

ALCOHOL BEVERAGES REGULATION

The Village Board of the Village of De Soto, Crawford and Vernon County, Wisconsin, do ordain as follows:

SECTION I. STRICT COMPLIANCE REQUIRED.

It shall be unlawful for any person, firm, association, corporation or limited liability company, to sell, or keep for sale, at wholesale or retail, or permit to be sold, or kept for sale, at wholesale or retail, within the Village of De Soto, any alcohol beverages except in strict accordance with the provisions of this chapter.

SECTION II. STATUTE ADOPTED.

The Statutory provisions of Chapter 125 of the *Wisconsin Statutes*, describing and defining regulations with respect to alcoholic beverages are hereby adopted and by reference made a part of this Ordinance as if set forth in full herein; except for those provisions requiring imprisonment or provisions permitting the Village to enact standards different from that set forth by the legislature. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance unless there is specific provision to the contrary. Any future amendments, revisions or modifications of the statutes incorporated herein are made part of this Ordinance. In the event of a conflict between the provisions of this ordinance and any statute, the ordinance controls unless expressly forbidden by the statute. If the statute authorizes the Village to enact a provision in its sole discretion and the ordinance does not so provide, the Village shall be deemed to have declined to act.

SECTION III. DEFINITIONS.

Whenever the following terms are used in this section, they shall be construed as follows:

"Alcohol beverages" means fermented malt beverages, wine and intoxicating liquor.

"Brewer" means any person who manufactures fermented malt beverages for sale or transportation.

"Brewery premises" means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.

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

"Fast Food Restaurant" means a restaurant serving food primarily prepared in advance and sold to its customers at a counter, and/or a restaurant utilizing a drive through facility.

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

"Full-service Restaurant" means a restaurant where meals are primarily prepared individually for the customer and are served to customers at their table by wait staff. A restaurant which is a fast food restaurant, or which has drive-through facilities is not considered a full-service restaurant.

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

"Legal drinking age" means twenty-one (21) years of age

"License" means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.

"Permit" means any permit issued by the department under this chapter.

"Person" means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.

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

"Principal business" means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.

"Restaurant" has the meaning as defined in Wis. Stats. Sec. 254.61(5) and whose sale of alcohol beverages accounts for less than 50% of the establishment's gross receipts.

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

"Under the influence" means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging to any degree in alcohol beverages and which tends to deprive a person of the clearness of intellect and control of himself or herself which he or she would otherwise possess.

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

"Wholesaler" means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

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

SECTION IV. LICENSE CLASSIFICATIONS.

(1) Class A Licenses.

(a) A Class "A" license authorizes retail sales of fermented malt beverages within the Village of De Soto, for consumption elsewhere than on the premises where sold.

(b) A "Class A" license authorizes retail sales of all alcohol beverages within the Village of De Soto, for consumption elsewhere than on the premises where sold.

(2) Class B Licenses.

(a) A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers may be removed from the premises where sold.

(b) A "Class B" license authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises,

except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises.

(c) A license authorizes the retail sales of wine, fermented malt beverages and intoxicating liquor, for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container, in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises. All provisions of Chapter 125 Wisconsin Statutes and this ordinance regulating "Class B" licenses shall apply to "Class B site" licensed premises unless otherwise expressly provided.

(d) Training Course. A one time "*provisional license*" shall be issued until the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical, and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical, and adult education or a comparable training course that is approved by the department or the educational approval board or unless the applicant fulfills one of the following requirements; unless

1. The person is renewing an operator's license.
2. Within the past 2 years, the person held a Class "A", Class "B", "Class A", or "Class B" license or permit or a manager's or operator's license.
3. Within the past 2 years, the person has completed such a training course.

Those who complete such program shall have an appropriate endorsement recorded and placed on their licenses. No operator's license shall be issued or renewed to any person who failed to complete the program during any previous period during which such person held an operator's license without first successfully completing the program.

Where application is made for a license on behalf of a sole proprietorship, the sole proprietor shall have successfully completed the Beverage Server Training Course. Where such application is made on behalf of a partnership, all partners shall have successfully completed the Beverage Server Training Course. Where such application is made on behalf of a corporation or a limited liability company, the agent appointed shall have successfully completed the Beverage Server Training Course.

(e) Refusals to Issue New License or Permit. If the Village Board decides not to issue a new license or permit under this chapter, such denial shall include a reason. The Village Clerk shall transmit to the applicant by first class mail, the decision of the Village Board and shall state the reason thereof.

(4) Procedure on Receiving an Application.

(a) No license shall be granted under this chapter unless a public hearing is held on such application.

(b) No such hearing shall be held except upon proper notice in the agenda for such hearing and notice to the public by a Class I Notice , together with the posting of such notice in three public places in the Village, including the public posting area of the Village Municipal Building. Such notice may be given by publication and posting of the agenda showing such hearing.

(c) Such hearing shall be conducted and recorded with either a Court Reporter or a tape recording, unless this condition is unanimously waived by vote of the Village Board.

(d) The order of procedure shall be that the persons appearing in favor of the granting of the license shall appear first and make their presentation; the persons appearing in objection shall then make their presentations, and the persons appearing in favor shall then have an opportunity to present rebuttal. The Village Board shall have the right to limit the amount of time for each presentation, to receive petitions for or against, to request that persons signing such petitions sign either a form or a sheet stating who they are, who they represent, whether they are electors or otherwise, their address and whether or not they are for, against or have no position on the matter.

(e) After the conduct of the hearing, which shall follow regular rules of order, the Board may meet in open or closed session. Closed sessions shall be held only if properly noticed in the agenda. They shall then act upon the application at such time or later, as the Board feels sufficient information has been received on which to act properly, and either grant, deny or table the application for a period of time.

(5) Qualifications for Licenses and Permits. Qualifications for licenses and permits issued under this ordinance are as set forth in this ordinance and the requirements of *Chapter 125 Wisconsin Statutes*.

(6) Criteria for Granting the License.

(a) Certain questions shall be answered by the Village Board in the affirmative before it shall be proper to grant a license. Among the questions, but not limited thereto, shall be those questions following, and it is mandatory for the said Board to consider these conditions on any request for a Class A Beer or Class B Malt Beverage and Liquor License, or combination thereof or Class B Fermented Malt Beverage Licenses, and the Board shall not issue such a license until it finds the answers to the following questions to be in the affirmative:

1. Are the premises and the building in which the licensee is to be conducting business in accord with the Zoning and Building Codes of the State of Wisconsin and Village of De Soto codes, and in compliance with other regulating bodies?

2. Is the building sightly and will its construction and operation be in such a manner that it will not create, add to, or aggravate any chance of bringing about a "honkytonk" atmosphere?

3. Is it in the commercial and general welfare of the Village of De Soto,

4. Does the granting of the license have a valid purpose?

5. Will the aesthetic propensities of the building and the operation generally, including fencing, grounds, parking and otherwise, contribute to the general attractiveness of the community?

6. Is the sign copy to be used with such business, on and off premises, such that it will not confuse the tourist public or the local public, both of which are the economic lifeblood of the Village?

7. Will the effect of granting this license have any socially redeeming values effectuated for the benefit of the people of the community of the Village of De Soto?

8. Is the building, business and entire set-up constructed, located and operated so that it is not a vengeance, spite or other type of operation based on contrariness or based on the destruction of some other business?

9. Has the traffic situation been reviewed by a proper traffic reviewing authority such as the Village of De Soto Police Department, and is such report on file for the benefit of the Village Board's consideration?

10. Has the Village Board considered the availability of the sale of the product that will be sold under this license in its total quantum capacity available to the residents, tourists, passers-through and others that will be affected and have access to same and is it the decision of the Village Board that the addition of this license will not create an over supply that would be adverse to the health, safety, general welfare and public peace, safety and order of the community?

11. Has the Village Board carefully considered the application in its entirety, including such background material as shall be lawful as it may require within the orbit of proper inquiry in this respect, and also the personnel involved in the operation, and is the Village Board satisfied that there is no one operating who is a convicted felon or who is not a person of good character and that every applicant and all employees and/or agents etc. are people of good character and that the application itself meets with all of the legal requirements of the laws of the State of Wisconsin and the ordinances of the Village of De Soto

12. Has the Village Board, or a majority of those members voting, made a personal inspection of the premises, or if a proposed structure, the plans and specifications for same, and if necessary, has it consulted with engineers?

13. Has the Board consulted, should it deem necessary to do so, with special experts such as engineers, legal counsel, or otherwise, to check out the validity of allegations made by way of the application, the plans and specifications or other documents that the Board shall, in its reasonable wisdom, require in order that it may be properly advised as to the entire structure of the organization, its principal, the type and nature of the building and operation, and has the Board satisfied itself that it has met the legal requirements and the ethical requirements that would go with an operation so that it will not be a detriment to the health, safety and general welfare of the people of the Village of De Soto.

(b) Issuance of a "Class B site" license: The Village Board may in its sole discretion issue "Class B site" licenses to qualified applicants. In reviewing an application for a "Class B site" license the Village Board shall, in addition to other requirements of this ordinance, and of *Wisconsin Statutes Chapter 125*, investigate and determine whether or not the premises meets the qualifications for a "Class B site" license. In making its determination of whether or not a particular application qualifies for a "Class B site" license the Village Board shall consider, in addition to the requirements of paragraph 6 (a) above, the following factors in making its determination:

1. Whether or not the premises defined in the application constitutes a full-service restaurant that has a seating capacity of 300 or more persons; or
2. Whether the premises are a hotel with 100 or more rooms of sleeping accommodations and either of the following:
 - a) an attached restaurant with a capacity of 150 or more persons
 - b) a banquet room with a capacity of 400 persons.
3. Whether issuance of the site license is in the public interest.
4. For purposes of this paragraph seating capacity means the indoor seating capacity of the restaurant.
5. The banquet room capacity shall be the maximum number of persons permitted under state or village building regulations, whichever is more restrictive.

(c) Discretionary authority of the Village Board. The fact that a particular premises meets the qualifications set forth in subparagraphs 6 (a) and (b) above does not entitle said premises to a license, the issuance of which remains the sole discretion of the Village Board considering all factors relevant to the issuance of said license.

(7) Expiration Dates. Except as otherwise provided in this chapter all licenses and permits issued under this ordinance shall expire on June 30 of each year.

(8) License Framed and Posted. Licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front which allows the license to be clearly read. All licenses shall be conspicuously displayed for public inspection at all times in a room or place where the activity subject to licensure is carried on.

(9) Transfer of Licenses and Permits.

(a) From Place to Place. With the exception of a "Class B site" license which is nontransferable, a license may only be transferred to another place or premises with the approval of the Village Board. The Village Board may permit one transfer during the license year provided that the licensee proves to the satisfaction of the Village Board that the new premises is in full and complete compliance with all state and village law, regulations and ordinances; that the owner and/or lien holder of the existing premises consents to the transfer in writing, and that such transfer is not detrimental to the public interest. Application to transfer shall be filed with the Village Clerk along with payment of a transfer fee in the amount of \$10.00. In the event of approval of the transfer by the Village Board the Village Clerk shall promptly notify the department of all transfers.

(b) From Person to Person.

1. Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without the approval of the Village Board. If the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application, then under such circumstances or others deemed sufficient by the Village Board in its discretion, the Village Board may, upon application, transfer the license to the licensee's designee provided that such designee complies with all of the requirements under this chapter applicable to original applicants, except that a surviving spouse shall be exempt from payment of the license fee for the year in which the transfer takes place.

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

3. Businesses may be continued under paragraph 2 above only if the personal representative or surviving spouse is an U.S. citizen.

(10) Limitation Upon Issuance of Licenses.

(a) "Class A" License.

1. Issuance restricted. The number of "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses that will be issued within the Village for the operation of liquor stores under duly licensed personnel, will be limited to one for every 500 of

population and one license for each fraction thereof as determined by the last Federal decennial census in the Village, being a present authorized maximum total of 5 such licenses, or such lesser number thereof as the Board in its discretion sees fit to authorize and issue.

2. Authorized sales personnel. All sales in or on the premises for which a "Class A" Fermented Malt Beverage and Intoxicating Liquor license has been issued shall be made by the owner (licensee) or by licensed employees, each of whom shall be responsible for checking the ages of such customers so as to prevent sales to customers not authorized to purchase such beverages and liquors because of age, and who shall be deemed to be aware of all the laws governing the sale of fermented malt beverages and intoxicating liquors with respect to such licensed premises and the types of sales that may lawfully be made under such license.

(b) Class "B" Fermented Malt Beverage License.

1. No Class "B" Fermented Malt Beverage license shall be issued in the Village of De Soto except (a) in restaurants where full-course meals are served, and where food is predominantly the major sales item, computed by gross sales, floor area and general use of the restaurant or (b) in restaurants or hotels meeting the criteria specified in Sec. 125.51(4)(v), Wis. Stats. This section does not apply to any existing licenses that were in existence as of January 13, 1965.

2. No Class "B" license shall be issued hereunder for the sale of alcohol beverages on any premises unless such premises complies with and conforms to all ordinances, health, sanitation, building and fire regulations of the Village and of the State.

3. Off-premises sale of liquor in original packages. Holders of "Class B" Fermented Malt Beverage and Intoxicating Liquor licenses may sell liquor in the original package for off-premises consumption, not to exceed one-gallon per sale. Such sales shall be made either by the licensee or by a licensed bartender or employee licensed for such purposes.

(c) Class "B" License (Picnic). Original Class "B" licenses may be issued by the Village Board to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months prior to the date of application and to posts of veterans' organizations, authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. Such application shall be filed with the Village Board at least thirty (30) days prior to the granting of the license. The Village Board may issue a license for an application that is not timely filed provided that it finds that it has all of the information necessary to make an informed decision. The license shall be issued upon written application, and for such time, not to exceed four (4) days, as shall be designated by the board and shall be subject to such restrictions as imposed by the board. The Village Clerk is authorized to issue renewal Class "B" picnic licenses to previously approved applicants.

(d) Class C license.

1. A Retail Class C license may be issued to a person qualified under s. 125.04 (5) Wisconsin Statutes for a restaurant operating under a restaurant license issued by the State of Wisconsin, in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom.
2. Each applicant for a Class C license shall disclose on the application the receipts for the sale of alcohol beverages and the percentage of such sales to the gross sales.

SECTION V. GENERAL PROVISIONS AND HOURS

(1) No License Where Pending Violation. No license shall be issued, renewed or granted hereunder to any person, firm, corporation, limited liability company or organization for any premises as a result of the sale or transfer of the business, stock in trade or furnishings of said premises, to a new applicant while there is pending against the former licensee thereof any proceedings for the violation of any provisions of the general ordinances of the Village of De Soto which on conviction would result in automatic forfeiture of said license.

(2) Licensee, Agent or Operator on Premises at All Times. There shall be at all times, upon the licensed premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who shall have an Operator's or Manager's license and who shall be responsible for the acts of all persons serving, as waiters or in any other manner, any alcohol beverages to customers. No person other than the licensee, or the agent named in the license if the licensee is a corporation or limited liability company, shall serve alcohol beverages in any place operated under a license unless he/she shall possess such Operator's or Manager's license, or unless he/she shall be under the immediate supervision of the licensee or a person holding an Operator's or Manager's license who shall be at the time of such service upon said premises. No person may manage premises operating under a license or permit, unless the person is the licensee or permitted, an agent of the corporation or limited liability company or the holder of a manager's license.

(3) Sign to be Posted. A sign bearing the words "Bar closed after 2:00 a.m., 2:30 a.m. on Saturday and Sunday" shall be conspicuously displayed over the bar in all premises for which a Class "B" or "Class B" license shall have been issued.

(4) Class A Hours.

(a) Premises Hours. No premises for which a Class "A" Fermented Malt Beverage license has been issued shall sell fermented malt beverages between the hours of 12 midnight and 8:00 a.m. No premises for which a Class "A" Intoxicating Liquor license has been issued shall sell intoxicating liquors between the hours of 9 p.m. and 8:00 a.m.

(b) No-Carryout Law. Between 9:00 p.m. and 8:00 a.m., no seller shall permit nor shall any person carry out or remove from the "Class A" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.

(c) No On-Premises Consumption. It shall be unlawful for any person to possess or drink from any open container which contains alcohol beverages within a Class A licensed premises at any time unless said premises also holds a Class B license.

(5) "Class B" and Class "B" Hours.

(a) No-Carryout Law. Between 12:00 Midnight and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from the "Class B" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.

(b) Premises Hours. No premises for which a "Class B" or Class "B" license has been issued shall be permitted to remain open between the hours of 2:00 a.m. and 6:00 a.m., on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday. On January 1 the premises are not required to close.

(c) Hotel and Restaurant Exemption. Hotels and restaurants the principal business of which is the furnishing of food and/or lodging to patrons, and bowling centers, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but shall not sell, serve, give away or in any way deal or traffic in alcohol beverages in violation of Subparagraphs (a) and (b) above.

(d) Regulation of Closed Retail Space. Only the permittee, licensee, employees, salespersons, employees of wholesalers licensed under Sec. 125.28(1) or 125.54(1), Wis. Stats., or service personnel may be present on Class B premises during hours when the premises are not open for business if those persons are performing job-related activities.

(e) No-Carryout Law. Between 12:00 Midnight and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from any "Class B" or Class "B" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.

(f) No After-Hours Consumption. It shall be unlawful for any person to possess or drink from any open container which contains alcohol beverages within a "Class B" or Class "B" licensed premises between 2:00 a.m. and 6:00 a.m. on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.

(6) "Class C" Hours

(a) Except as provided in paragraph (b) of this subsection, no premises for which a Class C license has been issued may be open between the hours of 2:00 a.m. and 6:00 a.m. on week days and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.

(b) Hotels and restaurants, the principal business of which is the furnishing of food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell alcohol beverages between the hours of 2:00 a.m. and 6:00 a.m.

(7) It shall be unlawful for the licensee or any employee of a licensed establishment to be under the influence of an intoxicant, or a controlled substance or a combination of an intoxicant and a controlled substance, while performing services on the licensed premises.

(8) Licenses for Less Than One Year. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

(9) A Retail "Class A" and "Class B" license shall not both be issued for the same premises or connecting premises.

(10) No person may hold both a "Class U license and either a "Class A" or "Class 13" license for the same premises or for connecting premises. No person may allow another to use his or her "Class C" license or permit to sell alcohol beverages.

(11) No retail license shall be issued to any person who has not attained the legal drinking age.

(12) Police Record and Report. Before any original license other than an Operator's or Manager's license shall be issued or granted under this section, the Chief of Police shall first file a complete written report with the Village Board showing the applicant's complete police record, if any, and likewise showing for the previous three (3) year period the complete police record, if any, of any licensee during such three (3) year period of the premises or business as to which application is being made, both reports to include arrests, complaints, prosecutions, and other proceedings. Said complete written report shall not be required for operator license renewals.

(13) Place-to-Place Deliveries. No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

(14) Restrictions Applicable to "Class A" and Class "A" Licenses. No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a "Class A" or a Class "A" license has been issued any fermented malt beverage except in original unopened packages, containers or bottles, not to be consumed in or about the premises where sold.

(15) Restrictions Applicable to Wholesaler's License. No person, corporation or limited liability company holding a wholesaler's license and no person as an agent or employee of such licensee shall sell or keep for sale any fermented malt beverage except in original packages or containers and in quantities of not less than four and one-half (4 1/2) gallons at any one time, and it shall be unlawful for any such licensee or any agent or employee of such licensee to sell or dispense any fermented malt beverage for consumption on the premises of such licensee.

SECTION VI. FEES

(1) Village Board to establish fees. The fees for licenses issued pursuant to this ordinance shall be established by the Village Board.

SECTION VIII. REVOCATION, SUSPENSION OR NONRENEWAL OF LICENSE.

(1) The following provisions shall apply to the revocation, suspension or non renewal of any license issued pursuant to this Ordinance.

(a) Complaint. Any resident of the Village may file a sworn written complaint with the Village Clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:

1. The person has violated any provision of this ordinance.
2. The person keeps or maintains a disorderly or riotous, indecent or improper house.
3. The person has sold or given away any intoxicant to any underage person, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards.
4. The person has failed to maintain the premises according to standards prescribed for sanitation by the State Division of Public Health, or in whose premises persons are permitted to loiter for purposes of prostitution.
5. The person has not observed and obeyed any lawful order of the Village Board or police officers of the Village.

6. The person does not possess the qualifications required under this chapter to hold the license.

7. The person has been convicted of manufacturing or delivering a controlled substance under Sec. 161.41 (1), Wis. Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under Sec. 161.41 (1m), Wis. Stats.; or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance under a substantially similar federal law or a substantially similar law of another state.

8. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver a controlled substance.

(b) Notice of Hearing on Complaint. Upon the filing of the complaint, the Village Board shall issue a Notice of Hearing on Complaint, signed by the Clerk and directed to any peace officer in the municipality who shall serve said Notice upon the licensee in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court. The Notice shall set forth the nature and content of the complaint filed with the Village and shall command the licensee complained of to appear before the Village Board on a day and time and at a place named in the Notice, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The Notice and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear.

(c) Procedure on Hearing.

1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the Village Board finds the allegations sufficient, the license shall be revoked. The Clerk shall give notice of the revocation to the person whose license is revoked.

2. The President of the Village Board, or his designee, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Sec. 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

3. If the licensee appears as required by the notice and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. All proceedings and testimony shall be recorded on tape and transcribed unless waived by both the complainant and licensee. If either party requests a stenographic recording and transcription, Village staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The Village Clerk shall mark and receive all exhibits admitted into the record.

(d) Decision of the Village Board.

1. Within twenty (20) days of the completion of the hearing, the Village Board shall submit its findings of fact, conclusions of law and decision. The Committee shall provide the complainant and the licensee with a copy of the decision.

2. The decision of the Village Board shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the Village the actual cost of the proceedings.

3. If the Village Board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Village Board finds the complaint is true, it shall determine the sanctions to be imposed against the licensee. Sanctions include a warning, a fine not to exceed \$500, suspension of license or revocation of license.

4. The Village Clerk shall give notice of the sanctions imposed to the licensee.

(e) Effect of Revocation. When a license is revoked under this subsection, the revocation shall be recorded by the Village Clerk and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation.

(f) Judicial Review. The action of the Village Board in granting or failing to grant, suspending or revoking any license, or the failure of the Village Board to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the Village.

(g) Non renewal of License. The Village Attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the Village Board to hear evidence that a license issued pursuant to this chapter should not be renewed. The Village Board shall, in writing, notify the licensee of the consideration of non renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non renewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for non renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects,

the provisions of Subdivisions (a) and (b) shall apply. The commencement of this action shall

stay action by the Village Board on the licensee's application until the decision of the Village Board is final.

(h) Other Provisions. Any license issued pursuant to this order shall be subject to such further regulations and restrictions as may be imposed by the Village Board of the Village of De Soto by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations her/his license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this ordinance in accordance with this section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

SECTION IX. PENALTIES

(1) Any person violating any provision of this chapter or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty of not more than Five Hundred dollars (\$500.00), unless a greater maximum penalty is specifically provided for in this chapter, except that where a lower maximum penalty shall be provided by Chapter 125 of the Wisconsin Statutes for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this ordinance.

(2) Nothing in this subsection shall in any way diminish the authority of the Village Board to suspend, revoke or non renew any license issued pursuant to this chapter for any violation of this chapter or other Village Ordinance or State Law.

SECTION X. SEVERABILITY

The provisions of this ordinance are severable. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION XI. REPEAL OF ORDINANCES

All ordinances adopted by the Village Board of De Soto prior to the adoption of these Ordinances, which are in conflict, are hereby repealed.

SECTION XII. EFFECTIVE DATE.

This ordinance shall take effect from and after passage and publication.

PASSED AND APPROVED THIS 5th DAY OF November, 2005

Village President *Chris Mussatti*
Chris Mussatti

ATTEST:

Carrie A. Brudos
Carrie A. Brudos, Village Clerk

POSTED: 11-23-05