

## CHAPTER 12

### LICENSES AND PERMITS

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## LICENSES AND PERMITS 12.01

**12.01 LICENSES REQUIRED.** (Rep. & recr. #164) A license shall be required for the sale of each of the following or the conduct of the businesses or activity. The license fee charged for the licenses by the Village shall be according to the Schedule of License Fees as established by resolution as set by the Village Board and subject to change from time to time. The license fees shall be for one year unless otherwise indicated.

- (1) BICYCLES. See Chapter 7 of this Municipal Code.
- (2) CIGARETTE LICENSES.
- (3) DOGS.
- (4) ALCOHOL BEVERAGES. (Rep. & recr. #195)
  - (a) Fees shall be in such amount as may be established by the Village Board and from time to time by separate resolution.
  - (b) For partial year, a minimum fee of \$25.
- (5) JUNK AND SALVAGE DEALERS.
- (6) MOBILE HOMES. Monthly parking fee according to assessed value pursuant to §66.058, Wis. Stats.
- (7) MOBILE HOME PARKS.
  - (a) Initial License.
  - (b) Annual Renewal Fee.
  - (c) Transfer Fee.
- (8) PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS.
- (9) PUBLIC AMUSEMENTS AND ENTERTAINMENTS.
- (10) PUBLICATION FEES
- (11) ADULT ORIENTED ESTABLISHMENTS. (Cr. #175) \$250.00; \$100 late penalty.

**12.02 ISSUANCE AND REVOCATION OF LICENSES.**

- (1) LICENSE REQUIRED. No person shall engage in any business or activity enumerated in §12.02 without a license or permit therefore as provided by this section. The words "license" and "permit" as used throughout this chapter shall be considered interchangeable.
- (2) APPLICATION. Application for a license under this chapter shall be made to the Village Clerk on a form furnished by the Village. Such application shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the Village Board.
- (3) PAYMENT OF LICENSE FEE. License fees imposed under §12.02 shall accompany the license application. If a license is granted, the Village Clerk shall issue the application a receipt for his license.
- (4) REFUND OF LICENSE FEE. No fee paid shall be refunded unless the license is denied.
- (5) GRANTING OF LICENSES. (Am. #164)
  - (a) The Village Clerk may issue the following licenses subject to the standards established by this chapter without prior approval of the Board:
    1. Cigarettes licenses.
    2. Peddlers, etc., license upon approval by the Village Marshal.
    3. Dog License.
    4. Public Amusements and entertainment.
  - (b) All other licenses shall be issued by the Board unless otherwise designated.
- (6) TERMS OF LICENSES. All licenses issued hereunder shall expire on June 30 in the year of issuance unless issued for a shorter term when they shall expire on midnight of the last effective day of the license or unless otherwise provided by these ordinances or State laws.

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- (7) FORM OF LICENSE. All licenses issued hereunder shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the Village Clerk.
- (8) RECORD OF LICENSES. The Village Clerk shall keep a record of all licenses issued.

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- (9) **DISPLAY OF LICENSES.** All licenses hereunder shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the Village upon request.
- (10) **COMPLIANCE WITH ORDINANCES REQUIRED.** It shall be a condition of holding a license under this chapter that the licensee comply with all ordinances of the Village. Failure to do so shall be cause for revocation of the license.
- (11) **TRANSFER OF LICENSES.** All licenses issued hereunder shall be personal to whom issued and shall not be transferred except with the consent of the Village Board
- (12) **EXEMPTIONS.** No license other than a liquor or beer license shall be required under this section for any nonprofit educational, charitable, civic, military, or religious organization where the activity which would otherwise be licenses is conducted for the benefits of the members or for the benefit of the public generally.
- (13) **RENEWAL OF LICENSES.** All applications for renewal of licenses hereunder shall be made to the Village Clerk by April 15.
- (14) **CONSENT TO INSPECTION.** An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the Village upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or State law.
- (15) **REVOCAION OF LICENSES.**
  - (a) Except as provided in §12.04(11) any license issued under this chapter may be revoked for cause by the Village Board. No license shall be revoked except upon written verified complaint filed with the Village Board, by the Village President, a member of the Village Board, the Village Marshal or a resident of the Village. The licensee shall be served with a copy of the written charges and shall be given an opportunity to be heard before the Village Board. The licensee shall be given notice of the hearing before the Village Board which shall not be more than 20 nor less than 5 days after notices, except as otherwise agreed between parties.

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  - (b) At such hearing, the licensee shall be entitles to be represented by counsel, shall have the right to present and cross-examine witnesses and, upon request, may have subpoenas issued by the Village President or presiding officer of the Village Board to compel the attendance of witnesses.

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- (c) After hearing the evidence, the Village Board may revoke such license or impose a limited period of suspension. The determination of the Board shall be final.
- (d) The Village President or Board may suspend the license of a licensee hereunder without hearing for not to exceed 10 days.
- (e) The Village Marshal shall repossess any license revoked hereunder.

**12.03 DOGS, LICENSING AND REGULATIONS.** (Rep. & recr. #143)

- (1) **NUMBER PERMITTED.** No household or residential unit within the Village limits will be permitted to keep, harbor or house upon those premises more than 3 dogs in excess of 5 months of age. Dogs licensed in a household prior to April 1, 1983, would be exempt from the limit. The operation of kennels and kennel licenses will not be allowed in the Village.
- (2) **LICENSING REQUIRED.** Every person residing in the Village who owns or has in their possession a dog which is more than 5 months of age on January 1 of any year shall annually, at the time and in the manner prescribed by the Wisconsin Statutes for the payment of personal property taxes, obtain a license for each dog. A late fee of \$5 shall be assessed the owner of each dog 5 months of age or over who fails to obtain a dog license by April 1 of each year or within 30 days of acquiring ownership of a licensable dog. No license shall be issued for any dog under this section until the dog has received a rabies vaccination within 2 years of the date the license was requested to be issued. Failure to have such dog so vaccinated shall constitute a violation to be unlicensed dog under this section. The provisions of §95.21, Wis. Stats., 1981, are hereby incorporated herein and made part of this section and subject to all penalties of §25.04 of this Municipal Code.
- (3) **LICENSE FEES.** The owner or person in possession of any dogs within the Village shall pay to the Village Treasurer the license fee according to the Schedule of License Fees.
- (4) **ISSUANCE OF LICENSE.** Upon payment to the Village Treasurer of the required fee, the Treasurer shall issued to such person a license to keep such dog for one year and such person shall, upon procuring the license, place a collar upon the dog with a tag furnished to him by the Village or County Clerk.
- (5) **STATE REGULATIONS.** Section 95.21 and Ch. 174, Wis. Stats., as far as applicable are incorporated herein and made a part of this section and the penalties provided for in Ch. 25 of this Municipal Code.

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- (6) NOT TO RUN AT LARGE. No owner or person in control or having custody of a dog shall allow the same to run at large within the Village unless accompanied by and under control of the owner or keeper. A dog shall not be considered as running at large if the dog is on the property of the owner or person having custody of the dog, is securely held by a leash or under the immediate control of a person of at least 16 years of age. No dog shall be considered as under the immediate control of any person of such dog is on private property other than the property of the owner or person having custody of the dog.
- (7) HARBORING STRAYS. Any person harboring a stray dog for 10 days or more shall be considered its owner and shall be subject to the terms and regulations of this section.
- (8) HARBORING CERTAIN DOGS PROHIBITED. No person shall own, harbor or keep any dog which;
- (a) Habitually pursues any vehicle upon any public street, alley, or highway.
  - (b) Assaults or attacks any person.
  - (c) Is vicious. A showing the dog has bitten, attacked or injured any person shall constitute a prima facie showing that such dog is vicious.
  - (d) Habitually barks or howls to the annoyance of any 2 or more persons.
  - (e) Is required to be licensed, but is not.
- (9) CERTIFICATE OF INOCULATION REQUIRED. No license shall be issued hereunder for any dog unless the applicant exhibits a certificate of a qualified veterinarian showing that the dog has been inoculated for rabies and distemper within 2 years prior to application.
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- (10) POUND.
- (a) Confinement of. The Village Dog Catcher or any other officer appointed by the Village Board shall apprehend any dog running at large within the Village or which does any of the things prohibited under sub. (8) above and confine the same in a suitable dog pound.
  - (b) Enforcement. The Village Dog Catcher his qualified assistants shall be reasonable for the apprehension and confinement of dogs in a pound as herein provided and such officer shall apprehend and confine dogs as provided in this section and may enforce this section including the right to commence actions for the collection of any forfeiture imposed by this chapter. Such action shall be brought in the name of the Village. The Dog Catcher shall receive no compensation, unless established by a separate resolution of the Village Board.

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- (c) Disposition of Unclaimed Dogs. The keeper of the pound shall keep all dogs apprehended for 5 days at the pound (unless sooner claimed by the owner or keeper) and if any dog is not reclaimed by the rightful owner within such time, the dog may be sold for the amount incurred in apprehending, keeping and caring of the dog or it may be destroyed in a proper and humane manner.
  - (d) Owner or Keeper to Pay Costs. The owner or keeper of any dog so confined may reclaim such dog at any time before the same is disposed of, upon payment of all costs and charges incurred in apprehending, keeping and caring for the dog. Such costs and charges may include expenses for inoculation or other medical treatment of the dog. The owner or keeper's payment of costs and charges incurred in apprehending, keeping caring for the dog shall be made directly to the Village Clerk.
  - (e) Owner or Keeper to Post Bail. The owner or keeper of any dog so confined shall, in addition to any costs required to be paid under par. (d) above, post bail in the following amounts prior to reclaiming such dog;
    - 1. First offense involving such dog within one calendar year - \$15.00.
    - 2. Second offense involving such dog within one calendar year - \$50.00.
    - 3. Third and any subsequent offense involving such dog within one calendar year - \$100.
- (11) HOBBY KENNEL PERMIT. The owner of dogs in compliance with the terms of this section may apply for a hobby kennel permit to keep in excess of 3 dogs 5 mos. of age or older but not to exceed 5 dogs. A hobby kennel permit will be granted by the Village Board only under the following terms and conditions:
- (a) The owner must establish, to the satisfaction of the Board, that they intend to keep such dogs only for hobby purposes and that the sale of dogs will not be a normal practice of hobby. Dogs qualifying for a hobby kennel permit will be hunting dogs used by the owner for hunting, show dogs where the owner is only showing the dog as a hobby, field trail dogs and any other category of hobbies in which dogs are involved. Under no circumstances will dogs be kept or boarder foe others under this permit.
  - (b) The applicant must be able to prove to the satisfaction of the Village Board that he is the owner o all dogs being kept in the hobby kennel.

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- (c) No hobby kennel permit will be granted unless the applicant files with the Village Board written permission from all adjoining property owners and tenants within 300' of the property under the consideration for the hobby kennel permit. Evidence that any owner or tenant within such 300' objects to such hobby kennel permit will be sufficient to deny the applicant the right to the permit. Owners and tenants affected by this paragraph will be those that are in existence at the time of the hobby kennel permit application.
- (d) After the applicant for hobby kennel permit has filed a written application for such permit, the Village Board will hold a public hearing on such permit and will mail notices of such hearing to all owners and tenants within 300' of the property of the applicant. Applicant will pay to the Village an annual fee of \$25 and actual costs incurred by the Village notifying the interested parties and holding the public hearing.
- (e) The hobby kennel permit shall be granted for a period of one year and is subject to immediate cancellation in the event the Village Board received any complaints regarding the operation of the hobby kennel. Hobby kennel permits may be renewed for successive one year periods on such terms and conditions as may be imposed by the Village Board. In the event the Village Board, at any time, revokes such hobby kennel permit, the holder of that permit will, within 30 days of such revocation, remove sufficient dogs from the property so that he will comply with par. (a) above. The possession shall be deemed in violation of this section

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### **12.04 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.**

(Rep. & recr. #195

- (1) STATE STATUTES ADOPTED. The current and future provisions of Ch. 125, Wis. Stats., defining and regulating the types, sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes are adopted and made part of this section by reference. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulations of alcohol beverages in this State.
- (2) BASIC REQUIREMENTS.
  - (a) Occupancy Permit and/or Approved Plan of Operations Required. No person on any licensed premises as defined in this section shall conduct any transactions regulated by this section, unless a licensee holds a valid occupancy permit and/or approved plan of operations as may be required, issued by the Village. The occupancy permit and/or approved plan of operation shall be specific in detail as to what area of the premises shall be licenses for the sale of alcohol beverages. Any violation is grounds for suspension or revocation o any license or permit issued under this chapter.



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- (b) Seller's Permit Required. No person on any licensed premises as defined in this section shall conduct any transactions regulated under this section, unless a license holds and maintains a valid seller's permit as required under §77.52, Wis. Stats., issued to the premises and licensee described in the license during the period of licensing. Any violation is grounds for suspension or revocation of any license or permit issued under this chapter.
- (3) **APPLICATIONS.** A written application for any license or permit by the provisions of this section shall be on the forms provided by the Village Clerk.
- (a) Content. All applications other than operator's licenses shall contain all the information required under §125.04(3), Wis. Stats., and any other information required by the Village Clerk. Operator's license applications shall be on a form prescribed by the Village Clerk containing all information deemed necessary including, but not limited to, name, residence, age and a written request of the holder of the alcohol beverage license hiring the applicant.
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- (b) Filing. All applications for licenses and permits to sell alcohol beverages shall be filed with the Village Clerk as required by State law. Operator's licenses and licenses issued under §125.26(6), Wis. Stats., for a picnic or other gathering lasting less than 4 days must be filed with the Clerk at least 24 hours prior to granting of the license or permit.
- (4) **FEES.**
- (a) Licenses and permits may be issued by the Village Clerk under the authority of the Village Board after payment of the appropriate fees and satisfaction of all conditions, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Ch. 125, Wis. Stats.
- (b) Fees for the above noted licenses and permits shall be in such amount as provided in §12.02 of this chapter.
- (c) Any applicable publication fee, application fee or investigation fee shall be submitted with the license or permit application as may be established by the Village Board from time to time by separate resolution.
- (d) The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication fees and investigation fees.

- (e) Fees for partial licensing years may be prorated at the discretion of the Village Board. In all cases when an alcohol beverage license is issued for a partial year, a minimum fee as provided in §12.01 of this chapter and all actual publication fees and investigation fees must be paid.
  - (f) Once any license or permit is issued, no return of any payment shall be made regardless of whether the license or permit is used for the entire year.
- (5) INVESTIGATION. Upon receipt of a license application under the provisions of this section, the Village Clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant as set forth below:
- (a) All Alcohol Beverage Licenses. The Police Department, Fire Department, Health Department and Building Inspector and other persons authorized may conduct an investigation and inspection of the premises mentioned on the  
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application to determine if the premises comply with all applicable regulations, ordinances and laws. The Police Department shall investigate all persons included in the application to determine the suitability and character of the applicants.
  - (b) Operators License. The Police Department shall conduct an investigation of all applicants to determine the suitability and character of the applicant.
  - (c) Reports. Upon the completion of all investigations, written reports shall be submitted to the Village Clerk. The Clerk will then forward the application to the Village Board for action.
  - (d) Review. The Village Board may refer any and all licenses to the appropriate committee for review and recommendation prior to action by the Village Board.
  - (e) Fingerprinting. All applicants for an operator's license, agent of a corporation and directors of corporations shall be fingerprinted by the Police Department of the Waukesha County Sheriff's Department.

(5.5) PROVISIONAL RETAIL LICENSE (Cr. #214)

- (a) The Village Clerk may issue a Provisional Retail License to any person who has applied for a Class "A" Retail Fermented Malt Beverage License, a Class "B" Retail Fermented Malt Beverage License, a Class "A" Retail Liquor License, a Class "B" Retail Liquor License or a Class "C" Wine License and whose license application has been approved by the Village Board except for the failure of the applicant to have completed a Responsible Beverage Server Course as required under §125.04(5)(a)5, Wis. Stats.

## LICENSES AND PERMITS 12.04(5.5)(a)

The Provisional Retail License shall authorize only those activities authorized by the type of retail license applied for and shall only be issued to an applicant who is on the course of completing a Responsible Beverage Server Course as required under §125.04(5)(a)5, Wis. Stats.

- (b) A Provisional Retail License shall expire 60 days after issuance of the Provisional Retail License or upon issuance of the Class "A" Retail Fermented Malt Beverage License, a Class "B" Retail Fermented Malt Beverage License. A Class "A" Retail Liquor License, a Class "B" Retail Liquor License or a Class "C" Wine License to the holder, whichever is sooner.
- (c) The Village Clerk may revoke the Provisional Retail License if he or she discovers that the holder of the license made a false statement on the application.
- (d) The fee for a Provisional Retail License shall be \$15.00 or the maximum amount allowed by statute, whichever is greater.
- (e) No person may hold more than one Provisional Retail License for each type of license applied for by the holder per year.
- (f) No person shall apply for or obtain a Provisional Retail License for purposes of circumventing the license requirement of this Code. A Provisional Retail License shall only be issued to a person who has satisfied all provisions of this Code and whose application for a regular Retail Malt Beverage or Liquor License has been approved by the Village Board, but who cannot obtain such license because of failure to complete Responsible Beverage Server Course as required under §125.04(5)(a)5, Wis. Stats.

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### (6) OPERATOR'S LICENSE.

#### (a) Kinds of Licenses and Permits.

1. *Regular Operator's License.* Regular operator's licenses may be granted to individuals by the Village Boards and thereafter issued by the Village Clerk for the purposes of complying with §125.32(2) and 125.68(2), Wis. Stats., and this chapter.
2. *Provisional Operator's License.*
  - a. The Village Clerk may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as death, disability, absence of the regular operator on the premises and the like.

## LICENSES AND PERMITS 12.04(6)(a)

The Clerk before authorizing such issuance shall determine that the applicant has a satisfactory record and probably would be issued a regular operator's license, unless sooner revoked by the Village Board.

- b. The Village Board or its authorized designee may issue a provisional operator's license to a person who is enrolled in a training course and has applied for a regular operator's license [pursuant to §125.17(6), Wis. Stats.

3. *Temporary Operator's License.* Temporary Operator's licenses may be granted to individuals pursuant to §125.17(4), Wis. Stats., by the Village Board for purpose of allowing such individuals to dispense and serve alcohol beverages under a license issued under §125.26(6) or 125.51(10), Wis. Stats., to a nonprofit organization. No person may hold more than one license of this kind per year. Any temporary operator's licenses issued under this subparagraph shall be valid for any period from one day to 14 days and the period for which it is valid shall be on the license.

- (b). Village Board Discretion. The Village Board may grant operator's licenses pursuant to this subsection as it deems fit.
- (c) Validity. An operator's license shall be valid for a 2-year period and shall expire on June 30 of the second year of issuance.
- (d) Where Valid. All operator's license issued under this subsection entitle the holder to be an operator in any licensed premises in the Village.

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### (7) **RESTRICTIONS ON GRANTING LICENSES.**

- (a) Statutory Requirements. Licenses and permits shall be issued only to those persons eligible under Ch. 125, Wis. Stats., License and permits granted in error shall be void.
- (b) Health and Sanitation Requirements. No retail Class "A" or Class "B" alcohol beverage license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Industry, labor and Human Relations pertaining to buildings' electrical and plumbing, the rules and regulations of State Department of Health and Social Services applicable to restaurants of the premises is licensed to serve food and to all such rules and regulations as to building, health and sanitation adopted by the Village, County, State or Federal government.
- (c) Delinquent Taxes, Assessments, Claims, Etc.
  1. No initial or renewal alcohol beverage licenses shall be issued for any premises or property for which taxes, assessments, forfeitures or claims for the Village are delinquent and unpaid.

2. No initial or renewal license or permit shall be issued under this section to any person.
  - a. Who is delinquent in the payment of any taxes, assessments or other claims owed to the Village.
  - b. Who is delinquent in the payment of a forfeiture resulting from violation of any ordinance of the Village
  - c. Who has any outstanding warrant or capias from any other municipal, State or federal court.
- (d) Reserved (Rep. #293)

(8) CONDITIONS OF LICENSE.

- (a) Consent of Inspection. Every applicant obtaining a license thereby consents to the entry of the police or other authorized representatives of the Village or the State at any reasonable time for the purpose of inspection and search, consents to the removal from the premises all things found in violation of Village ordinances or State law and consents to the introduction of such things as evidence in any prosecution that may be brought for the offenses.
- (b) Safety and Sanitation Requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used.
- (c) Sales or Credit Prohibited. No retail licensee shall sell or offer to sell any alcohol beverage to any

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person on credit, except by a hotel to a resident guest by a restaurant to a patron, a club to a bona fide member and by grocers and pharmacists who maintain a credit system in connection with other purchase. No license shall sell alcohol beverages on a passport or store order or receive goods, wares or merchandise in exchange for alcohol beverages.

- (d) Orderly Conduct Required. Every licensed premises shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.
- (e) Gambling Prohibited. Gambling shall not be permitted on a licensed premises, unless authorized by State law. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless authorized by State law.
- (f) Lewd, Obscene, Performances, Etc. Prohibited. No licensee shall advertise, produce, perform or allow any lewd, obscene or indecent performance of any kind on the premises.

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- (g) Sale to intoxicated Persons Prohibited. No licensee, agent, operator or server shall sell, give, procure or otherwise furnish any alcohol beverages to an intoxicated person.
  - (h) Underage Person. No licensee shall employ any under age person to serve, sell, dispense or give away any alcohol beverage, unless authorized by State law or this Code of Ordinances. The current and future provisions of §125.10(2), 125.07(4)(a), (b) or (bm), 125.08(3)(b) and 125.09(2), Wis. Stats., are adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulations of alcohol beverages in this State.
  - (i) Controlled Substance Use Prohibited. Any licensee, partner, agent, authorized representative or employee who is convicted of the use, possession, delivery or intent to deliver any controlled substance defined and regulated under Ch. 161, Wis. Stats., may be considered grounds for the revocation or suspension of any license provided for in this section.
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- (j) Regulation of Entertainment and Entertainers. No class B licensee shall employ or permit to perform on the premises any entertainer, except a member of a band, a vocalist, piano or organ player or comedian. All such entertainers shall be fully clothed in such a manner as is acceptable in all public places. No licenses shall allow any entertainment which makes an appeal to prurient interests. Dancing among patrons, but not between patron and employee, is permitted upon permit and with approval of location by the Fire Chief.
  - (k) Solicitation of Drinks Prohibited. No person shall solicit or be allowed to solicit drinks on a licenses premises.
  - (l) After Hours Consumption Prohibited. (Cr. #271) Consumption of alcohol beverages by any person, including any employee, on licensed premises during hours when the premises are not open for business is prohibited.

## (9) MISCELLANEOUS GENERAL PROVISIONS.

- (a) Transfer of License.
  1. The transfer of every alcohol beverage license shall be governed by §125.04(12), Wis. Stats.
  2. No transfer of operator's license is permitted.

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3. If the transfer is approved by the Village Board pursuant to §125.04(12)(b)4., Wis. Stats., all conditions set forth under this chapter shall be complied with.
  4. Failure to conform with the terms of license transfer shall be grounds for denial, suspension or revocation of license.
- (b) Nonuse of License. If a license or permit issued under this section is not used within 60 days after its issuance or its usage is discontinued for a period of 60 days or more, such non-use shall be grounds for cancellation, suspension, revocation or non-renewal of the license or permit in accordance with the provision of this section and State law.
- (c) Non-renewal of Licenses. Before renewal of any license or permit issued under this section is refused, the licensee or permittee shall given written notice of any charges, violations or reasons proposed for non-renewal and shall have an opportunity to be heard before the Village Board.
- (d) Violations by Agents and Employees. A violation of this section by an authorized agent or employee of the licensee shall constitute a violation by the licensee.
- (e) Closing Hours. Closing hours shall be as set by State statute with the following applicable local options:
1. If a wholesale license, between 5:00pm and 8:00am, except on Saturday when the closing hour will be 9:00pm.
  2. If a Retail Class "A" Fermented Malt Beverage License, between 9:00pm and 8:00am.
  3. If a Retail "Class A" Intoxicating Liquor License, between 9:00pm and 8:00am.
- (f) Local Options. The holder of a Retail "Class B" Liquor License shall be permitted to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises and in the original packages or containers in multiples not to exceed 4 liters at any one time and to be consumed off the licenses premises. Off-premises sales shall cease at midnight of each day. It is intended by this paragraph that the packaged sales from Class "B" licenses premises will not be permitted after midnight under the option granted herein.

## LICENSES AND PERMITS 12.04(10)

- (g) Revocation for Failure to pay Fee. (Cr. #271) If the Village Board of the Village of Dousman or other authorized person or entity approves the issuance of a license or permit under this §12.04 and the required fee is not paid within 60 days after the date of approval, such failure to pay shall be grounds for denial, suspension, revocation, or non-renewal of the approval of the license or permit in accordance with the provisions of this section. And the laws of Wisconsin.

### (10) REVOCATION AND SUSPENSION OF LICENSES.

- (a) Whenever the holder of any alcohol beverage license violates any portion of this section, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under §125.12, Wis. Stats. In addition, the Village Board, by its own motion by adoption of a resolution, may begin proceedings for the revocation or suspension of such license.
- (b) Whenever the Village Board or the Village Clerk as agent thereof is made aware of an incompatibility in the operation of a licensed premises in relation to its surroundings or nearby environment or a licensed premises is in violation of any condition established or required at the issuance of the license or of this chapter or State law, including all requirements regarding the duty to supervise employees, proceedings for the purpose of revoking, establishing new conditions or continuing the license under previous conditions, will be initiated under the same procedures as provided un par. (a).
- (c) Suspension or revocation of operator's licenses granted pursuant to this section shall be governed as follows:
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1. Any committee as established by the Village Board may revoke or suspend an operator's license following a hearing held by the committee. Notice shall be mailed to the licensee not less than 8 days prior to the hearing or upon personal service of notice not less than 2 days prior to the hearing.
  2. Appeal from the decision of the committee may be made by the licensee upon filing a petition for review by the full Village Board by presenting the petition and paying a fee schedule of \$100.00 to the Village Clerk. The Village Board shall schedule a hearing not more than 30 days from the date the appeal is filed.
- (d) Any license or permit issued under this section may be revoked without further proceedings upon the conviction of the licensee, agent, employee, or representative thereof, pursuant to §125.11, Wis. Stats.



## LICENSES AND PERMITS 12.04(11)

- (11) **PENALTIES.** Any person, firm, corporation or the employee or agent of any licensee under this section who shall violate any provisions set forth herein shall, upon conviction, be punished by a forfeiture of not less than \$20 nor more than \$400, plus costs of prosecution and in default of payment of the forfeiture and costs, shall be imprisoned in the county jail for not more than 90 days. Each day of the violation continues shall constitute a separate offense.

### **12.05 JUNK AND SALVAGE DEALERS.**

- (1) **LICENSE REQUIRED.** No person shall engage in the business of junk or salvage dealer without a license therefore as required by this section.
- (2) **JUNK AND SALVAGE DEALER DEFINED.** A junk or salvage dealer is a person who engages in the Village in the business of buying, selling or collecting any article of personal property which, from its worn condition, renders it practically useless for the purpose for which it was made and which is customarily defined as "junk". This definition shall include persons involved in wrecking or dismantling motor vehicles and those who deal in junked motor vehicles or parts thereof.
- (3) **RESIDENCE REQUIRED.** No person shall be granted a license hereunder who has not been a resident of or been in business in the Village for at least 2 years prior to making application. If the application is an association, partnership or corporation, all officers and directors shall comply with this residence requirement.
- (4) **APPLICATION.** Application for a license under this section shall be made upon an application form provided by the Village which shall provide the following information:
- (a) Name and address of all applicants, officers and directors.
  - (b) Length of residence in the Village.
  - (c) Previous experience as a junk or salvage dealer.
  - (d) Nature and location of the business to be conducted.
- (5) **APPLICATION TO BE VERIFIED.** The application shall be sworn to by the applicant.
- (6) **LICENSE INVESTIGATION.** The Clerk shall refer any application hereunder to the Village Marshal and the Police and Fire Committee, who shall cause to be inspected the applicant and the proposed premises. No application shall be issued hereunder unless the building or buildings proposed to be used in connection with the business are of fireproof construction. The officers shall report the results of their investigation to the Board which shall review such reports before acting upon the application.

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## LICENSES AND PERMITS 12.05(7)

- (7) PREMISES NOT TO BE LOCATED IN RESIDENCE DISTRICTS. No license shall be granted hereunder for any premises if located within 2,000 of 3 or more residential dwellings.
- (8) RENEWAL APPLICATION. If an application for a license hereunder is rejected, no further application shall be entertained for 6 months unless the applicant can show that the reasons for the rejection have been corrected.
- (9) POSTING LICENSE REQUIRED. Any person to whom a license has been issued hereunder shall post the license in a conspicuous place on the licensed premises.
- (10) LICENSE FEE. (Am. #164) The annual license fee shall be as specified in the Schedule of License Fees.

### **12.06 MOBILE HOMES AND MOBILE HOME PARKS.** (Cr. #69)

- (1) DEFINITIONS. For the purpose of this section.
  - (a) Driveway. A secondary or minor way serving vehicles and/or pedestrians on a mobile home lot or used for common access to a group of lots.
  - (b) Persons. Any natural individual, firm, trust, partnership, association or corporation.
  - (c) License. A document issued by the Village Board authorizing a person to operate and maintain a mobile home park under the provisions of this section.
  - (d) Mobile Home. Is a transportable, single family dwelling unit suitable for full year occupancy, containing water supply, sanitary and waste disposal facilities and complete electrical service, and constructed according to Mobile Home Manufacturers Associated (MHMA-TCA) Standards, to U.S.A. Standard A119-1 and to all other applicable State and local regulations.
  - (e) Unit. Means mobile home unit.
  - (f) Mobile Home Lot or Site. Means a parcel or plot of land within the mobile home park planned for the accommodation of one mobile home and the exclusive use of its occupants.
  - (g) Mobile Home Park. Means a single tract of land owned by any person, which has planned and developed exclusively for the placement of mobile homes, and which contains no less than 25 mobile home lots.

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## LICENSES AND PERMITS 12.06(1)(h)

- (h) Mobile Home Stand. Is that part of the mobile home lot established specifically for the placement of a mobile home.
  - (i) Occupant. Means the owner, renter or main inhabitant of each mobile home within a mobile home park.
  - (j) Park Manager. Means any person designated by the mobile home park owner to care for, control and operate such park.
  - (k) Park Street. Means a primary or major private way planned to afford the principal means of access to each mobile home lot, service building and recreation area.
  - (l) Permit. Means a document issued by the Village Board or its designated representative authorizing the construction, alteration or extension of a mobile home park according to §17.09(16) of this code.
  - (m) Recreation Area. Means an area within the mobile home park, established expressly for picnic areas, playfields, hiking, biking and other similar recreational activities, and intended for the exclusive use of the mobile home park residents and their guests.
  - (n) Service Building. Means a structure housing sanitary and laundry facilities and located for the convenient use of the mobile home park residents. The building may also contain office and recreation space and space for storage of equipment used in the maintenance of the mobile park.
- (2) GENERAL REQUIREMENTS.
- (a) Mobile Homes, Where Permitted. Mobile Homes shall be permitted only in mobile home park as defined herein.
  - (b) Density Permitted. A maximum density of 6 units per acre shall be permitted. Low, poorly drained swamp land cannot be used as a basis for the density determinations. In no case shall the total number of mobile homes permitted in the Village exceed 2% of the total number of residential living units in the Village,
  - (c) Soils and Drainage. The mobile home park shall be located on well drained soils sufficiently stable to adequately support mobile homes and all related streets, parking, utility lines and other related facilities. Each mobile home stand shall be placed at an elevation of at least 3 feet above the highest anticipated ground water level, and the site in general shall not be subject to periodic flooding.

## LICENSES AND PERMITS 12.06(2)(d)

- (d) Sanitation and Water Supply. Each mobile home and other structures containing sanitation facilities shall connect to an approved water and sewage system served by the Village water and sewage systems. No septic systems shall be permitted. Sewer and water service and connection charges shall be established by the Village prior to approval of the project.
- (e) Mobile Home park Plan. 1. Preliminary Plan. A preliminary plan shall accompany the application for a permit, drawn at a scale of not less than one inch equals 100 feet. Such plan shall be submitted in triplicate and shall include the following:
  - a. Mobile home park name.
  - b. Name of surveyor, engineer and land planner.
  - c. Name and address of owner.
  - d. Location.
  - e. Boundary of tract.
  - f. Topographic map at a 2 foot contour interval.
  - g. Soils and ground water information.
  - h. Street system and lot pattern.
  - i. Mobile home, service building, recreation building, and recreation area locations and other pertinent features.
  - j. Preliminary statement or outline of proposed water and sewerage systems. A detailed sewer and water system engineering plan must be submitted prior to final approval of the project.
  - k. Plans and specifications of all buildings to be included in the project other than mobile homes.
    - 1. Additional information such as grading plan, street cross-section plan and drainage plan as may facilitate review by the Village.
    - 2. Final Plan. A final plan may be required by the Village and shall substantially conform to a preliminary plan. The final plan shall incorporate all changes and additions made during review of the preliminary plan. The Village may require more specific and exact surveying, engineering and construction data that incorporated in the preliminary plan.

## LICENSES AND PERMITS 12.06(2)(k)(2)

The Village may permit partial development (Staged development) of the park. Where staged development is contemplated, the preliminary and final plans shall clearly designate each stage of development and the order of development of each stage.

3. Design Criteria. When planning and developing a mobile home park, the following design criteria shall apply:
    - a. The street system shall be planned to take full advantage of topographical and natural features of the site, and shall provide safe, efficient vehicular and pedestrian traffic movement considering particularly emergency and service vehicles. Angled intersections, short jogs, sharp reverse curves and dead ends without adequate turn-around provision shall be avoided. Generally accepted single family residential subdivision street pattern standards shall apply.
    - b. The lot pattern shall conform to accepted contemporary mobile home park standards, and shall provide for adequate setback, side-yard, rear yard and off-street parking. (See sub. (2)(f)).
    - c. Service and recreation buildings shall be conveniently located for general use.
    - d. Recreation open space areas shall be provided for all exclusive use of the mobile home park residents and their guests, and shall be located for convenient and safe general use. These areas may contain picnic sites, playfields, playgrounds, tennis courts, and other outdoor recreational facilities. Accepted outdoor recreation area design practice shall apply.
    - e. Park street widths shall be a minimum of 30 feet.
- (f) Site Regulations. Every mobile home must be on a lot as defined herein. The lot and the placement of the mobile home thereon must conform to the following regulations.
1. Each lot shall be contiguous to a park street.
  2. Each lot shall conform to the following minimum lot areas and dimensions:
    - a. Area – 5,000 square feet.
    - b. Width at building line – 50 feet. Additional width shall be provided for double wide units.

## LICENSES AND PERMITS 12.06

3. Each mobile home unit and any other structure shall be located according to the following setbacks:
  - a. Setback from street – 20 feet. Corner lots – 15 feet, one side.
  - b. Side yard – 10 feet.
  - c. Rear yard – 10 feet.
  - d. Distance from nearest projecting overhang of adjacent units – 20 feet.
  - e. The total area of all enclosed structures may not exceed 25% of the area of the lot.
4. Pads or support columns shall be provided for each mobile home unit shall be constructed and placed according to Mobile Home Manufacturers Associated Standards.
5. Skirting of a compatible material, style and color shall be installed along the base of each mobile home adequately screen the running gear, frame members, piping and other exposed attachments beneath the unit.
6. A patio area, a minimum 8 foot by 10 foot slab, constructed of concrete or other suitable material, and located immediately adjacent to the main entrance, shall be provided for each mobile home.
7. A carport and storage space, containing a minimum 12 foot wide by 20 foot long carport area and an attached 12 foot wide by 10 foot deep storage area, combined under one roof with a minimum interior headroom of 7 feet, and attached to the mobile home unit, shall be provided on each lot.
8. An off-street parking space for 2 cars (a minimum of 10 foot by 20 foot per car) shall be provided on each lot.

(g) Buffer Strips, Planting Screens, Landscaping and Lighting.

1. Buffer strip. A minimum 20 foot wide buffer strip shall be provided around the entire perimeter of the mobile home park, and shall establish in addition to the setback, side yard and rear yard requirements of this section.

## LICENSES AND PERMITS 12.06

2. **Planting Screen.** Planting screen of hardy, native plant material may be required by the Village within the buffer strips and elsewhere within the mobile home park wherever a conflict of uses is evident.
  3. **Landscaping.** Shade tree planting along the mobile home park streets is required. This shall include suitable street tree types planted at a minimum interval of 100 feet. More extensive planting throughout the park is advised. At least one shade tree on each lot should be considered an initial minimum. A reasonable schedule for the planting program shall be established by the Village and the developer at the time of project review.
  4. **Lighting.** Street lighting within the mobile home park is required. Lighting units shall be of a style and size compatible with the general development within the park and shall be placed at an interval sufficient to meet minimum street lighting standards as recommended by the Wisconsin Electric Power Company.
- (h) **Open Area Surface Treatment.** All open area surfaces shall be paved in asphalt or concrete, covered with washed stone or established in turf or other vegetative ground cover capable of preventing erosion, mud and dust.
- (i) **Outdoor Burning Equipment.** Barbecuing equipment, fireplaces, stoves, incinerators and other similar equipment, shall be located and operated according to all applicable ordinances and to the satisfaction of the park manager. No equipment that emits objectionable or hazardous smoke or odors, or placed in an unsafe location, or operated in a hazardous manner shall be permitted.
- (j) **Refuse Control.** All mobile home parks shall comply with the following refuse control regulations.
1. The storage, collection and disposal of refuse shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or objectionable or hazardous smoke odors.
  2. A fenced or otherwise enclosed area shall be provided at a convenient location on each lot for 1-20 gallon or larger trash cans.
  3. Refuse containers of adequate size and in adequate numbers shall be placed at convenient locations near all recreation and service areas.

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4. All refuse shall be collected at least once per week and shall be disposed of in a manner designated and/or approved by the Village. Where municipal collection service is not available, the mobile home park management shall provide this service.

(k) General Maintenance. The mobile home park shall be maintained in a neat, clean, safe and sanitary condition.

(l) Management. 1. The person to whom a license to operate a mobile home park is issued shall operate the park in compliance with this section and shall provide adequate supervision to maintain the park and park facilities and equipment in good repair and in a clean, sanitary and orderly condition.

2. In operating the mobile home park, the park management (the licensee) shall:

a. Prepare a lease agreement or a list of deed restrictions applicable to the occupant of each lot. A copy of the lease agreement form and/or list of deed restrictions and all current amendments thereto shall be filed with the Village Clerk.

The lease agreement and/or list of deed restrictions shall include such rules and regulations as shall be reasonably required by the Village for reasons of general health, safety and welfare of residents of the mobile home park and of residents of the Village. These rules and regulations shall provide for registration, sanitation and maintenance, speed limits, parking regulations, noise restrictions, age limitations, general conduct and other restrictions as may be deemed appropriate.

b. Notify park occupants of all applicable provisions of this section and inform them of their duties and responsibilities under this section.

c. Supervise the placement of each mobile home on the mobile home stand, and the connection and testing of all service connections.

d. Maintain a register containing the names of all park occupants, their addresses in the park, their motor vehicle licenses numbers, and place of employment. A true copy of the register, containing all monthly changes through the last day of each month shall be sent to the Village Clerk on or before the 10<sup>th</sup> of each month.

e. Immediately notify the Village of any suspected communicable disease within the park.



## LICENSES AND PERMITS 12.06

- f. Collect the monthly parking permit fee and be responsible for the payment of such fees to the Village as provided hereunder.
- g. Furnish, together with the owners of the land on which are parked any occupied mobile homes, information to the Village Clerk and Village Assessor on such homes added to their park or land within 5 days of arrival of such homes as provided by §66.058, Wis. Stats.
- h. Register his official post office address with the Village Clerk, and execute and appoint an attorney-in-fact, who shall at all times be a bona fide resident of Waukesha County, Wisconsin upon whom may be served any process, notice or demand in any action, proceedings or matter concerning the mobile home park.

(m) Park Occupants.

- 1. Each park occupant shall comply with all applicable requirements in this section including but not limited to:
  - a. The maintenance of his mobile home, related buildings and lot in a clean, orderly, safe and sanitary condition.
  - b. The storage of all trash and garbage in rodent proof, insect proof and water-tight containers.
  - c. The retention on his premises, in accessible location, of operable fire extinguishers for Class B and C fires.
- 2. The occupant or the park management (the licensee or the park owner) shall be jointly and severally liable for the payment of the monthly parking permit fee to the Village as provided hereunder.

(n) Applicability of Plumbing, Electrical and Building Ordinances.

All plumbing, electrical, building and other work done in any park shall conform to all other applicable ordinances and codes of the Village, County, and State. Any construction work in or relating to a mobile home is subject to the same plumbing, electrical and building permit procedures as any other construction work in the Village.

3. PERMITS.

- a. Permit Required. No mobile home park shall be constructed, no mobile homes shall be placed, nor shall any related facilities be constructed until a permit for a mobile home park has been granted as a conditional use under §17.09(16) of this Code. Such permit shall not be construed as a permit to operate a mobile home park.

## LICENSES AND PERMITS 12.06

- b. Application for Permit. The procedures established under §17.09(16)(d) of this Code shall apply. In addition, a mobile home park plan shall be submitted as provided in sub. (2)(e).
  - c. Permit Non-assignable. The permit shall be issued only to the applicant and is assignable only with the written consent of the Village Board.
  - d. Review and Approval of Application. The Village Boars shall review and approve and application for a mobile home park based on a general need and demand for mobile home housing, and on the applicability of mobile home housing to the long ranger development program of the Village. The Board shall also base its review on those considerations enumerated in §17.09(16)(b) of this Code.
    - 1. The applicant must establish reasonable evidence of professional experience and financial responsibility. Failure of a project of this nature would be detrimental to the Village and would create great hardship for residents of the park. It is therefore imperative that the Village be reasonably certain of the capability of the developer to follow through and construct and operate the project in an ethical and business-like manner.

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    - 2. As a basis for review of the application and possible subsequent issuance of a permit, the Village Board may refer both to the Environmental Health Guide for Mobile Home Parks, and prepared by the U.S. Department of Health, Education and Welfare, and Ch. HSS 177, Wis. Adm. Code, which is hereby adopted by reference. (am. MSC "86)
4. LICENSES.
- a. License Required. No mobile home park shall be placed in operation until a license has been issued to the Park Manager by the Village Board as provided by §66.058, Wis. Stats. Such license shall be issued annually. The issuance of license shall be conditioned upon reasonable compliance with this section by the Park Manager, owners and occupants.
  - b. Application for License. (Am. #164)
    - 5. Initial Application. The initial application shall be made in writing, shall be signed by the applicant and by accompanied by an application fee as stated in the Schedule of License Fees. Such initial application shall contain the name and address of the applicant, the legal description of the mobile home park site and an affidavit of the applicant as to the truth of the application.

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6. **Renewal of Application.** Renewal of applications shall be made in writing, signed by the holder of the license, accompanied by an application fee as stated in the schedule of License Fees and shall contain any changes in information since prior license.
  - c. **License No assignable.** A license for the operation of a mobile home park shall be issued only to the applicant. Such license is assignable only with the written consent of the Village Board.
  - d. **Notice to Transfer of Interest or Control.** (Am. #164) The licensee shall give written notice to the Village Board within 48 hours after having transferred any interest in or control of any mobile home park. Such notice shall include the name and address of the licensee's successor. Written application shall be made for transfer of the license, shall be signed by the applicant and accompanied by a transfer fee as stated in the Schedule of License Fees. The transfer may be approved by the Village Board if reasonable compliance with all original conditions of licensing is contemplated.
5. **MONTHLY PARKING PERMITS FEE.**
- a. **Monthly Parking Permit Fee Required.** There is hereby imposed on each occupied mobile home located in the Village a monthly parking fee as provided in §66.058, Wis. Stats.
  - b. **Collection and Payment.** 3/9/87 The licensee or the park owner, or the occupant renter or owner of each mobile home, shall pay and be jointly and severally liable for the payment of a monthly parking permit fee to the Village. Such permit fees shall be collected by the licensee, who is primarily liable for the payment thereof. The determination of the amount of such fee, the review thereof, and the enforcement of the payment and disposition of such fee shall be in conformity with all applicable provisions of §66.058, Wis. Stats
6. **INSPECTION.**
- a. **By the Village Board.** The Village Board and its authorized agents may make such inspections of the mobile home park as required to determine satisfactory compliance with this section, and may, at reasonable times, enter upon property within the park for the purpose of making inspection of conditions relating to the enforcement of this section. The Village Board and its authorized agents may also at their discretion inspect the register containing the record of all residents of the mobile home park.
  - b. **By the Park Management.** The park management may make inspections of the mobile home park as are required to determine satisfactory compliance with this section, and may enter, at reasonable times, upon the property within the park for the purpose of making inspections of conditions relating to the enforcement of this section and to the general operation of the park.

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The occupants of a mobile home park shall not prohibit the owner or his agent access to any part of such mobile home park at reasonable times for the purpose of making inspections, making repairs or alterations or providing necessary service and/or maintenance as are necessary.

7. EXCEPTIONS. Where strict compliance with this section will result in extreme hardship due to circumstances unique to a mobile home park project or a mobile home park site, the Village Board or Zoning Board of Appeals may grant an exception in keeping with the intent and purpose of this section. In some situations such exceptions may be temporary in nature with ultimate full compliance required within a time period established by the Board.
8. VIOLATIONS AND PENALTIES. Any person who violated, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this section, shall be subject to a forfeiture of not less than \$10.00 and to more than \$200 for each offense, together with the cost of the action, and in default of the payment thereof, shall be imprisoned in the County Jail for not to exceed 6 months, or until such forfeiture and costs are paid. Each day that a violation exists shall constitute a separate violation and subject to forfeiture, except the forfeiture imposed for violation of the reporting requirements of §66.058(3)(c) and (e), Wis. Stats., shall not exceed \$25.00
9. CONFLICT OF ORDINANCES. Wherever a provision of this section may conflict with a provision of any other local or county ordinance, or State Statute, the provision which is most restrictive shall apply.

## **12.07 PEDDLERS, CANVASSERS, SOLICITORS, AND TRANSIENT MERCHANTS**

1. DEFINITIONS.
  - (3) Peddler. A peddler is a person who goes from place to place within the Village offering for sale property which he carries with him. It includes vendors who distribute their products to regular customers on established routes.
  - (4) Canvassers or Solicitors. A canvasser or solicitor is a person who goes from place to place within the Village soliciting orders for the future delivery of property or for services to be performed in the future. It includes any person who occupies any place within the Village for the purpose of exhibiting samples and taking orders for future delivery.
  - (5) Transient Merchants. A transient merchant is a person who engages at a fixed location in the Village in the temporary business of selling property at such location. It does not include a person who does not sell from stock but exhibits samples for the purpose of securing orders for future delivery only. It includes a person who associates temporarily with any local business or conducts business in the name of a local merchant, dealer or auctioneer.

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### 2. EXEMPTIONS.

- a. Persons selling personal property at wholesale to dealers in such articles.
- b. Newsboys.
- c. Children under 18 years of age who are residents of the Village.
- d. Merchants or their employees delivering goods in the regular course of business.
- e. Farmers or truck gardeners offering to sell the product of the farm or garden occupied and cultivated by them.
- f. A veteran holding a special State license under §440.82(2), Wis. Stats., but he shall comply with subs. (6)(7) and (8).
- g. Any person soliciting for charitable, religious, patriotic or philanthropic purposes where the proceeds thereof are devoted solely to the purposes of the organization. 1/1/76
- h. Sales required by statute or order of a court.
- i. Bona fide auction sales conducted pursuant to law.

3. INVESTIGATIONS FEE. (Am. #164) At the time of filing an application, the applicant shall pay a fee to the Village Clerk as specified in the Schedule of License Fees. Such fee is to cover the cost of investigation the facts stated on the application.

4. INVESTIGATION. The Village Police Chief shall cause the applicant and the facts stated in the applicant's application to be investigated and shall within 5 days return the application to the Village Clerk with his endorsement approving or disapproving the application.

5. BOND. Every applicant who is not a resident of Waukesha County or who represents a firm whose principal place of business is located outside of the State shall file with the Village Clerk a surety bond in the amount of \$500, approved by the Village President, conditioned that the applicant will comply with all provisions of the ordinances of the Village and the State laws regulating peddlers, canvassers, solicitors and transient merchants and guaranteeing to any person doing business with the licensee and all money paid as a down payment will be accounted for and applied according to the representations of the licensee and further guaranteeing that property purchased for future delivery will be delivered according to the representations of the licensee. Action on such bond may be brought by any person aggrieved.

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6. EXCESSIVE NOISE PROHIBITED. No person licensed hereunder shall in hawking his wares create such noise as is annoying to a person of ordinary sensibilities.
7. USE OF STREETS. No licensee shall use the public streets or sidewalks for purposes of sales in such a manner as to impede or inconvenience the public use of the streets or sidewalks.
8. DISPLAY OF LICNESE. Any person licensed hereunder shall carry his license with him while engaged in licensed activities and shall display such license to any officer of the Village or any person with whom he seeks to do business upon request.

### **12.08 PUBLIC AMUSEMENTS.**

- (1) LICENSE REQUIRED. No person shall operate for gain within the Village any public amusement or entertainment without a license therefore obtained under this section.
- (2) PUBLIC AMUSEMENT AND ENTERTAINMENT DEFINED. A public amusement or entertainment is any activity or event conducted for gain to which the general public gains admission by the payment of an admission charge or the giving of a thing of value. It shall include, but not limited to, circuses, carnivals, exhibitions, concerts and the like.
- (3) LICENSE FEE. (Am. #164) The license fee shall be as specified in the Schedule of License Fees.

### **12.09 PRIVATE SWIMMING POOLS.** (Cr. 9/10/79)

- (1) COMPLIANCE REQUIRED. NO person shall construct, install or reconstruct a residential swimming pool not enclosed in a permanent building in the Village except in accordance with the regulations of this section.
- (2) CONFLICTING REGULATIONS. Those swimming pools that are completely enclosed within a permanent building shall comply with all other ordinances, building codes, regulations and statutes applicable, but where a conflict occurs between the proposed indoor swimming pool and the terms of this section, this section shall not comply.
- (3) DEFINITIONS. The term "private swimming pool: is defined as a receptacle for water or an artificial pool of water having a depth at any point of more than 18" or 10' intended to be used by the owner thereof, his family and invited friends for bathing or swimming and includes all structures, appurtenances, equipment appliances and other facilities appurtenant thereto and intended for the operation and maintenance of a private swimming pool. Theses provisions do not apply to temporary pools less than 200 cu. Ft. in volume and less than 18" in water depth or 10' in diameter which are dismantled and removed for winter.

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- (4) PERMIT. No person shall construct, install, enlarge or alter any private swimming pool unless permits have first been obtained from the Building Inspector. The pool building permit shall be \$25. Application shall be on forms provided by the Building Inspector and shall be accompanied by plans drawn to scale showing pool dimensions and volume of water gallons, location and type of water waste disposal system and the location of the pool on lot and distance from lot lines and fencing. The Building Inspector shall refer the application for any pool which he considers to be undesirable in appearance to the Plan Commission. The Commission shall have the authority to approve, deny or impose appropriate changes or safeguards. Its decision shall be based upon the avoidance of a substantial adverse effect upon property values in the neighborhood.
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- (5) CONSTRUCTION OF POOL. A private swimming pool shall be constructed in accordance with the following requirements:
- a. Distance Required. All private swimming pools shall be constructed at the minimum setback and offset requirement for buildings located within the distance where swimming pool is located.
  - b. The area of the pool shall not exceed 3% of the area of the lot.
  - c. The pool shall not be nearer than 10 feet to any residence.
- (6) FENCES. Every private swimming pool shall be completely surrounded by a fence or wall not less than 4 feet in height, but not to exceed 6 feet in height, which shall be so constructed as not to have openings, holes or gaps which would allow ease of access by unauthorized persons, except for doors and gates. A dwelling house or accessory building may be used as part of such enclosure. All gates or doors opening through enclosures shall be equipped with an inside, self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure not to be so equipped. The requirement of this paragraph shall be applicable to all private swimming pools, including those constructed before the effective date of this section. Owners of private swimming pools constructed prior to the effective date of this section shall be in compliance with this paragraph by September 10, 1992.
- a. A temporary fence (snow fence, etc.) may be used while the pool is under construction. A permanent fence shall be constructed within 30 days after the water is in the pool.
  - b. Above ground pools with self-providing fencing to prevent unguarded entry shall be allowed without separate additional fencing provided such fence is of minimum required height and design as specified herein. All access from grade to above ground pools having ladders, stairs or ramps shall not have less than equal safeguard protection provided the pool proper.

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- c. No direct connection shall be made to the sanitary sewer or septic system.
- d. Provisions shall be made for the disinfection of all pool water. No gaseous chlorination shall be permitted.
- e. Except for a properly installed diving board, access ladders or safety railings, there shall be an unobstructed areaway of a least 3 feet around the entire pool on above ground pools.
- f. Except for a properly installed diving board, access ladders or safety railings, there shall be an unobstructed areaway of a least 3 feet around the entire pool on above ground pools.
- g. Heating units, pumps and filter equipment shall in no case be less than 20 feet from any property line. Requirements for heating units shall be equal to those required for residential installation.
- h. Any exterior hose bibs to be used in conjunction with the filling go any swimming pools shall have anti-siphoning type valve.
- i. The requirement of a fence may be waived by the Building Inspector of the pool is above ground pool and of the deck of such pool is at least 4 feet from grade and the Building Inspector determines from an inspection that, except for ladders or other access devices, the outside pool wall or decking is at least 4 feet from grade and provides no direct access to the pool.

### (7) ELECTRICAL REGULATIONS.

- a. All electrical installations provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the national state and local codes regulation electrical installation.
- b. No current carrying conductors shall cross private swimming pools, either overhead or underground, or within 10 feet of such pools as per Article 680-8 of the National Electrical Code.
- c. All metal fences, enclosures or railings near or adjacent to swimming pools, which might become electrically alive as a result of broken overhead conductors or from any other cause shall be effectively grounded, as per Article 680-22 of the National Electrical Code.

(8) LIGHTS. If overhead flood or other artificial lights are used to illuminate a pool at night, such light shall be shielded to direct light only on the pool.

(9) NUISANCES. No pool shall be so operated or maintained as to create a nuisance, an eyesore or otherwise to result in a substantial adverse effect on neighboring properties, or to be in any other way detrimental to the public health, safety or welfare.



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- (10) SANITATION. A swimming pool and its appurtenant facilities shall be kept clean and in a sanitary condition.
- (11) VIOLATIONS. Any person violating the terms of this section shall, upon notice from the Building Inspector, take any steps necessary to immediately correct the violation or deficiency.

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### **12.10 ADULT-ORIENTED ESTABLISHMENTS.** (Rep. & recr. #246)

#### (a) FINDINGS OF FACT.

- (1) The Village Board finds that Adult-Oriented Establishments operating in the Village require special licensing by the Village in order to protect and preserve the health, safety and welfare of the patrons of such businesses as well as the citizens of the Village.
- (2) Based on a review of studies conducted in Phoenix, AZ, Garden Grove, CA, Las Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Coleman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Village finds that Adult-Oriented Establishments are frequently used for sexual liaisons of a casual nature and unlawful sexual activities including prostitution.
- (3) It has been documented that entertainers in Adult-Oriented Establishments offer to perform sexual acts for patrons, and that sexual contact occurs between patrons and other employees of Adult-Oriented Establishments.
- (4) There is convincing documented evidence that booths, rooms or cubicles in Adult-Oriented Establishments have been used for patrons for the purpose of engaging in Specified Sexual Activities or in high-risk sexual behavior and configuration of the interior of the premises is an important factor in combating such activities.
- (5) The State of Wisconsin Division of Health has published reports that have been considered by the Village relating to the subject of sexually transmitted diseases and the concern over sexually-transmitted diseases is a legitimate concern of the Village in order to protect the health and well-being of its citizens.
- (6) The State of Wisconsin has seen a steady increase in several types of sexually-transmitted diseases since 1986.
- (7) Researchers have found that contracting sexually-transmitted diseases may increase a person's vulnerability to Human Immuno-Deficiency Virus (HIV), the virus that causes AIDS (Acquired Immune Deficiency Syndrome) and some types of cancer.

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- (8) AIDS is a sexually-transmitted disease which destroys the body's immune system.
- (9) The State of Wisconsin Division of Health reports that as of June 30, 1999, 4,217 cases of AIDS were reported in the State, including 2,507 that resulted in death and new cases of HIV infection have been reported in Wisconsin each year.
- (10) The Village is concerned with the protection of its minors from exposure to age-inappropriate, sexually explicit materials and offenses.
- (11) Licensing is a legitimate and reasonable means of accountability to ensure that the operators and employees of Adult-Oriented Establishments comply with reasonable regulations and to ensure that operators and employees do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (12) Information relating to pending charges and conditions of the applicants is desired to further the Village's interest in controlling the secondary effects of Adult-Oriented Establishments.
- (13) There is convincing documented evidence that Adult-Oriented Establishments, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property value.
- (14) The Village Board has reviewed the studies of the secondary effects of Adult-Oriented Establishments and has concluded that if unregulated, they present an increased risk to prostitution, high-risk sexual behavior and crime, deleterious effects upon existing businesses and surrounding residential areas, and decreased property value.
- (15) The Village Board desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding Establishments.
- (16) It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments.
- (17) It is not the intent of the Village Board to condone or legitimize the promotion of obscene material, and the Village Board recognizes that the law prohibits the promotion of obscene materials. The Village Board expects and encourages law enforcement officials to enforce anti-obscenity laws against any such illegal activities in the Village.

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(18) Restricted hours of operation will allow law enforcement personnel to concentrate on crime prevention during high crimes hours and/or low staffing hours by relieving them of enforcement duties relative to prostitution, loitering, and criminal activity associated with Adult-Oriented Establishments.

(19) Prohibition of alcohol beverages on the premises will reduce the need for law enforcement resources to respond to alcohol related problems upon the premises, will reduce high-risk sexual activity and will contribute to the reduction of secondary effects of Adult-Oriented Establishments.

(b) **PURPOSE AND INTENT.** Based upon the findings stated above, it is the intended purpose of the Village to regulate Adult-Oriented Establishments to promote the health, safety, morals, and general welfare of the citizens of the Village and to establish reasonable and uniform regulations for the operation thereof so as to minimize secondary effects of these establishments on the community. The provision of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative materials, including Adult-Oriented materials protected by the First Amendment to the Constitution of the United States. Similarly, it is not the intent or effect of this section to restrict or deny any access by adults to Adult-Oriented materials protected by the First Amendment or to deny by the distributors and exhibitors of Adult-Oriented entertainment to their intended market. The promotion of obscene materials which is not protected by the First Amendment, is subject to criminal sanctions under the State's penal code.

(c) **DEFINITIONS.** The following terms have meanings indicated:

(1) *Adult Arcade* means any place to which the public is permitted or invited, wherein coin, slug, electronically or mechanically controlled or operated still or motion picture machines, projectors, computers, or other image producing devices are maintained to show images five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing "specified sexual activities" or "specified anatomical areas".

(2) *Adult bathhouse* means a commercial establishment which provides a bath as a service and which provides to its patrons an opportunity for engaging in "specified sexual activities."

(3) *Adult body painting studio* means a commercial establishment wherein patrons are afforded an opportunity to be painted or to paint images on specified anatomical areas. An adult body painting studio does not include tattoo parlors

## LICENSES AND PERMITS 12.10

- (4) *Adult Bookstore* means any commercial establishment having as its stock in trade the sale, rental or lease for any form of consideration, any one or more of the following:
- a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by their emphasis on “specified sexual activities” or “specified anatomical areas.”
  - b. Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities”.
  - c. Facilities for the presentation of “adult entertainment” as defined herein, including adult-oriented films, motion pictures, video cassettes, video reproductions, slides, or other visual representations for observation by patrons herein.
- (5) *Adult Cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which features:
- a. Live performances which are characterized or distinguished by the exposure of “specified Anatomical areas: or the removal of articles of clothing; or,
  - b. Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing “specified sexual activities” or “specified anatomical areas.”
- (6) *Adult entertainment* means any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by any one or more of the following:
- (7) *Adult massage parlor* means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in “specified sexual activities.”
- (8) *Adult motel* means a hotel, motel or other similar commercial establishments which:
- a. Offers accommodations to the public for any form of consideration; provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, video reproductions, slides, or other visual reproductions characterized by depicting or describing “specified sexual activities” or “specified anatomical areas”; and, has a sign visible from the public right of way which advertises the availability of this type of adult entertainment; or

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- b. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
  - c. Allows a tenant or occupant of a sleeping room to sublet the room for a period of time that is less than 10 hours.
- (9) *Adult-oriented establishment* includes: Adult arcade, adult bathhouse, adult body painting studio, adult bookstore, adult cabaret, adult massage parlor, adult motel, adult theater, and any commercial establishment presenting adult entertainment, whether or not such establishment is operated or maintained for a profit.
- (10) *Adult theater* means an enclosed building such as a theater, concert hall, auditorium or other similar commercial establishment which is used for presenting “adult entertainment.”
- (11) *Applicant* means the individual or business entity that seeks to secure a license under this section of the Village municipal code.
- (12) *Board* means the Village Board for the Village of Dousman, Waukesha County, Wisconsin.
- (13) *Employee* means any and all Persons, including but not limited to “operators”, “entertainers”, clerks, managers, janitors or other persons who work in or at, or render any services directly related to the day-to-day operation of an Adult-Oriented Establishment. Employee, as used in this section, specifically excludes independent contractors who are responsible for the improvement or repair of the physical premises or who provide supplies to the establishment, provided that these persons are not also in the position of providing any other day-to-day services for the Adult-Oriented Establishments.
- (14) *Entertainer* means any person who provides entertainment within an Adult-Oriented Establishment whether to not a fee is charged or accepted for the entertainment and whether or not the entertainment is provided by the person as an employee of the Adult-Oriented Establishment or as an independent contractor.
- (15) *Operator* means the person who is designated on the license application to be the person in charge of the daily operation of the premises and who is to be the Adult-Oriented Establishment’s contact person for the municipality.
- (16) *Person* means individual, proprietorship, corporation, association, partnership, limited liability entity, or other legal entity.
- (17) *Public Area* includes all areas of an Adult-Oriented Establishment except: a public restroom to the extent it is used for its proper purpose, individual rooms rented in an adult motel, or areas to which patrons have no physical or visual access.

(18) *Specified anatomical areas* means:

- a. Less than completely and opaquely covered human genitals, public region, buttock or female breasts below a point immediately above the top of the areola: or
- b. Human male genitals in a discernibly turgid state, even if opaquely covered.

(19) *Specified sexual activities* means and includes any of the following, simulated or actual:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts:
- b. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
- c. Showing of human genitals in a state of sexual stimulation or arousal.
- d. Excretory functions during a live performance, display or dance of any type.

(20) *Transfer of ownership or control of an Adult-Oriented Establishment* means and includes any of the following:

- a. The sale, lease, or sublease of the business;
- b. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or other means; or
- c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the Person possessing the ownership or control

(21) *Youth-facility* means any facility where minors gather for educational or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, or youth clubs.

(d) LICENSING.

1. Licenses required.

- a. *License required for all adult-oriented establishments.* From and after the effective date of this section except as provided in par. C. below, no Adult-Oriented Establishment shall be operated or maintained in the Village without first obtaining a license to operate issued by the Village. A license may be issued only for one Adult-Oriented Establishment located at a fixed and certain place. Any person desiring to operate more than one Adult-Oriented Establishment must have a license for each.

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- b. *License required for all employees of adult-oriented establishments.* In addition to the license required by the establishment, all employees of an Adult-Oriented Establishment must also be licensed.
  - c. *License for existing adult-oriented-establishments.* All Adult-Oriented Establishments existing at the time of the passage of this section must submit an application for a license within 90 days of the effective date of this section. Any establishment that submits an application within 90-day period shall be allowed to continue to operate until the license application is acted upon by the Village Board. Any establishment which fails to submit an application within the 90-day period, must cease operation upon expiration of the 90-day period unless and until a valid license is timely issued by the Village Board. The Village shall act upon any such license application in accordance with the provisions of this section.
  - d. *License for employees of existing adult-oriented establishments.* All employees already working in an Adult-Oriented Establishment existing at the time of the passage of this section must submit an application for a license within 90 days of the effective date of this section. Any employee that submits an application within the 90-day period shall be allowed to continue his or her employment until the license application is acted upon by the Village Board. Any employee who fails to submit an application within the 90-day period must cease employment upon expiration of the 90-day period unless and until a valid license is issued by the Village Board. The Village shall act upon any such license application in accordance with the provisions of this section.
  - e. *Change of name form.* Any licensed Adult-Oriented Establishment which desires to change its name from that as listed on the original license application must file a change of name form with the Village Clerk and pay a \$10.00 fee at least 30 days prior to effectuating the name change.
  - f. *Effect of other licenses.* The fact that a person possesses any other valid license or permit required by law, does not exempt that person from the requirement of obtaining an Adult-Oriented Establishment license under this section.
  - g. *Non-transferability of license.* No license or interest in a license may be transferred to any person. Any change in location for an Adult-Oriented Establishment shall require a new license application for that location.
2. License application procedure for adult-oriented establishments.
- a. Any person desiring to secure an Adult-Oriented Establishment license shall file an application together with two additional copies of the application with the Village Clerk.
  - b. The application shall be on a form provided by the Village Clerk.

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c. The following information shall be required of each applicant, and must be provided under oath or affirmation:

1. Name, including any aliases, address, and phone number.
2. If the applicant is a corporation, partnership, limited liability corporation or limited liability partnership, the application shall include the name of the business entity; the date of incorporation; registration or organization; the state in which the entity was incorporated, registered or organized; the name and address of the registered agent where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners; members or managers, whichever is applicable for the particular form of business entity.
3. If the applicant is an individual, written proof that the applicant is at least 18 years of age and two copies of a recent photo.
4. If the applicant is a business entity, a statement that no officer, director, partner, general partner, owner or manager is less than 18 years of age.
5. Name, address and phone number of the Adult-Oriented Establishment for which a license is being secured.
6. Name and address of any other current or past Adult-Oriented Establishments operated by the applicant whether in this state or any other state or district of the United States.
7. For any current Adult-Oriented Establishments operated by the applicant, the applicant shall describe the statute of any required license for the establishment.
8. Nature and date of offense if the applicant has charges pending or has been convicted of violating any of the terms of this section.
9. Nature and date of offense if the applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:

Prostitution (§944.30, Wis. Stats.).

Patronizing prostitutes (§944.31, Wis. Stats.).

Soliciting prostitutes (§944.32, Wis. Stats.).

Pandering (§944.33, Wis. Stats.).

Keeping a place of prostitution (§944.34, Wis. Stats.).

Sexual Assault (§944.225, Wis. Stats.).

Sexual gratification (§944.17, Wis. Stats.).

Lewd and lascivious behavior (§944.20, Wis. Stats.).

Obscene material or performance (§944.21, Wis. Stats.).

Sexual assault of a child (§944.02, Wis. Stats.).



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Engaging in repeated acts of sexual assault of the same child (§948.025, Wis. Stats.).

Sexual exploitation of a child (§948.05, Wis. Stats.).

Causing a child to view or listen to sexual activity (§948.055, Wis. Stats.).

Incest with a child (§948.06, Wis. Stats.).

Child enticement (§948.07, Wis. Stats.).

Soliciting a child for prostitution (§948.08, Wis. Stats.).

Exposing a child to harmful material (§948.11, Wis. Stats.).

Possession of child pornography (§948.12, Wis. Stats.).

Child sex offender working with children (§948.13, Wis. Stats.).

The statutes numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or categorized differently by an act of the legislature, the applicant shall list those crimes for which the applicant has been convicted that are similar in nature to those listed above.

10. Nature and date of offense if the applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in 9., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
  11. Name, address and phone number of an individual who is responsible for the day-to-day operation of the establishment, who will be deemed the Operator for purposes of this section, who will be the contact person for the municipality.
  12. A statement that the applicant is familiar and in compliance with the provisions of this section of the Village's municipal code.
  13. When the applicant is a business entity the information requested of the Applicant shall include the information required in this section for each of the officers and directors, partners, and general partners, or other owners, and managers of the business entity applying for the license. This provision shall not apply to any owner of any kind who hold an ownership interest of less than 10 %.
- d. Each Application shall be accompanied by:
1. A building plan which meets all requirements of this section and the Zoning Code, if the Zoning Code for the zoning district imposes any building plan requirements in addition to those in this section. Each application shall be accompanied by a sketch or diagram showing the floor plan of the interior of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a ¼ inch scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

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2. A written plan of operation which meets all the requirements of this section and the Zoning Code, if the Zoning Code for the zoning district imposes any plan of operation requirements in addition to those in this section.
  3. A written site plan which meets all the requirements of this section and the Zoning Code, if the Zoning Code for the zoning district imposes any site plan requirements in addition to those in this section.
- e. Each application shall be signed by the applicant.
  - f. Each application shall be accompanied by payment of the license fee of \$500.00. Filing of the application does not occur until this fee has been paid.
  - g. The Village Clerk shall date the filing of the application on the face of the application.
  - h. Reserved
  - i. Upon filing of the application, each applicant shall place a sign at the proposed business location providing notification of the application. Each sign shall be at least 24 inches by 36 inches in size. The sign shall state "ADULT-ORIENTED ESTABLISHMENT LICENSE APPLICATION PENDING" AND "APPLICATION FILED ON (fill in date)." The letter on the sign shall be no less than 1 and – inches high by 2 inches wide. The sign must be placed in a conspicuous location so that it is clearly visible to all passers by whether on the public road, highway, sidewalk or parking lot.
  - j. Upon receipt of the application, the Village Clerk shall immediately distribute a copy of the application to the Building Inspector, Village Police Department, and the Village Board.
  - k. The Village Police Department shall notify the Village Board in writing of any information bearing on the applicant's qualifications, within 20 business days of the filing of the application.
  - l. The Building Inspector shall notify the Village Board in writing as to whether or not the applicant's building plan, site plan and plan of operation comply with this section and the Zoning Code, if the Zoning Code for the zoning district imposes any requirements in addition to those in this section, within 20 business days of the filing of the application.
  - m. The Village Board shall within 45 days of the filing of the application with the Village Clerk, either grant the license or deny the application after reviewing the application for compliance with the licensing standards found in this section. If the Board fails to act upon the license application within 45 days of the filing of the application with the clerk, then a license shall be deemed granted.

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- n. If the license is granted by the Village Board, then the Village Clerk shall issue the license in the next business day.
  - o. If the Village Board decides to deny the application for a license, the board shall immediately notify the applicant in writing of the reasons for denial. Such notice shall be sent to the applicant within 5 days of the decision by certified mail, return receipt requested.
  - p. Any applicant aggrieved by such a denial of the Village Board, shall be entitled to immediately appeal the Board's decision in circuit court. Such an appeal must be made within 30 days of the date of the written decision of the board. The Village explicitly elects not to be governed by Ch. 68, Wisc. Stats., and to provide the review procedures described in this section.
  - q. Each license issued for and Adult-Oriented Establishment shall state on its face the name of the licensee, the name of the establishment, the street address of the establishment, the date of issue of the license and its expiration.
3. License procedures for employees in adult-oriented establishments.
- a. Any individual desiring to secure an employee license shall file an application together with two additional copies of the application with the Village Clerk.
  - b. The application shall be on a form provided by the Village Clerk.
  - c. The following information shall be required of each applicant, and must be provided under oath or affirmation.
    - 1. Name, including any aliases, and address. Pursuant to §19.35(1)(a)2.a., Wis. Stats., the name and address of any entertainer shall be considered as exempt from disclosure under the public records law of the State of Wisconsin because of potential danger to the life and safety of such individuals from such disclosure.
    - 2. Written proof that the individual is at least 18 years of age and two copies of a recent photo.
    - 3. Nature and date of offense and date if the applicant has charges pending or has been convicted of any violation of any of the terms of this section.
    - 4. Nature and date of offense if the applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:  
Prostitution (§944.30, Wis. Stats.).  
Patronizing prostitutes (§944.31, Wis. Stats.).

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Soliciting prostitutes (§944.32, Wis. Stats.).  
Pandering (§944.33, Wis. Stats.).  
Keeping a place of prostitution (§944.34, Wis. Stats.).  
Sexual Assault (§944.225, Wis. Stats.).  
Sexual gratification (§944.17, Wis. Stats.).  
Lewd and lascivious behavior (§944.20, Wis. Stats.).  
Obscene material or performance (§944.21, Wis. Stats.).  
Sexual assault of a child (§944.02, Wis. Stats.).  
Engaging in repeated acts of sexual assault of the same child (§948.025, Wis. Stats.).  
Sexual exploitation of a child (§948.05, Wis. Stats.).  
Causing a child to view or listen to sexual activity (§948.055, Wis. Stats.).  
Incest with a child (§948.06, Wis. Stats.).  
Child enticement (§948.07, Wis. Stats.).  
Soliciting a child for prostitution (§948.08, Wis. Stats.).  
Exposing a child to harmful material (§948.11, Wis. Stats.).  
Possession of child pornography (§948.12, Wis. Stats.).  
Child sex offender working with children (§948.13, Wis. Stats.).

The statute numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or categorized differently by an act of the legislature, the applicant shall list those crimes for which the applicant has been convicted that are similar in nature to those listed.

5. Nature and date of offense if the applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in 4., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
  6. A statement that the applicant is familiar with the provisions of this section and is in compliance with them.
  7. A list of other similar or analogous Adult Entertainer or Employee licenses issued by any other municipalities, the name and state of the municipality and the status of the license.
- d. Each application shall be signed by the applicant.
  - e. Each application shall be accompanied by payment of the license fee of \$50.00. Filing of the application does not occur until the fee has been paid.
  - f. The Village Clerk shall date the filing of the application upon the face of the application.

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- g. Upon receipt of the application the Village Clerk shall immediately distribute a copy of the application to the Village Police Department and the Village Board.
  - h. The Village Police Department shall notify the Village Board in writing of any information bearing on the applicant's qualifications as required herein, within 20 business days of the filing of the application.
  - i. The Village Board shall within 45 days of the filing of the application with the Village Clerk, either issue the license or deny the application after reviewing the application for compliance with the licensing standards found in this section. If the board fails to act upon the license application within 45 days of the filing of the application with the Clerk, then the license shall be deemed granted.
  - j. If the license is granted by the Village Board, then the Village Clerk shall issue the license on the next business day.
  - k. If the Village Board decides to deny the application for a license, the board shall notify the Applicant in writing of the reasons for denial. Such notice shall be sent to the applicant within 5 days of the decision by certified mail, return receipt requested.
  - l. Any applicant aggrieved by such a decision of the Village Board shall be entitled to immediately appeal the board's decision to circuit court. Such an appeal must be made within 30 days of the receipt by the applicant of the written decision of the board. The Village explicitly elects not to be governed by Ch. 68, Wis. Stats., and to provide the review procedures described in this section.
4. Procedures for alterations of licensed premises. Following the granting of a license any licensee who wished to alter any aspect of the licensed premises which was required to be described in the building plan, site plan or plan of operations required under this section, shall be required to apply for a new license.
5. Licensing standards for initial licenses. The Village Board shall grant an initial license to an applicant unless it finds one or more of the following to be true.
- a. The applicant is less than 18 years of age.
  - b. The applicant has charges pending or has been convicted of violating a provision of this section or an analogous ordinance of another municipality within 5 years immediately preceding the date of application.
  - c. The applicant has charges pending or has been convicted of a crime specified in subsections (d)(2)c.9. or (d)(3)c.4.; and if convicted, for which:

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1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense.
  2. Less than 5 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a felony offense;
  3. Less than 5 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses or combination of misdemeanor offenses, occurring within any 24-month period.  
The fact that an appeal has been taken from any of the above-mentioned convictions shall have no effect.
- d. The applicant provides false information on the application.
  - e. The applicants fails to provide information, to post the required notice, or pay any fee required by this section.
  - f. The Adult-Oriented Establishment does not submit plans which meet the requirements of subsection (d)(2)d.
6. License expiration and renewal.
- a. Transfer of ownership or control of an Adult-Oriented Establishment shall result in automatic expiration of the existing license. Upon transfer of ownership or control, the procedures for a new license application must be followed. In order to ensure continuous operation, such procedures may also be commenced by a new applicant prior to the expiration of the prior license.
  - b. Every license issued pursuant to this section will terminate upon the expiration of one year from the date of issuance unless sooner revoked. Any licensee desiring to renew an initial license shall make an application to the Village Clerk. The application procedures governing new licenses shall be followed by an applicant for a renewal license except for those found in section (d)(2)l.,M.,N.,O.,and P. for Adult0Oriented Establishment licenses, and section (d)(3)l., J., K., and L. for employee licenses. The application fee for a renewal license shall be \$300.00 for an Adult-Oriented Establishment license and \$50.00 for an employee license.

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- c. Any licensee desiring to renew an initial license shall file the application for renewal no later than 60 days before the license expires. Any licensee who fails to apply for a renewal license at least 60 days before the license expires shall pay the same fee as if the licensee were applying for an initial license.
- d. An existing license shall be allowed to continue until such time as the Village Board acts upon the renewal license application. If the board fails to act upon the license application within 45 days of the filing of the application with the Clerk, then the license shall be deemed granted.
- e. The Village Board will not expedite the renewal procedure to ensure that a license will not expire when the expiration of the license is due to the licensee's untimely filing of a renewal application. Upon expiration of a license under these circumstances, the licensee is prohibited from operating or serving as an employee until the new license is granted.
- f. A license may not be renewed if the board, following the procedures found in this section, finds that a violation of this section has occurred or that the applicant is not qualified to hold the license.
- g. If the license is granted by the Village Boards, then the Village Clerk shall issue the license on the next business day.

### (e) LOCATION OF ADULT-ORIENTED ESTABLISHMENTS.

- (1) If all requirements for a license as stated in this regulation are met, and Adult-Oriented Establishment shall only be allowed to locate in the zoning district(s) provided by the Village and shall not be allowed to locate in any other district.

### (f) OPERATION OF ADULT-ORIENTED ESTABLISHMENTS.

- (1) No Adult-Oriented Establishment is permitted to operate between the hours of 2a.m. and 8a.m. Further, no Adult-Oriented Establishment is permitted to operate between the hours of 8a.m. and midnight on any Sunday or legal holiday as defined in §895.20, Wis. Stats.
- (2) No operator or employee of an Adult-Oriented Establishment shall permit to be performed, offer to perform, perform or allow patrons to perform any specified sexual activity in the establishment or on the site. This provision does not apply to adult motels, to the extent that such specified sexual activity is not prohibited by law.
- (3) No operator or employee of an Adult-Oriented Establishment shall allow any minor to enter into, loiter around or to frequent an Adult-Oriented Establishment or to view adult entertainment.

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- (4) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (5) The operator shall maintain at least 10 foot candles of illumination in the public areas of the establishment with the following exceptions:
  - a. In a booth, room, or cubicle, if a lesser level of illumination is necessary to enable a patron to view the Adult Entertainment but at no time shall there be less than .01 foot candle of illumination as measured 30" from the floor;
  - b. In an aisle adjacent to a booth, room or cubicle, if a lesser amount of illumination is necessary to allow the occupant to view the adult entertainment, but at no time shall there be less than one and – foot candle of illumination as measured 30" from the floor.
  - c. Adult theaters must maintain 5 foot candles of illumination in the auditorium during intermission and no less than .01 foot candles during a picture as provided for in Wis. Adm. Code Comm. §73.07(6)
- (6) All employees while engage in the display or exposure of any specified anatomical area, shall maintain three-foot distance from any patron or other employee.
- (7) No restroom shall be designed, operated or maintained so that a patron can view adult entertainment therein.
- (8) No employee or patron in an adult cabaret shall be permitted to have physical contact with any employee or patron on the premises.
- (9) All performances in an adult cabaret shall be conducted upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or patron.
- (10) The selling, serving, possession, or consumption of alcohol beverages is strictly prohibited at all times in all Adult-Oriented Establishments
- (11) No employee or operator shall knowingly work in or about, or knowingly perform any service directly related to the operation of any unlicensed Adult-Oriented Establishment.
- (12) All employees shall carry their license upon their person at all times while working in the Adult-Oriented Establishment and shall produce said license upon demand for inspection by any law enforcement authority. Entertainers are exempt from carrying their license upon their person while providing entertainment, but shall be readily able to produce said license upon demand for inspection by any law enforcement authority.



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- (13) The license for the Adult-Oriented Establishment shall be displayed in a conspicuous public place in the Adult-Oriented Establishment.
- (14) No Employee, Operator, or owner may refuse law enforcement officials entry into an Adult-Oriented Establishment for the purposes of inspecting the Adult-Oriented Establishment for compliance with these operational standards during business hours, or at other times at a reasonable hour, with reasonable notice.
- (15) The operator shall be responsible for compliance with the provisions of this section by the Adult-Oriented Establishment, its employees and patrons.
- (16) Every act or omission by any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator if such act or omission occurs, either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be accountable for such act or omission in the same manner as if operator committed the act or caused the omission.

### (g) DESIGN AND LAYOUT.

1. External visibility. At no time should any Adult Entertainment inside the premises be visible to any persons who are outside the premises.
2. Booths. Any Adult-Oriented Establishments having available for patrons any booth, room or cubicle for the private viewing of Adult Entertainment must comply with the following requirements:
  - a. *Access.* Each booth, room, cubicle shall be totally accessible to and from aisles and Public Areas of the Adult-Oriented Establishment and shall be unobstructed by any door, lock or other control type devices.
  - b. *Construction.* Every booth, room or cubicle shall meet the following construction requirements:
    1. Each booth, room or cubicle shall be separated from adjacent booths, room or cubicles and any non-public Areas by a wall.
    2. All walls shall be solid and without any openings, extended from the floor to a height of not less than 6" and be light colored.
    3. Have a least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.
    4. Booths must be separated at least twelve (12) inches from the exterior walls of any other viewing booths by open space.

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- c. *Visibility.* The interior of the booth, room or cubicle shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
- d. *Lighting.* Lighting for booth, room or cubicle shall comply with the provisions of section (f)(5).
- e. *Occupants.* Only one individual shall be permitted to occupy a booth, room or cubicle at any time. No occupant of the booth, room or cubicle, shall be permitted to engage in any specified sexual activity, cause any bodily discharge or litter while in the booth. No individual shall be permitted to damage or deface any portion of the booth.
- f. *Exceptions.* This subsection does not apply to the individual rooms located in Adult Motels.

### (h) EXCLUSIONS.

- 1. All private and public schools as defined in Ch. 115, Wis. Stats., located in the Village are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

### (i) ENFORCEMENT.

#### A. Licenses non-renewal, suspension or revocation.

##### 1. *Causes for license non-renewal, suspension or revocation.*

- a. The Village Board may refuse to renew, suspend, or revoke a license for any violations of this section or if the applicant is not qualified to hold a license.

##### 2. *License non-renewal, suspension and revocation procedures.*

- a. In order to commence the procedure for a license non-renewal, suspension or revocation, the Village shall notify the licensee in writing by certified mail, return receipt requested, of the alleged violation or cause and the intent of the Village to seek non-renewal, suspension or revocation of the license.
- b. The licensee shall be entitled to a public hearing before the Village Board regarding the license non-renewal, suspension or revocation, upon written request to the Village Clerk within 10 days of receipt of the notification required in sub. a.
- c. Any public hearing requested pursuant to sub. b., shall take place within 10 days of the filing of such written request.
- d. At the hearing both the Village and the aggrieved party may be represented by an attorney, present evidence, call and examine witnesses, cross-examine witnesses of the other party, and make opening and closing statements. Such witnesses shall be sworn. The Village Chairperson shall be the presiding officer at the hearing.

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- e. Attorneys may issue subpoenas to compel attendance of witnesses or the production of evidence. Subpoenas is sued must be in substantially the same form as provide in §805.07(4), Wis. Stats., and must be served in the manner provided in §805.07(5), Wis. Stats. Copies of the subpoenas must be served on the opposing party.
- f. The board shall cause the proceedings to be recorded by a stenographer, the expense thereof to be paid by the Village. Costs for copies of any transcripts or transcription of a recording shall be paid by the party requesting the transcript or transcription. All exhibits shall be marked and preserved.
- g. Within 10 days of the completion of any hearing the Village Board shall determine if cause for non-renewal, suspension or revocation exists. OF no public hearing is requested, the Village Board shall make a determination within 20 days of the notification date.
- h. The Village Board shall issue its determination in writing and provide it within 5 days to the licensee by certified mail, return receipt requested.
- i. If a license period expires while non-renewal, suspension or revocation procedure is pending, then a non-renewal, suspension or revocation of any license shall be stayed pending the issuance of a determination by the Village Board. The non-renewal, suspension or revocation of a license shall become effective thirty days following the issuance of a decision by the Village Board, if a judicial review is not commenced as provided in this section.
- j. If judicial review of such determination by the Village Board is timely commenced, then license non-renewal, suspension or revocation shall not become effective until judgment is entered.
- k. Any person aggrieved by such a decision of the Village Board shall be entitled to immediately appeal the Board's decision in circuit court. Such an appeal must be made within 30 days of the licensee's receipt of the written decision by the board. The Village explicitly elects not to be governed by Ch. 68, Wis. Stats., and to provide the review procedures described in this section.
- l. Any person whose license is non-renewed, suspended or revoked shall not be eligible to receive a license for a period of five years from the effective date of the suspension or revocation.

### B. Violations.

1. *Penalties.* Any person who violates this section will be subject to a monetary forfeiture in the amount of \$500.00 for each violation. Each day that a violation exists shall constitute a separate violation and be punishable as such.

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2. *Injunction.* Compliance with the provisions of this section may also be enforced by an injunction properly issued by a court of competent jurisdiction upon the request of the Village.
3. *Non-exclusivity.* The imposition of any penalty under this section or the seeking of an injunction shall not impair the right of the Village to seek a non-renewal, suspension or revocation of a license as provided in this section.

### **12.15 PENALTY.** (Am. MSC '89)

In addition to the revocation, suspension or non-renewal of any license or permit issued under this chapter, any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in §25.04 of this Municipal Code.

10/9/00