate in the Licensed Premises.
11. A copy of each Adult Establishment License, liquor license, and gaming license currently held by the applicant, or any of the individuals identified in the application pursuant to Paragraphs 1 or 2 of this Subsection.
12. Whether the applicant, or any of the individuals identified in the application pursuant to Paragraphs 1 or 2 of this Subsection, has been, within five years immediately preceding the date of the application, convicted of, or pleaded *nolo contendere* to, any Specified Criminal Act. As to each conviction, the applicant or other individual shall provide the conviction date, the case number, the nature of the misdemeanor or felony violation(s) or offense(s), and the name and location of the court.
13. Whether the applicant, or any of the individuals identified in the application pursuant to Paragraphs 1 or 2 of this Subsection, has had a license or other authorization to conduct or operate a business substantially the same as an Adult Entertainment Establishment or any business requiring either a liquor or gaming license, revoked or suspended, and, if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.
14. The name of the individual or individuals who shall be the day-to-day, on-site managers of the proposed Adult Entertainment Establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to Subparagraph 1(a), and Paragraphs 9, 11, 12 and 13 of this Subsection.
15. For the individual or individuals executing the application pursuant to Subsection 6.A of this Ordinance, and the individual or individuals identified pursuant to Paragraph 6.C.14 of this Ordinance, a fully executed waiver on a form prescribed by the Village to obtain criminal conviction information pursuant to the Illinois Uniform Conviction Information Act.

- D. Incomplete Applications Returned. Any application for an Adult Establishment License that does not include all of the information and documents required pursuant to Subsection C of this Section as well as the Administrative Processing Fee and bond or other security required pursuant to Subsection B of this Section, shall be deemed to be incomplete and shall not be acted on or processed by the Village. The Adult Use Commissioner shall, within five days after such submission, return the incomplete application to the applicant along with a written explanation of the reasons why the application is incomplete.

(Ord. 98-7, 11-11-98)

**§4.08.06 Processing of License Application.**

- A. Reviewing Departments. Within three days after receipt of a complete application for an Adult Establishment License that includes all of the information and documents required pursuant to Subsection 6.C of this Ordinance, as well as the Administrative Processing Fee and bond or other security required pursuant to Subsection 6.B of this Ordinance, the Village Clerk shall transmit, or cause to be transmitted, a copy of the application to the Reviewing Departments.
- B. Reviewing Department Reports. Each of the Reviewing Departments shall within 25 days after transmittal of the application thereto, or within such other period of time as the Village and the applicant may otherwise agree, (i) review the application; (ii) conduct such inspections of the proposed Licensed Premises and background investigations of the applicant and any of the individuals identified in the application pursuant to Paragraphs 6.C.1, 6.C.2., or 6.C.14 of this Ordinance, regarding matters within their respective jurisdictions, as shall be reasonably necessary to verify the information set forth in the application and to determine whether the proposed Adult Entertainment Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, codes, ordinances, rules and regulations; and (iii) prepare and submit to the Adult Use Commissioner a written report regarding the results and findings of such reviews, inspections and investigations.
- C. Adult Use Commissioner Review. The Adult Use Commissioner shall also conduct such inspects and investigations as the Adult Use Commissioner shall deem reasonably necessary to verify the information set forth in the application and to determine whether the proposed Adult Entertainment Establishment and Licensed Premises comply with the requirements of this Ordinance and other applicable laws, codes, ordinances, rules and regulations.

- D. Reliance on Diagram. In the event that the Licensed Premises has not yet been constructed or reconstructed to accommodate the proposed Adult Entertainment Establishment, the Adult Use Commissioner and the Reviewing Departments shall base their respective written reports, investigations, and inspections to the extent necessary on the diagram submitted pursuant to Paragraph 6.C.8 of this Ordinance. Any Adult Establishment License issued prior to the construction or reconstruction necessary to accommodate the proposed Adult Entertainment Establishment shall contain a condition that the Adult Entertainment Establishment shall not open for business until the Licensed Premises has been inspected and determined to be in substantial compliance with the diagram submitted with the application.
- E. Applicant Cooperation Required. An applicant for an Adult Establishment License shall cooperate fully in the inspections and investigations conducted pursuant to this Ordinance by the Adult Use Commissioner and the Reviewing Departments. The Applicant's failure or refusal (i) to give any information reasonably relevant to the investigation of the application; (ii) to allow the Licensed Premises to be inspected; (iii) to appear at any reasonable time and place for examination under oath regarding the application; or (iv) to otherwise cooperate with the investigation and inspection required by this Ordinance, shall constitute an admission by the applicant that the applicant is ineligible for an Adult Establishment License and shall be grounds for denial of the License by the Adult Use Commissioner.
- F. Time for Issuance or Denial. The Adult Use Commissioner shall, within 30 days after submission of a properly completed application, or within such other period of time as the Village and the applicant shall otherwise agree, either issue an Adult Establishment License pursuant to the provisions of Subsection 8.A of this Ordinance or deny issuance of the Adult Establishment License pursuant to the provisions of Subsection 8.B of this Ordinance. The Adult Use Commissioner shall issue or deny the License within said 30-day period, or such other period of time as shall have been agreed to by the Village and the applicant, regardless of whether or not the Adult Use Commissioner has received all of the Reviewing Department reports.
- G. Decision Final. The action taken by the Adult Use Commissioner to issue or deny an Adult Establishment License pursuant, respectively, to Subsections 8.A and 8.B of this Ordinance shall be final and shall be subject to judicial review.

(Ord. No. 98-7, 11-11-98)

**§4.08.07 Standards for Issuance or Denial of License.**

- A. Issuance. The Adult Use Commissioner shall issue an Adult Establishment License to an applicant if, but only if, the Adult Use Commissioner finds and determines all of the following, based on the reports, investigations, and inspections conducted by the Adult Use Commissioner and the Reviewing Departments and on any other credible information on which it is reasonable for the Adult Use Commissioner to rely:
1. All information and documents required by Section 8 of this Ordinance for issuance of an Adult Establishment License have been properly provided and the material statements made in the application are true and correct.
  2. For Adult Stores and Adult Theaters, all persons identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance are at least 18 years of age and not under any legal disability. For Adult Cabarets, all persons identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance are at least 21 years of age and not under any legal disability.
  3. No person identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance has been convicted of, or pleaded *nolo contendere* to, any Specified Criminal Act within five years immediately preceding the date of the application.
  4. No person identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance has been convicted of, or pleaded *nolo contendere* to, any violation of a provision of this Ordinance within five years immediately preceding the date of the application.
  5. No person identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance is overdue on the payment to the Village of any taxes, fees, fines, or penalties assessed against, or imposed on, any such individual in connection to any Adult Entertainment Establishment.
  6. No person identified in the application pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance is residing with, or married to, a person (i) who has been denied an Adult Establishment License within 12 months immediately preceding the date of the application; (ii) whose Adult Establishment License has been revoked within 12 months immediately preceding the date of the application, or (iii) whose Adult Establishment License is under suspension at the time of application.

7. The Adult Entertainment Establishment and the Licensed Premises, and the proposed operation of the Adult Entertainment Establishment, comply with all then-applicable building, health, and life safety codes and regulations and have received all necessary zoning approvals required pursuant to the then-applicable provisions of the Zoning Ordinance.
  8. The applicant has confirmed in writing and under oath as part of the application that the applicant has read this Ordinance and all provisions of the Zoning Ordinance applicable to Adult Entertainment Establishments, that the applicant is familiar with their terms and conditions, and that the Licensed Premises and the proposed Adult Entertainment Establishment and its proposed operation are and shall be in compliance therewith.
- B. Denial. If the Adult Use Commissioner determines that the applicant has not met any one or more of the conditions set forth in Subsection A of this Section, then the Adult Use Commissioner shall deny issuance of the Adult Establishment License and shall give the applicant a written notification and explanation of such denial. The Adult Use Commissioner's notice of denial shall be delivered in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the applicant's address as set forth in the application. The Adult Establishment License shall be deemed denied on the day that the notice of denial is delivered in person or three days after it is placed in the U.S. mail as provided in this Subsection.
- C. License Deemed To Be Issued. If the Adult Use Commissioner does not issue or deny the Adult Establishment License within 30 days after the properly completed application is submitted, then the Adult Establishment License applied for shall be deemed to have been issued.

(Ord. 98-7, 11-11-98)

#### **§4.08.08 Inspections by Village.**

- A. Authority. The Adult Use Commissioner and other Village representatives and departments with jurisdiction shall periodically inspect all Adult Entertainment Establishments as shall be necessary to determine compliance with the provisions of this Ordinance and all other applicable law.
- B. Licensed Cooperation. A Licensee shall permit representatives of the Village to inspect the Licensed Premises and the Adult Entertainment Establishment for the purpose of determining compliance with the provisions of this Ordinance and all other applicable law at any time during which the Licensed

Premises is occupied or the Adult Entertainment Establishment is open for business.

- C. Interference or Refusal Illegal. It shall be unlawful for the Licensee, any Adult Establishment Employee, or any other person to prohibit, interfere with, or refuse to allow, any lawful inspection conducted by the Village pursuant to this Ordinance or any other authority.
- D. Suspension or Revocation. Any such prohibition, interference, or refusal shall be grounds for suspension or revocation of the Adult Establishment License pursuant to Section 17 of this Ordinance.

(Ord. No. 98-7, 11-11-98)

**§4.08.09 Change in Information.** During the pendency of any application for, or during the term of, any Adult Establishment License, the applicant or Licensee shall promptly notify the Adult Use Commissioner in writing (i) of any change in any material information given by the applicant or Licensee in the application for such License, including specifically, but without limitation, any change in managers of the Adult Entertainment Establishment or in the individuals identified in the application pursuant to Paragraphs 6.C.1 or 6.C.2 of this Ordinance; or (ii) if any of the events constituting grounds for suspension or revocation pursuant to Subsection 17.A of this Ordinance occur.

(Ord. No. 98-7, 11-11-98)

**§4.08.10 Regulations Applicable to All Adult Entertainment Establishments.**

- A. General Compliance. All Licensed Premises and Adult Entertainment Establishments shall comply with the provisions of this Ordinance; all other applicable Village ordinances, resolutions, rules, and regulations; and all other applicable federal, state, and local laws.
- B. Hours of Operation. No Adult Entertainment Establishment shall be open for business at any time between the hours of 12:00 a.m. and 12:00 noon on any weekday or Saturday. No Adult Entertainment Establishment shall be open for business at any time on any Sunday or on any legal State of Illinois or federal holiday.
- C. Animals. No animals, except only for seeing-eye dogs required to assist the blind, shall be permitted at any time at or in any Adult Entertainment Establishment or Licensed Premises.
- D. Restrooms. All restrooms in Adult Entertainment Establishments shall be equipped with standard toilets, sinks and other traditional lavatory facilities. No Adult Materials or live performances shall be provided or allowed at any time in the restrooms of an Adult Entertainment Establishment. Separate

male and female restrooms shall be provided for and used by Adult Establishment Employees and Adult Establishment Patrons.

- E. Restricted Access. No Adult Establishment Patron shall be permitted at any time to enter into any of the non-public portions of any Adult Entertainment Establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of Adult Establishment Employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the Licensed Premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
- F. Specific Prohibited Acts.
1. No Adult Establishment Employee or any other person at any Adult Entertainment Establishment shall appear, be present, or perform while Nude.
  2. No Adult Establishment Employee or any other person at any Adult Entertainment Establishment shall perform or conduct any Specified Sexual Activity with or for any Adult Establishment Patron or any other Adult Establishment Employee or any other person. No Adult Establishment Patron or any other person at any Adult Entertainment Establishment shall perform or conduct any Specified Sexual Activity with or for any Adult Establishment Employee or any other Adult Establishment Patron or any other person.
  3. Straddle Dances shall be prohibited at all Adult Entertainment Establishments.
- G. Exterior Display. No Adult Entertainment Establishment shall be maintained or operated in any manner that causes, creates or allows public viewing of any Adult Material, or any entertainment depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the Licensed Premises is located. No portion of the exterior of an Adult Entertainment Establishment shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed pursuant to Subsection I of this Section with regard to signs. This Subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door or other opening.

- H. Signage Limitations. All signs for Adult Entertainment Establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per lot frontage. Signs otherwise permitted pursuant to this Ordinance shall contain only (i) the name of the Adult Entertainment Establishment and/or (ii) the specific type of Adult Entertainment Establishment conducted on the Licensed Premises. Temporary signage shall not be permitted in connection with any Adult Entertainment Establishment.
- I. Noise. No loudspeakers or sound equipment audible beyond the Licensed Premises shall be used at any time.
- J. Gambling and Related Devices Prohibited. No Adult Entertainment Establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool, or any other games, machines, tables or implements.
- K. Manager's Station. Each Adult Entertainment Establishment shall have one or more manager's stations. The interior of each Adult Entertainment Establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the Establishment to which any Adult Establishment Patron is permitted access for any purpose.
- L. Alcohol Prohibition. No alcoholic liquor of any kind shall be sold, used, consumed, or possessed at any time on any Licensed Premises or at any Adult Entertainment Establishment.

(Ord. 98-7, 11-11-98)

#### **§4.08.11 Special Regulations for Adult Booths.**

- A. Prohibited Except in Adult Stores. Adult Booths shall be prohibited in all Adult Entertainment Establishments except Adult Stores.
- B. Occupancy and Prohibited Acts. Only one individual shall occupy an Adult Booth at any one time. No individual occupying an Adult Booth shall engage in any Specified Sexual Activities. No individual shall damage or deface any portion of an Adult Booth.
- C. Open Booth Requirement. In addition to satisfying the manager station requirements of Subsection 11.K of this Ordinance, all Adult Stores containing Adult Booths shall be physically arranged in such a manner that the entire interior portion of each Adult Booth shall be visible from the common area of the Adult Store. To satisfy this requirement, there shall be a permanently open and unobstructed for each Adult Booth and for the

entranceway from the area of the Adult Store containing the Adult Booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drapes, or any other obstruction whatsoever that would be capable of wholly or partially obscuring the area of the Adult Store containing the Adult Booths or any person situated in an Adult Booth. It shall be unlawful to install Adult Booths within an Adult Entertainment Establishment for the purpose of providing secluded viewing of Adult Materials or live performances.

- D. Aisle Required. There shall be one continuous lighted main aisle along side the Adult Booths provided in any Adult Store. Each person situated in a Booth shall be visible at all times from the aisle.
- E. Holes Prohibited. Except for the open Booth entranceway, the walls and partitions of each Adult Booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever.
- F. Signage. A sign shall be posted in a conspicuous place at or near the entranceway to each Adult Booth that states (i) that only one person is allowed in an Adult Booth at any one time, (ii) that it is unlawful to engage in any Specified Sexual Activities while in an Adult Booth, and (iii) that it is unlawful to damage or deface any portion of an Adult Booth.
- G. Age Limitations.
  - 1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Booth or a Licensed Premises that includes an Adult Booth shall be under the age of 18.
  - 2. No person under the age of 18 shall be admitted to any Adult Booth or any Licensed Premises that includes an Adult Booth.
  - 3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Booth or at any Licensed Premises that includes an Adult Booth.
  - 4. No person under the age of 18 shall be allowed or permitted to purchase or receive whether for consideration or not, any Adult Material or other goods or services at or from any Adult Booth or any Licensed Premises that includes an Adult Booth.

(Ord. 98-7, 11-11-98)

**§4.08.12 Special Regulations for Adult Cabarets.**

- A. Performance Area. The performance area of an Adult Cabaret shall be limited to one or more stages or platforms permanently anchored to the floor (a “Cabaret Stage”). Each Cabaret Stage shall be at least 18 inches in elevation above the level of the patron seating areas. Each Cabaret Stage shall be separated by a distance of at least eight feet from all areas of the premises to which Adult Entertainment Patrons have access. A continuous barrier of at least three feet in height and located at least eight feet from all points of each Cabaret Stage shall separate each Cabaret Stage from all patron seating areas. The barrier shall consist of horizontal or vertical members spaced no more than nine inches apart and nine inches from the floor or the walls to which it is attached.
- B. Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the Adult Cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas of the Adult Cabaret where Adult Establishment Patrons are admitted.
- C. Tipping. No tip or gratuity from any Adult Establishment Patron may be offered or accepted for any performance by an Adult Establishment Employee on any Adult Cabaret State at any time prior to the completion of any such performance. No Adult Establishment Patron shall offer, and no Adult Establishment Employee having performed on any Cabaret Stage shall accept any form of tip or gratuity offered directly to the Employee by the Adult Establishment Patron. Rather, following completion of a performance, all tips and gratuities to Adult Establishment Employees performing on any Cabaret Stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the Adult Entertainment Establishment.
- D. Notice of Select Rules. A sign at least two feet by two feet, with letters at least one inch high shall be conspicuously displayed on or adjacent to every Cabaret Stage stating the following:

THIS ADULT CABARET IS REGULATED BY THE VILLAGE OF  
DUNLAP. ENTERTAINERS ARE:

1. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.
2. NOT PERMITTED TO APPEAR IN A STATE OF NUDITY.

3. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES FOR ANY PERFORMANCE UNTIL AFTER COMPLETION OF THE PERFORMANCE.
4. NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY FROM PATRONS EVEN AFTER COMPLETION OF THE PERFORMANCE ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.

E. Age Limitations.

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Cabaret or a Licensed Premises used for an Adult Cabaret shall be under the age of 21.
2. No person under the age of 21 shall be admitted to any Adult Cabaret or to any Licensed Premises used for an Adult Cabaret.
3. No person under the age of 21 shall be allowed or permitted to remain at any Adult Cabaret or any Licensed Premises used for an Adult Cabaret.
4. No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Cabaret or any Licensed Premises used for an Adult Cabaret.

(Ord. No. 98-7, 11-11-98)

**§4.08.13 Special Regulations for Adult Stores.**

A. Windows and Signs. Window areas for Adult Stores shall not be covered or obstructed in any way. No signs or other constructions shall be placed in the windows.

B. Age Limitations.

1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Store or a Licensed Premises used for an Adult Store shall be under the age of 18.
2. No person under the age of 18 shall be admitted to any Adult Store or to any Licensed Premises used for an Adult Store.
3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Store or any Licensed Premises used for an Adult Store.

4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Store or any Licensed Premises used for an Adult Store.

(Ord. No. 98-7, 11-11-98)

**§4.08.14 Special Regulations for Adult Theaters.**

- A. Seating. Each Adult Theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the Adult Theater.
- B. Aisle. Each Adult Theater shall have a continuous main aisle alongside the seating area in order that each person seated in the Adult Theater shall be visible from the aisle at all times.
- C. Sign. Each Adult Theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.
- D. Age Limitations.
  1. No Adult Establishment Employee or Adult Establishment Patron at an Adult Theater or a Licensed Premises used for an Adult Theater shall be under the age of 18.
  2. No person under the age of 18 shall be admitted to any Adult Theater or to any Licensed Premises used for an Adult Theater.
  3. No person under the age of 18 shall be allowed or permitted to remain at any Adult Theater or any Licensed Premises used for an Adult Theater.
  4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any Adult Material or other goods or services at or from any Adult Theater or any Licensed Premises used for an Adult Theater.

(Ord. No. 98-7, 11-11-98)

**§4.08.15 License Responsibility for Employees.** Every Act or omission by an Adult Establishment Employee constituting a violation of the provisions of this Ordinance shall be deemed to be the act or omission of the Licensee if such act or omission occurs either with the authorization, knowledge, or approval of the Licensee, or as a result of the Licensee's negligent failure to supervise the Adult Establishment Employee. The Licensee shall be punishable for any such act or omission in the same manner as if the Licensee committed the act or caused the omission. Accordingly, any such act or omission of any such Employee constituting a violation of the provisions of this Ordinance shall be deemed, for purposes of determining whether the Licensee's Adult Establishment License shall be revoked, suspended, or renewed, to be the act or omission of the Licensee.

(Ord. No. 98-7, 11-11-98)

**§4.08.16 License Revocation or Suspension.**

- A. Grounds. Pursuant to the procedures set forth in Subsection B of this Section, the Adult Use Commissioner may suspend for not more than 30 days, or revoke, any Adult Establishment License if the Adult Use Commissioner, based on credible and reasonably reliable information and evidence, determines that any one or more of the following has occurred:
1. The Licensee has violated any of the provisions or requirements of this Ordinance or the Adult Establishment License issued pursuant hereto, or the provisions on the Zoning Ordinance applicable to the Licensed Premises or the Adult Entertainment Establishment.
  2. The Licensee (i) knowingly or negligently furnished false or misleading information or withheld information on any application or other document submitted to the Village for the issuance or renewal of any Adult Establishment License or (ii) knowingly or negligently caused or suffered any other person to furnish or withhold any such information on the Licensee's behalf.
  3. The Licensee has been convicted of, or pleaded *nolo contendere* to, a felony or Specified Criminal Act on the Licensed Premises.
  4. The Licensee authorizes, approves, or, as a result of the Licensee's negligent failure to supervise the Licensed Premises or the Adult Entertainment Establishment, allows, an Adult Establishment Employee, an Adult Establishment Patron, or any other person to (i) violate any of the provisions or requirements of this Ordinance or of the provisions or requirements of the Adult Establishment License issued pursuant hereto, or (ii) commit any felony or Specified Criminal Act on the Licensed Premises.

5. The Licensee, or any person identified pursuant to Paragraphs 6.C.1, 6.C.2, or 6.C.14 of this Ordinance becomes disqualified for the issuance of an Adult Establishment License at any time during the term of the License at issue.

B. Procedure. An Adult Entertainment Establishment License may be suspended for not more than 30 days or revoked pursuant to the terms and conditions set forth in this Subsection B.

1. Notice. Upon determining that one or more of the grounds for suspension or revocation under Subsection A of this Section may exist, the Adult Use Commissioner shall serve a written notice on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in the Licensee's application. The written notice shall, at a minimum, (i) state that Adult Use Commissioner has determined that the Adult Establishment License may be subject to suspension or revocation pursuant to Subsection 17.A of this Ordinance; (ii) identify the specific grounds for the Adult Use Commissioner's determination; and (iii) set a date for a hearing regarding the Adult Use Commissioner's determination as to the possibility of suspension or revocation of the Adult Establishment License. The date of the hearing shall be no less than five days after service of the Adult Use Commissioner's notice, unless an earlier or later date is agreed to by the Licensee and the Adult Use Commissioner.
2. Hearing. The hearing shall be conducted by the Adult Use Commissioner, or, at the Adult Use Commissioner's direction, by the Adult Use Commission. At the hearing, the Licensee may present and submit evidence and witnesses to refute the grounds cited by the Adult Use Commissioner for suspending or revoking the License and the Village and any other persons may submit evidence to sustain such grounds. The administrative record compiled on the Adult Entertainment Establishment pursuant to Section 18 of this Ordinance shall be made part of the hearing record. Within three days after the close of the hearing, the Adult Use Commissioner shall, having considered the record made at the hearing, render a decision in writing, setting forth the reasons for the decision. The action taken by the Adult Use Commissioner shall be final and shall be subject to judicial review.
3. Notice and Effective Date of Suspension or Revocation. The Adult Use Commissioner's written decision shall be posted at the office of the Adult Use Commissioner and shall be served on the Licensee in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in the

Licensee's application. Any suspension or revocation, as the case may be, shall take effect on the day that the Adult Use Commissioner's written decision is delivered in person or three days after it is placed in the U.S. mail as provided in this paragraph.

4. Surrender of License and Security. Upon the suspension or revocation of an Adult Establishment License pursuant to this Ordinance, (i) the Adult Use Commissioner shall take custody of the suspended or revoked License; and (ii) such part or all of the bond or other security submitted for the Adult Entertainment Establishment pursuant to Paragraph 6.B.2 of this Ordinance shall be forfeited as the Adult Use Commissioner shall deem necessary to reimburse the Village for the costs associated with the proceedings related to the suspension or revocation at issue. Such bond or other security shall be replenished to equal the amount required pursuant to Paragraph 6.B.2 of this Ordinance prior to the issuance of any new Adult Establishment License for the Licensed Premises or for the reinstatement of any suspended License.

(Ord. No. 98-7, 11-11-98)

**§4.08.17 Administrative Record.** The Adult Use Commissioner shall cause to be kept in the Adult Use Commissioner's Office an accurate record of every Adult Establishment License application received and acted on, together with all relevant information and material pertaining to such application, any Adult Entertainment License issued pursuant thereto, and any Adult Entertainment Establishment operated pursuant to such Adult Entertainment License.

(Ord. 98-7, 11-11-98)

**§4.08.18 Recordkeeping by Licensee.** The Licensee of every Adult Entertainment Establishment shall maintain a register of all of its Adult Establishment Employees. For each such Employee, the register shall include the following information:

1. Legal name.
2. Any and all aliases.
3. Current residential address and telephone number.
4. Date of birth.
5. Gender.
6. Social Security number.
7. Date of commencement of employment.
8. Date of employment termination, if applicable.
9. Specific job or employment duties.

The register shall be maintained for all current employees and all employees employed at any time during the preceding 36 months. The Licensee shall make the

register of its Adult Establishment Employees available for inspection by the Village immediately upon demand at all reasonable times.

(Ord. 98-7, 11-11-98)

**§4.08.19 Penalty.** Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of, any of the provisions or requirements of this Ordinance or of any of the provisions or requirements of any Adult Establishment License, shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than Seven Hundred Fifty Dollars (\$750.00) for each such violation. Each day such violation continues shall constitute a separate offense. The Adult Use Commissioner shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage prepaid, return receipt requested, addressed to the Licensee's address as set forth in the Licensee's application.

(Ord. No. 98-7, 11-11-98; Ord. No. 09-3, 6-10-09 §7)

**§4.08.20 Nuisance Declared.** Any Adult Entertainment Establishment established, operated, or maintained in violation of any of the provisions or requirements of this Ordinance or of any Adult Establishment Licensee shall be, and the same is, declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth in this Ordinance, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating or maintaining an Adult Entertainment Establishment contrary to the provisions of this Ordinance.

(Ord. 98-7, 11-11-98)

**§4.08.21 Computation of Time.** Unless otherwise specifically set forth in this Ordinance, the time within which any required by this Ordinance is to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a Federal or State of Illinois holiday, in which case it shall also be excluded. If the day immediately following such Saturday, Sunday or holiday is also a Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

(Ord. 98-7, 11-11-98)

**§4.08.22 Severability.** In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the

Village that this Ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

(Ord. 98-7, 11-11-98)

## Chapter 4.09

### Billboard Signs

#### Sections:

4.09.01	Dimensions of Billboard Sign
4.09.02	Elevation of Billboard Sign
4.09.03	Penalties for Violations

**§4.09.01 Dimensions of Billboard Sign.** It shall be unlawful for any person, corporation or other entity to post, display, or erect a billboard sign that exceeds the size of ten feet by ten feet (10' X 10') within the corporation limits of the Village of Dunlap. (Ord. No. 07-03, 07-11-07)

**§4.09.02 Elevation of Billboard Sign.** It shall be unlawful for any person, corporation or other entity to post, display, or erect a billboard sign that is elevated more than fifteen feet (15') from ground level within the corporate limits of the Village of Dunlap. (Ord. No. 07-03, 07-11-07)

**§4.09.03 Penalties for Violations.** Any person, corporation or other entity violating this Ordinance shall be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for each offense, and a separate offense shall be deemed committed for each and every day which a violation continues or exists. In addition to the fines set forth in this Section, any member of the Village Board of Trustees is hereby authorized to cause the offending billboard sign to be removed and said expense for removal shall be paid by the person, firm or corporation found guilty of the offense in addition to the fines set forth above. (Ord. No. 07-03, 07-11-07; Ord. No. 99-3, 6-10-09 §8)