

ORDINANCE NO. 827

AN ORDINANCE TO CREATE ARTICLE VII UNDER SECTION 22 OF THE VILLAGE OF MUKWONAGO MUNICIPAL CODE RELATING TO WEIGHTS AND MEASURES REGULATIONS

The Village Board of the Village of Mukwonago, Waukesha and Walworth Counties, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION I. Section 22, Article VII of the Municipal Code of the Village of Mukwonago is created to read as follows:

ARTICLE VI. WEIGHTS AND MEASURES REGULATIONS

Sec. 22-160 Application of State Codes.

The statutory provisions of Chapter 98, Weights and Measures, Wis. Stats. And Wis. Adm. Code, ATCP 92, Weighing and Measuring Devices are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any further amendments, revisions or modifications of the statutes incorporated herein or Wis. Adm. Code provisions incorporated herein are intended to be made a part of this section. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

Sec. 22-161 State Contract; Appointment of Inspectors; Compliance Required.

- (a) State Contract. In order to assure compliance with the requirements of the State of Wisconsin related to the inspection and certification of weights and measures, the Village shall contract with the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, pursuant to 98.04(2), Wis. Stats., in lieu of the establishment of a department of weights and measures.
- (b) Appointment of Inspectors. The provisions of the contract set forth in subsection (a), shall provide for the enforcement of the statutes and regulations set forth herein, and the Village hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.
- (c) Compliance Required. All persons and entities required to be licensed hereunder shall comply with the enforcement of the statutes and regulations set forth herein; shall comply with the orders and inspections of the inspectors appointed herein, and shall comply with the licensing requirements set forth herein.

Sec. 22-162 Definitions.

Weights and Measures. Weights and measures means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and

accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the same are operated in a public utility system. Weights and measures shall include devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure, and shall include, but not be limited to, commodities, liquid measuring devices, scales, weighing, measuring, price verification systems, timing devices and linear measuring devices.

Weights and Measures Program. The program that includes administration and enforcement of this section, Chapter 98, Wis. Stat, applicable Wisconsin Administrative Code provisions, and any related actions.

Sec. 22-163 Weights and Measures License Required.

- (a) License Requirements. Except as provided in subsection (b), no person or entity shall use, operate or maintain any commercial weights and measures as defined in this section unless the person or entity is licensed by a Weights and Measures License issued pursuant to the provisions of this section.
- (b) Exemptions. Sales by a person registered as a Direct Seller, or by a holder of a Farmer's Market, Vendor or Special Event Permit are exempt from licensing under this section, but if any person exempted herein is required by the State to hold a State Certificate of Examination by the Sealer of Weights and Measures, a copy of said Certificate shall be provided to the Village with his or her application for said permit.

Sec. 22-164 Application for License.

An application for a Weights and Measures license shall be made in writing on a form provided by the Village Clerk and shall be signed by the owner of the commercial business or by its authorized agent. Such application shall state the type of the business, the type and number of weighing, measuring and scanning devices used by the business, the location of the devices, the number of check-out lanes present on the premises, the applicant's full name, post office address and telephone, and whether such applicant is an individual, partnership, limited liability company, corporation or other entity. If the applicant is a partnership, the application shall state the names and addresses of each partner. If the applicant is a corporation or limited liability company, the application shall state the names and addresses of all officers and agents of the applicant, including the registered agent thereof.

Sec. 22-165 Issuance of License and Fees.

Upon compliance with this section, the Village Clerk shall determine the class of license to be issued, and shall issue a license to the applicant upon payment of the annual license fee as specified in the most current Village Board Resolution. Each store or other business shall require a separate license.

Sec. 22-166 License Term.

- (a) A license issued under this section shall expire on June 30 of each year. Except as provided in subsection (b), the license fee shall not be prorated for a partial year.
- (b) The initial license issued to businesses existing on the effective date of this section shall be for the balance of the year 2010, and the license fee shall be one-half of the cost of a full-year's license.

Sec. 22-167 Enforcement for Non-Renewal.

It shall be the duty of the Village Clerk to notify appropriate Village officials and to order the immediate enforcement of the provisions of this section in cases involving a failure to renew a Weights and Measures License. A licensee shall be prohibited from engaging in any business involved in weights and measures until such time as a valid license has been obtained under the provisions of this section.

Sec. 22-168 Fees Assessment.

- (a) Annual Assessment. In addition to the cost of the license, the Village Board shall annually assess fees to each licensee based on the class of license it holds. The total of the fees assessed and collected under this subsection shall not exceed the actual costs of the weights and measures contract between the Village and the State.
- (b) Clerk to Prepare Assessment Schedule. The Village Clerk shall at least annually prepare a proposed schedule of assessments for each class of license, which shall be based upon the State Contract changes, to be submitted to the Village Board. A copy of the proposed schedule together with notice of the date and time at which the Village Board will consider the assessments shall be mailed to each licensee. If the Clerk fails to prepare the annual schedule or notify the participant, the assessment shall not increase over the prior year's assessment.
- (c) Village Board to Determine Assessment. At least ten days after the mailing set forth in subsection (b), the Village Board shall consider the Clerk's proposed schedule of assessments and determine the schedule of assessments on a reasonable basis. The Village Clerk shall mail to each licensee an invoice for the amount of the fee assessment to the licensee as determined by the Village Board and each licensee shall pay the fee assessed within 30 days after the date the notice was mailed.
- (d) Failure to Pay Assessment. If the assessed fee is not paid within 30 days of the date of the mailing of the invoice an additional administrative collection charge of \$20.00 shall be added to the amount due, plus interest shall accrue on the assessment at the rate of 1.5% per month or fraction thereof until paid. To the extent permitted by law, if the licensee is the owner of the real estate where the licensed business is located, any delinquent assessment shall be extended upon the current or the next tax bill as a special charge against the real

estate premises for current services. No license shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.

- (e) Mailing of Notices. Schedules, notices and invoices shall be considered mailed to a licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.
- (f) Change of Ownership. If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1, of the license year shall be liable and responsible for the payment of the fees assessed under this section.

Sec. 22-169 Violations.

In addition to any other remedy, any person who fails to comply with the provisions of this section shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$250.00 plus court costs. Each day a violation exists or continues shall constitute a separate offense.

SECTION II. SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section shall be declared by decision of a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of other portions of the ordinance.

SECTION III EFFECTIVE DATE. This ordinance shall take effect upon publication.

Passed and adopted this 15th day of June 2010.

James O. Wagner, Village President

Attest: _____
Paul J. Moderacki, Village Clerk

Date Adopted: June 15, 2010
Date Published: June 23, 2010
Date Effective: June 24, 2010