

# Chapter 14

## LICENSES

| <b>Section Number</b>                 | <b>Title</b>   | <b>Ordinance Number</b> | <b>Date of Ordinance</b> |
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## **Article I. In General**

### **Sec. 14-1. Penalty.**

Except as otherwise provided herein, and in addition to the suspension or revocation of a license issued under this chapter, any person who shall violate any provision of this chapter, or any order, rule or regulation made under this chapter, shall be subject to a penalty as provided in section 1-14.

(Code 1982, § 12.25)

### **Secs. 14-2—14-30. Reserved.**

## **Article II. Licenses Generally**

### **Sec. 14-31. Terms interchangeable.**

The words "license" and "permit," as used throughout this chapter, shall be interchangeable.

(Code 1982, § 12.02(1))

### **Sec. 14-32. License required.**

No person shall engage in any business or activity enumerated in section 14-35 without a license therefor as provided by this chapter.

(Code 1982, § 12.02(2))

### **Sec. 14-33. Application.**

Application for a license required by this chapter shall be made to the clerk-treasurer on a form furnished by the town and shall contain such information as may be required by the provisions of this chapter or as may be otherwise required by the town board.

(Code 1982, § 12.02(3))

### **Sec. 14-34. License fees.**

(a) Fees to accompany application. License fees imposed under section 14-35 shall accompany the license application. If a license is granted, the clerk-treasurer shall issue the applicant a receipt for his license fee.

(b) Refunds. No fee paid shall be refunded unless the license is denied.

(Code 1982, § 12.02(4))

### **Sec. 14-35. Enumerated businesses and fees.**

A license shall be required for each of the following businesses or activities, which shall be for one year unless otherwise indicated. The annual fee for such licenses shall be on file in the town clerk's office and may be revised by town board resolution.

- (1) Auction sales;
- (2) Cigarettes;
- (3) Alcohol beverages:
  - a. Retail "Class A" license;
  - b. Retail "Class B" license;
  - c. Temporary "Class B" (picnic wine) license;
  - d. Retail "Class C" wine license;
  - e. Retail Class "A" license;
  - f. Retail Class "B" license;
  - g. Temporary Retail Class "B" (picnic) license;
  - h. Operator's;
  - i. Transfer fee;
- (4) Fireworks;
- (5) Intoxicating liquor:
  - a. Retail Class A;
  - b. Retail Class B;
  - c. Retail Class C;
- (6) Junk dealer's;
- (7) Massage establishments;
- (8) Nonintoxicating beverages;
- (9) Peddler's, canvasser's, solicitor's and transient merchant's;
- (10) Pool, billiard halls and bowling alleys;
- (11) Dance halls;

- a. Class A;
  - b. Class B;
  - c. Class C;
  - d. Special permit;
- (12) Public shows;
- (13) Quarry, gravel pit, dump, etc.:
- a. Operator's;
  - b. Owner's;
- (14) Gaming machines:
- a. Electronic gaming machines;
  - b. Other amusement devices;
- (15) Adult-oriented establishments:
- a. New;
  - b. Renewal;
- (16) Wireless telecommunications towers and antennas:
- a. Tower conditional use permit;
  - b. Antenna site plan review.

(Code 1982, § 12.01; Ord. No. 2008-01, § 3, 12-22-2008)

### **Sec. 14-36. Granting of licenses.**

Unless otherwise designated, licenses required by this chapter shall be issued by the clerk-treasurer only with the approval of the town board; except the clerk-treasurer may issue the following licenses subject to the standards established by this chapter without prior approval of the town board:

- (1) Auction sales.
- (2) Dog licenses, but not kennels.
- (3) Nonintoxicating beverages.
- (4) Peddlers, canvassers, solicitors and transient merchants.

(5) Public dances.

(Code 1982, § 12.02(5))

**Sec. 14-37. Terms of licenses.**

All licenses issued under this chapter shall expire on June 30 in the year of issuance unless issued for a shorter term, when they shall expire at midnight of the last effective day of the license, or unless otherwise provided by these ordinances or state laws.

(Code 1982, § 12.02(6))

**Sec. 14-38. Form of license.**

All licenses issued under this chapter shall show the dates of issue and expiration and the activity licensed and shall be signed by the clerk-treasurer.

(Code 1982, § 12.02(7))

**Sec. 14-39. Records of licenses.**

The clerk-treasurer shall keep a record of all licenses issued.

(Code 1982, § 12.02(8))

**Sec. 14-40. Display of licenses.**

All licenses under this chapter 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 town upon request.

(Code 1982, § 12.02(9))

**Sec. 14-41. Compliance with ordinances required.**

It shall be a condition of holding a license under this chapter that the licensee complies with all ordinances of the town. Failure to do so shall be cause for suspension or revocation of the license.

(Code 1982, § 12.02(10))

**Sec. 14-42. Transfer of licenses.**

All licenses issued under this chapter shall be personal to whom it may be issued, and no license shall be transferred without the consent of the town board.

(Code 1982, § 12.02(11))

### **Sec. 14-43. Exemptions.**

No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, military or religious organization if the activity, which would otherwise be licensed, is conducted for the benefit of the members or for the benefit of the public generally.

(Code 1982, § 12.02(12))

### **Sec. 14-44. Renewal of licenses.**

All applications for renewal of licenses, which expire June 30 shall be made to the clerk-treasurer by April 15.

(Code 1982, § 12.02(13))

### **Sec. 14-45. Consent to inspection.**

An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the town upon the 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.

(Code 1982, § 12.02(14))

### **Sec. 14-46. Revocation and suspension of licenses.**

- (a) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the town board. No license shall be revoked except upon written verified complaint filed with the town board by the town chairperson, a member of the town board, the police chief, chairperson of the license committee or a resident of the town. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the town board. The licensee shall be given notice of such hearing, which shall be not more than 20 days nor less than five days after service of notice, except as otherwise agreed between the parties. Procedures for suspension or revocation of liquor licenses shall be as provided in Wis. Stat. § 125.12.
- (b) At such hearing, the licensee shall be entitled to be represented by counsel, shall have the right to present and cross examine witnesses and upon request, may have subpoenas issued by the town chairperson or presiding officer of the town board to compel the attendance of witnesses.
- (c) After hearing the evidence, the town board may revoke such license or impose a limited period of suspension. The determination of the town board shall be final, subject to review under chapter 2, article VII. The licensee shall not be entitled to a further hearing unless granted by the town board.
- (d) The police chief shall repossess any license revoked under this chapter.

- (e) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the town board.
- (f) The town chairperson or town board may suspend the license of a licensee under this chapter without hearing, but not to exceed ten days.

(Code 1982, § 12.02(15))

**Sec. 14-47. Withholding of licenses for nonpayment of amounts due to the town.**

No person shall be eligible to hold any license or permit by the town if he is delinquent in the payment of any local taxes, forfeitures, charges, assessments, fees, special charges or other amounts payable to the town or to any district, commission or other subdivision of the town. No license or permit shall be issued for any premises for which taxes, forfeitures, charges, assessments, fees, special charges or other amounts are delinquent and unpaid, unless:

- (1) The delinquent amount is owed by the premises' owner;
- (2) The license or permit would be issued to the premises' tenant; and
- (3) The premises' tenant and owner have no immediate or extended family, business, or financial relationship with one another other than as landlord and tenant.

If a license or permit is revoked, or a license or permit application or renewal is denied, because of nonpayment of such amounts, the licensee or permittee shall be entitled to notice in writing and an opportunity to be heard. If such license or permit has procedures applicable to revocation or nonrenewal, e.g., alcohol beverages, such provisions shall apply.

(Ord. No. 2006-01, § 1, 6-12-2006; Ord. No. 2009-04, § 1, 7-27-2009)

Editor's note— Section 1 of Ord. No. 2006-01, adopted June 12, 2006, amended § 14-47 in its entirety to read as herein set out. Former § 14-47 pertained to similar subject matter and derived from § 12.02(16) of the 1982 Code.

**Secs. 14-48—14-80. Reserved.**

## **Article III. Alcohol Beverages**

State Law reference— Alcohol beverages, Wis. Stat. ch. 125. (Back)

### **Division 1. Generally**

#### **Sec. 14-81. Adoption of statutes.**

Wis. Stat. ch. 125, except Wis. Stat. §§ 125.03, 125.11, 125.19, 125.29, 125.30, 125.52, 125.53, 125.54, 125.55, 125.56, 125.58, 125.60, 125.61, 125.62 and 125.63, and all acts amendatory thereof and supplementary thereto, are adopted as a portion of this article so far as applicable, except as otherwise provided by this article.

(Code 1982, § 12.03(1))

State law reference— Authority to adopt, Wis. Stat. § 125.10.

#### **Secs. 14-82—14-100. Reserved.**

### **Division 2. Licenses**

#### **Sec. 14-101. Required; fees.**

No person shall engage in any licensed activities as set forth in this section without first obtaining the appropriate license. The classes of licenses and fees are:

- (1) Intoxicating liquors. Licenses to sell, deal or traffic in intoxicating liquors are:
  - a. Retail “Class A” license.
    1. A retail “Class A” license shall permit the holder to sell, deal and traffic in intoxicating liquors only in original packages or containers, and consumed off the licensed premises. The annual fee shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.
    2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
  - b. Retail “Class B” license.
    1. A retail “Class B” licensee shall sell, deal and traffic in intoxicating liquors consumed by the glass only on the licensed premises, and in the original package or container, in multiples not to exceed four liters at any one time, consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any

quantity consumed off the premises. The annual fee for such license shall be paid on or before July 1 of each license year. The annual fee for such license shall be as stated in section 14-35.

2. Licenses may be granted which expire on June 30 of each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
3. No retail "Class B" liquor license shall be issued to any person who does not have or is not issued a retail "Class B" license for the sale of fermented malt beverages.

c. Retail "Class C" wine license.

1. A retail "Class C" licensee shall sell, deal and traffic in wine consumed by the glass only on the licensed premises, or in an opened original container for consumption on premises only. A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise. The annual fee for such license shall be paid on or before July 1 of each license year. The annual fee for such license shall be as stated in section 14-35.
2. Licenses may be granted which expire on June 30 of each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.

d. Temporary Retail "Class B" (picnic wine) licenses. A temporary retail "Class B" (picnic wine) license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months prior to the date of application, or to posts now or hereafter established, of veteran's organizations, authorizing them to sell wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, or at a meeting of any such post or during a fair conducted by such fair association or agricultural societies. The annual fee for such license shall be as stated in section 14-35 except that no fee may be charged to a person at the same time the person applies for a temporary Class "B" license to sell fermented malt beverages at the same event. Not more than 2 licenses may be issued under this subsection to any club, chamber of commerce, county or local fair association, agricultural association, church, lodge, society or veterans post in any 12-month period.

e. Semiannual license. Licenses may be issued at any time for a period of six months in any calendar year for which one-half of the annual license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.



- (2) Fermented malt beverages. The licenses to sell, deal or traffic in fermented malt beverages are as follows:
- a. Retail Class "A" license.
    1. A retail Class "A" license authorizes sales of fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.
    2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
  - b. Retail Class "B" license.
    1. A retail Class "B" license shall authorize the holder to sell fermented malt beverages either to be consumed on the premises where sold, or away from such premises. The holder of retail Class "B" license may also sell beverages containing less than one-half of one percent of alcohol by volume without obtaining a special license to sell such beverages under article VII of this chapter. The annual fee for such license shall be as stated in section 14-35 and shall be paid on or before July 1 of each license year.
    2. Licenses may be granted which expire on June 30 each year upon payment of a proportion of the annual license fee as the number of months, or fraction of a month, remaining until June 30 each year bears to 12.
    3. The licenses may be issued at any time for a period of six months in any calendar year for which three-quarters of the license fee shall be paid. Such six-month licenses shall not be renewable during the calendar year in which issued.
  - c. Temporary Retail Class "B" (picnic) licenses. A temporary retail Class "B" (picnic) license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months prior to the date of application, or to posts now or hereafter established, of veteran's organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post or during a fair conducted by such fair association or agricultural societies. The annual fee for such license shall be as stated in section 14-35.

- (3) Provisional retail licenses. A provisional retail license authorizes only the activities that the type of retail license applied for authorizes.
- a. Qualifications. The Town Clerk shall, without prior Town Board approval, issue a provisional retail license to a person who has applied for a Class "A", Class "B", "Class A", "Class B", or "Class C" license, as those terms are defined in the state statutes, provided that, based upon the information contained in the application, the person meets the general qualifications contained in this chapter of the Code and Wis. Stat. Ch. 125, for the issuance of a license relating to alcohol beverages, as well as any additional qualifications for the issuance of the specific retail license for which the applicant has applied. The Town Clerk may not issue a provisional "Class B" license if the Town's quota under Wis. Stat. § 125.51(4), prohibits the Town from issuing a "Class B" license. No person may hold more than one provisional retail license per type of license per year.
  - b. Application fee. The fee for a provisional retail license shall be as set forth in the schedule of fees on file in the Town Clerk's office and which may be revised by Town Board resolution, which shall be nonrefundable and shall not apply toward the retail license for which the applicant has applied.
  - c. Duration. A provisional retail license expires 60 days after its issuance or when the applicant's application for the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued or denied, whichever is sooner. The Town Clerk shall revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application.
  - d. Conditions. Notwithstanding paragraph a. of this subsection, provisional retail licenses shall be issued only:
    1. For transfers of existing liquor licenses at existing locations; or
    2. When the applicant's retail license has been approved by the Town Board, excepting that the applicant has not successfully completed a responsible beverage server training course, in which case the applicant must provide proof that he or she is enrolled in such a course in order to receive a provisional license under this subsection.

(Code 1982, § 12.03(2)(a), (b); Ord. No. 2009-02, § 1, 5-27-2009)

### **Sec. 14-102. Operator's license.**

Operator's licenses shall be issued as provided in Wis. Stat. § 125.32(2), as follows:

- (1) Application for an operator's license must be made in writing. Each operator's license shall be issued for one year and shall expire on June 30 of the year for which issued. The annual fee for such license shall be as stated in section 14-35..

- (2) An operator's license may be issued only to persons who have attained the age of 18 years.
- (3) There shall be, upon premises operated under any "Class A", Class "A", "Class B", Class "B" or "Class C" licenses as well as temporary licenses, at all times, the licensee or some person who has an operator's license and who is responsible for the acts of all persons serving, as waiters or in any other manner, any fermented malt beverages or intoxicating liquors to customers. No member of the immediate family of the licensee under the legal drinking age shall serve, as a waiter or in any other manner, any fermented malt beverages or intoxicating liquor to customers unless an operator of legal drinking age or over is present upon and in immediate charge of the premises. No person, other than the licensee, shall serve fermented malt beverages or intoxicating liquor in any place operated under a license unless he possesses an operator's license, or unless he is under the immediate supervision of the licensee or a person holding an operator's license, who is, at the time of such service, on the premises.
- (4) All applicants must file a written application for an operator's license with the Town Clerk, stating the name, residence, age and sex of the applicant, together with such pertinent information as to the fitness of a candidate as the Town Clerk shall require. All such applicants shall list any convictions for crimes or ordinance violations, which bear a relationship to the responsibilities of licensees. Upon approval of the application by the majority vote of the Town Board, the Town Clerk shall, upon payment or proof of payment of the license fee, issue to the applicant a license that is valid for no more than one year and shall expire on June 30th.
- (5) Applicants shall not be required to show proof of or offer of employment as a condition of receiving the license.
- (6) The Town Board may issue temporary operator's licenses as provided in Wis. Stat. § 125.17(4).
- (7) Provisional operator's licenses. A provisional operator's license shall function as an operator's license, subject to the limitations contained in this subsection.
  - a. Qualifications. The Town Clerk shall, without prior Town Board approval, issue a provisional operator's license to any person who has also applied with the Town for an operator's license provided that, based upon the information contained in the application, the person meets the general qualifications contained in this chapter of the Code and Wis. Stat. Ch. 125, for the issuance of an operator's license, and further provided, however, that the Town Clerk shall issue a provisional operator's license to anyone filing with the Town a certified copy of a valid operator's license issued by another municipality. In no event, however, shall a provisional operator's license be issued to anyone who has been denied an operator's license by the Town.
  - b. Application fee. The fee for a provisional retail license shall be as set forth in the schedule of fees on file in the Town Clerk's office and which may be revised by Town Board resolution, which shall be nonrefundable and shall

not apply toward the operator's license for which the applicant has applied.

- c. Duration. A provisional retail license shall expire (1) 60 days after its issuance, or (2) upon issuance or denial of the operator's license that was applied for with the Town, or (3) upon expiration or termination of an operator's license from another municipality that was filed with the Town under paragraph a., whichever event occurs sooner. The Town Clerk shall revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application or upon discovery that an operator's license issued by another municipality and filed with the Town under paragraph a. is invalid.

(Code 1982, § 12.03(2)(c); ORd. No. 2009-02, § 2, 5-27-2009)

### **Sec. 14-103. Expiration.**

Unless otherwise specifically provided in this article, or at the time of issuance, all licenses shall expire on June 30 following issuance of the license.

(Code 1982, § 12.03(2)(d))

State law reference— Operator's license, Wis. Stat. § 125.17 and Wis. Stat. § 125.32.

### **Sec. 14-104. Application.**

- (a) Each applicant for any license shall file a written application for the license on the form prescribed by the state department of revenue with the Town Clerk not less than 15 days prior to any meeting to consider the granting of such license.
- (b) Each application shall be sworn to by the applicant as provided by Wis. Stat. § 887.01.
- (c) Each application shall be accompanied by a sum equal to the license fee and costs of publication as provided in Wis. Stat. § 125.04.
- (d) Whenever a bond is required by the state statute, the bond shall not be acceptable unless approved by the Town chairperson and attorney, either of whom may require such evidence as they deem necessary as to the eligibility and justification of the sureties.

(Code 1982, § 12.03(2)(a), (b); Ord. No. 2009-02, § 1, 5-27-2009)

### **Sec. 14-105. Investigation and consideration of applications.**

- (a) Whenever any applicant for a license shall have complied with all of the conditions and regulations contained in this article relative to the filing of his application, it shall be the duty of the Town Clerk to forward the application to the Town Board for consideration at

any regular or special meeting thereof occurring no earlier than 15 days from the date of the application.

- (b) The Town Board shall give an opportunity to any person to be heard for or against the granting of any application and issuance of a license. In determining the suitability of an applicant, consideration shall be given to applicant's financial responsibility, the appropriateness of the location and the premises proposed for licensing, and generally, the applicant's fitness for the trust to be reposed. The Town Clerk shall issue no license until there has been favorable action by the Town Board upon the application except that the Town Clerk is authorized to issue temporary "Class B" (picnic wine) and Class "B" (picnic) licenses upon receipt of a completed application by a qualified applicant. Upon approval, the Town Clerk shall forward a duplicate copy of the application to the state department of revenue.
- (c) If any application for a license under this article is denied, any fees required to be submitted with the application shall be returned to the applicant.  
(Code 1982, § 12.03(3)(b))

#### **Sec. 14-106. Issuance and posting of licenses.**

- (a) Upon approval of any application and receipt of all fees fixed by the statute, the Town Clerk shall issue the applicant a license under this article, serially numbered and describing specifically the name of the licensee and premises for which it is issued.
- (b) Every license issued under this article shall be posted and at all times displayed as provided in state statutes. No person shall post such license, or permit or allow any other person to post it, upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

(Code 1982, § 12.03(3)(c))

#### **Sec. 14-107. Revocation, suspensions, refusals to issue or renew.**

Upon complaint made in writing under oath by any Town resident and filed with the Town Clerk, that any person licensed under this article or state statutes, has violated any provision of this article or any section of the state statutes regulating the sale of intoxicating liquor or fermented malt beverages; keeps or maintains a disorderly or riotous, indecent or improper house; has sold or given away any alcohol beverages to a known habitual drunkard; or does not possess the qualifications required under Wis. Stat. ch. 125 to hold the license, the Town Board shall proceed as provided in Wis. Stat. § 125.12 to consider and act on the suspension, revocation, refusal to issue or renew the license. The provisions in Wis. Stat. § 125.12 relating to renewing or granting a new license shall be applicable to any applicant or licensee under this article.

(Code 1982, § 12.03(3)(d))

#### **Sec. 14-108. Transfer of licenses.**

- (a) No license under this article shall be transferable as to licensee or location, except as provided by Wis. Stat. § 125.04(12).

(b) A transfer fee as stated in section 14-35 shall be paid for each such license transfer.

(Code 1982, § 12.03(3)(e))

**Sec. 14-109. Permission.**

No officer, Board or committee shall have any authority to give permission, whether temporary or otherwise, to any person to do anything for which a license under this article is required, unless authority of the Town Board has actually granted such license. Any such permission granted shall be of no effect and shall not constitute a defense in an action brought for the violation of this article or any part thereof.

(Code 1982, § 12.03(3)(f))

**Sec. 14-110. Restrictions.**

The issuance of licenses shall be restricted as follows:

- (1) Persons. No license shall be granted to any person who does not meet the minimum requirements imposed by state statute.
- (2) Location.
  - a. No license shall be granted for any premises that does not meet the minimum requirements imposed by the state statute.
  - b. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverages in any dwelling house, flat or residential apartment.
- (3) Limitation as to number.
  - a. The number of "Class B" intoxicating liquor licenses shall be the maximum allowed under Wis. Stat. § 125.51(4), unless such location meets an exception allowed thereunder.
  - b. Not more than two of any one type of retail "Class A", Class "A", "Class B" Class "B", or "Class C" licenses shall be issued in the state to any one corporation or person, except in case of hotels or clubs.

(Code 1982, § 12.03(4))

**Sec. 14-111. Temporary extension of licensed premises for special events.**

- (a) Authority. The granting of a temporary extension of licensed premises for special events shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, for a period of time not exceeding 48 hours and in the area described in the application for such temporary extension, as

expressly approved by the Town Board. Such authority, however, shall be contingent upon the licensee also obtaining any and all other special privileges or permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought.

- (b) Eligibility. Any person holding a valid "Class B" retail liquor license, Class "B" fermented malt beverage retailer's license or "Class C" retail wine license may apply for temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in any temporary extension of the licensed premises must be contiguous to the licensed premises and owned by or under the control of the licensee. If the applicant seeks a temporary extension of the licensed premises, such that the extended licensed premises would extend into or encroach upon public property or public thoroughfares, then the applicant shall also be required to obtain the applicable special privilege or street festival permit before the document authorizing the temporary extension of the licensed premises is issued by the Town Clerk. The applicant shall also comply with all other applicable statutes, ordinances and resolutions.
- (c) Applicant's responsibility. Application for the temporary extension of licensed premises for special events shall be made by an individual, or authorized agent in the case of a corporation, a limited liability company or other entity or association, who shall be personally responsible for compliance with all of the terms and provisions of this chapter. All applications shall be submitted for review and approval at least thirty (30) days prior to the event.
- (d) Application. An application for the temporary extension of licensed premises shall be filed on or before the deadline established by the Town Clerk on forms provided by the Town Clerk. The application shall be signed and sworn to by the applicant, if an individual; by one partner, if a partnership; or by a duly authorized agent, officer or member, if a corporation or limited liability company or other entity. The application shall include:
  - (1) The name, business address and telephone number of the applicant.
  - (2) The address of the existing licensed premises and a specific description of the site for which the temporary extension is sought.
  - (3) The name of the particular event or function for which the temporary extension of the licensed premises is sought.
  - (4) The date and period of time for which the particular event or function will be operated.
  - (5) Such other reasonable and pertinent information as the Town Board or Town Clerk may require.
- (e) Approval by Town Board. The completed application shall be referred to the Town Board, which shall determine whether to approve the permit. The Town Board may take into consideration the following:
  - (1) The appropriateness of the location and site for which the permit is sought and whether the event for which the permit is sought will create problems.

- (2) The hours during which the event would be operated on the site and the likely effect of the event on the surrounding area.
  - (3) Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems, including, but not limited to, complaints of loud music, noise, litter, or conduct that would be considered to be disorderly conduct.
  - (4) Any other factors which reasonably relate to the public health, safety and welfare.
- (f) Issuance. In the event the Town Board grants the application for a temporary extension of licensed premises for special events, the Town Clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the extended licensed premises shall be in effect. Such document shall also contain any restrictions or conditions which the Town Board may place on such approvals. The Town Clerk shall inform the Code Enforcement Officer and the Racine County Sheriff's Department of the date, place and event for which the temporary extension of licensed premises was issued.
- (g) Limitation as to Number. No more than four (4) temporary extensions of licensed premises for special events shall be granted to any one licensed premises per year.
- (h) On-premises sale.
- (1) A licensee granted a temporary extension of licensed premises for special events may not sell any alcohol or nonalcoholic beverages for consumption in bottles, cans and glass containers in the location of the temporary extension of the licensed premises. Beverages may only be sold in single service cups for on-premises consumption in the location of the temporary extension of the licensed premises.
  - (2) An exception to the limitation on sale of alcohol beverages to single-service cups in Subsection (g)(1) above may be permitted by the Town Board upon application of an event sponsor or the licensee of the extended premises made at least 60 days prior to the special event. No exception shall be permitted allowing glass containers upon extended premises. The applicant shall include a copy of the application and permit, if issued, and information identifying the sponsor or sponsors of the special event, if any, the reason or reasons for which an exception is sought, including a specific description of the procedures and policies for assuring the safety of the public, a description of the entertainment or amusement to be provided during the special event, the type and estimated quantity of single-service beverage containers proposed for sale or possession upon the extended premises, and any other information the Town Board may require. The Town Board may permit beverage containers other than single-service cups when, in its discretion, considering information in the application and other factors consistent with the health, safety and welfare of the public and of law enforcement officers, it is determined that the exception poses no appreciable risk. These factors may include, but are not limited to, past experience with the same or similar special events, the estimated number of participants in the special event, and neighborhood circumstances. The Town



Board may, upon cause clearly shown in the application, waive the requirement that an application be made at least 60 days prior to the event.

**Secs. 14-112—14-130. Reserved.**

**Division 3. Regulations**

**Sec. 14-131. Compliance with division.**

All licenses shall be granted subject to the regulations in this division.

(Code 1982, § 12.03(5))

**Sec. 14-132. Inspection of premises.**

The Town Board may, at any and all reasonable times, as it, by majority vote, may deem necessary and proper, cause any premises licensed under this article to be inspected by the Code Enforcement Officer, to determine whether the applicant, licensee and the premises licensed or sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's or licensee's fitness for the trust imposed or to be imposed. These officers, or any one of them, shall furnish to the Town Board in writing the information derived from such inspection and within ten days from notification thereof.

(Code 1982, § 12.03(5)(a))

**Sec. 14-133. Closing hours.**

No premises for which a wholesale or retail alcohol beverage license has been issued shall be permitted to remain open for the sale of intoxicating liquors or fermented malt beverages:

- (1) If a retail Class "A" license, between midnight and 8:00 a.m. and a "Class A" license, between 9:00 p.m. and 8:00 a.m.
- (2) If a retail "Class B", Class "B", and "Class C" license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a "Class B" license are not required to close. No package, container or bottle sales may be made after midnight. On the Sunday that daylight saving time begins as specified in Sec. 175.095(2), the closing hours shall be between 3:30 am and 6:00 am.
- (3) No premises licensed for the sale of alcohol beverages at retail shall, during the day or hours they are required to close, or during the hours in which the sale of intoxicating liquor is prohibited, obstruct by the use of curtains, blinds, screens or in any other manner, a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquors is permitted, the premises shall be properly and adequately lighted.

- (4) Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling centers, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses shall be permitted to remain open for the conduct of their regular business, but shall not be permitted to sell intoxicating liquors or fermented malt beverages during the hours mentioned in subsection (3) of this section.
- (5) During closing hours, and except as provided in subsection (3) of this section, no patron or guest shall be permitted to enter or remain in the licensed premises.

(Code 1982, § 12.03(5)(b))

**Sec. 14-134. Health and sanitation.**

All licensed premises shall be kept sanitary and conform to the sanitary, safety and health requirements of the state agencies with jurisdiction over such premises and to all ordinances and regulations of the county and Town.

(Code 1982, § 12.03(5)(c))

**Sec. 14-135. Repealed.**

**Sec. 14-136. Conduct.**

Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(Code 1982, § 12.03(5)(e))

**Sec. 14-137. Violations by agents and employees.**

A violation of this article by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(Code 1982, § 12.03(5)(f))

**Sec. 14-138. Sale to persons under the legal drinking age.**

No person may sell, furnish or give intoxicating liquor to a person under the legal drinking age, or traffic or deal in intoxicating liquor with a person under the legal drinking age. No person shall sell, dispense, give or furnish fermented malt beverages to anyone under the legal drinking age when not accompanied by parent, guardian or adult spouse who has attained the legal drinking age.

(Code 1982, § 12.03(5)(g))

**Sec. 14-139. Sale to intoxicated person prohibited.**

No keeper of a place for the sale of intoxicating liquor may sell, vend or in any way deal or traffic in, or for the purpose of evading this article or any law of the state relating to the sale of intoxicating liquor, give away intoxicating liquor in any quantity to any person intoxicated or bordering on a state of intoxication.

(Code 1982, § 12.03(5)(h))

**Sec. 14-140. Procuring liquor for persons under the legal drinking age.**

No person shall procure intoxicating liquor for a person under the legal drinking age.

(Code 1982, § 12.03(5)(i))

**Sec. 14-141. Suspending business.**

If any licensee shall suspend or cease doing business for a period of 90 consecutive days or more, "Class A" retail liquor license, Class "A" retail license, the "Class B" intoxicating liquor, Class "B" fermented malt beverage license, or the Class C wine license shall be subject to revocation by the Town Board after public hearing thereon in accordance with Section 14-107.

(Code 1982, § 12.03(5)(j))

**Sec. 14-142. Underage person's presence on licensed premises; exceptions.**

Notwithstanding the restrictions and exceptions applicable to underage persons on licensed premises as set forth in Wis. Stat. ch. 125, and as adopted by subsection (1) of this section, an underage person may enter or remain in a room in any "Class B" and Class "B" licensed premises separate from any room where alcohol beverages are sold or served if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present, provided that the licensee shall have accomplished each of the following:

- (1) The licensee shall have submitted to and have obtained the approval of the Town Board for the plan of operation and the anticipated schedule of events for such activity, together with such other information as the Town Board may request. In granting such approval, the Town Board shall first determine that the proposed activity is beneficial for underage persons, the proposed activity serves a community purpose and the presence of underage persons of the premises would not endanger their health, safety and welfare or that of the other members of the community.
- (2) The licensee has obtained the written authorization of the Town Board and the Code Enforcement Officer permitting underage persons to be present under the terms of this article on the date specified in the authorization. The licensee shall obtain a separate authorization from the Town Board and the Code Enforcement Officer for each day on which underage persons will be present on the premises.

In determining whether to issue such authorization, the Town Board and the Code Enforcement Officer shall make a determination that the presence of underage persons on the licensed premises would not endanger their health, welfare or safety or that of the other members of the community. Among the criteria, which the Town Board and the Code Enforcement Officer shall utilize in making that determination, are the following:

- a. The plan is consistent with the authorization of the Town Board.
- b. Provision has been made for:
  1. An acceptable security plan for the event.
  2. Conducting the event in a separate room or space with walls or partitions to segregate the event from the rest of the premises.
  3. Adequate parking and traffic control.
  4. Securing of all alcohol beverages during any such event.
  5. Prohibiting the bringing of alcohol beverages or other illegal substances to the premises.
  6. Noise control.
  7. Hours of operation.
  8. Ages of persons permitted.
  9. Control of exit and reentry.
  10. Such other matters which may be reasonably considered in approving of the conduct of the event.

(Code 1982, § 12.03(5)(k))

#### **Sec. 14-143. Sale of fermented malt beverages.**

No retail "Class A" or Class "A" licensee shall sell individual bottles, cans or containers of fermented malt beverages containing 20 ounces or less of fermented malt beverages. All such sales shall be of containers, cases or other receptacles containing six or more bottles, cans or containers each of 20 ounces or less.

(Code 1982, § 12.03(5)(l))

**Sec. 14-144. Penalty.**

For the violation of any of the provisions of this article which are in conformity with the statutes of the state, the persons convicted of such violations shall be subject to forfeitures equal to any fines as provided by such statutes, together with the costs of prosecution, and in default of payment thereof, imprisonment for a period of not more than 90 days or until paid.

(Code 1982, § 12.03(6))

**Secs. 14-145—14-170. Reserved.**

**Article IV. Peddlers, Canvassers, Solicitors  
And Transient Merchants**

Cross reference— Streets, sidewalks and other public places, ch. 38. (Back)

State Law reference— Authority to regulate, Wis. Stat. § 66.0423 et seq. (Back)

**Sec. 14-171. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Canvasser and solicitor* mean a person who goes from place to place within the town soliciting orders for the future delivery of property or for services to be performed in the future, including any person who occupies any place within the town for the purpose of exhibiting samples and taking orders for future delivery.

*Peddler* means a person who goes from place to place within the town offering for sale property which he carries with him, including a vendor who distributes his products to regular customers on an established route.

*Transient merchant* means a person who engages in the sale of merchandise at any place in this stat temporarily and who does not intend to become and does not become a permanent merchant of that place.

(Code 1982, § 12.05(1))

Cross reference— Definitions generally, § 1-2.

**Sec. 14-172. License required.**

Except as provided by section 14-173, no person shall conduct any of the activities enumerated in section 14-171 without a license therefor as provided by this article.

(Code 1982, § 12.05(2))

### **Sec. 14-173. Exemptions.**

No license shall be required under this article for the following:

- (1) Persons selling personal property at wholesale to dealers in such articles.
- (2) Newsboys.
- (3) Children under 18 years of age who are residents of the town.
- (4) Merchants or their employees delivering goods in the regular course of business.
- (5) Farmers or truck gardeners offering to sell the products of the farm or garden occupied and cultivated by them.
- (6) A veteran holding a special state license under Wis. Stat. § 440.51, but he shall comply with sections 14-177 through 14-180.
- (7) Any person soliciting for charitable, religious, patriotic or philanthropic purposes if the proceeds thereof are devoted solely to the purposes of the organization.
- (8) Sales required by statute or order of a court.
- (9) Bona fide auction sales conducted pursuant to law.
- (10) Activities for which local licensing is prohibited under the United States Constitution.

(Code 1982, § 12.05(3))

### **Sec. 14-174. Investigation fee.**

At the time of filing the application, the applicant shall pay fees as set forth in section 14-35.  
(Code 1982, § 12.05(4); Ord. No. 2008-01, § 4, 12-22-2008)

### **Sec. 14-175. Investigation.**

The clerk-treasurer may cause the applicant and the facts stated in the application to be investigated and may request assistance to the code enforcement officer in such investigation. The clerk-treasurer shall approve or disapprove the application within 72 hours after its submission.

(Code 1982, § 12.05(5))

### **Sec. 14-176. Bond.**

- (a) When required. Every applicant who is not a resident of the county or who represents a firm the principal place of business of which is located outside of the state shall file with

the clerk-treasurer a surety bond in an amount as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, approved by the town chairperson, conditioned that the applicant shall comply with all provisions of the town ordinances and state laws and guaranteeing to any person doing business with the licensee that 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.

(b) Action on bond. Action on such bond may be brought by any person aggrieved.

(Code 1982, § 12.05(6))

#### **Sec. 14-177. Use of streets.**

No licensee shall use the public streets or sidewalks for purposes of sales in such manner as to impede or inconvenience the public use of the streets or sidewalks.

(Code 1982, § 12.05(7))

#### **Sec. 14-178. Display of license.**

Any person licensed under this article shall carry his license with him while engaged in licensed activities and shall upon request display such license to any officer of the town or any person with whom he seeks to do business.

(Code 1982, § 12.05(8))

#### **Sec. 14-179. Hours restricted.**

No person licensed under this article shall call at any residence or other place between 9:00 p.m. and 9:00 a.m. except by appointment.

(Code 1982, § 12.05(9))

#### **Sec. 14-180. Prohibited practices.**

No licensee shall:

- (1) Call at any place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning.
- (2) Call at the rear door of any place.
- (3) Remain on the premises after being asked to leave by the owner, occupant or person in authority.

(Code 1982, § 12.05(10))

**Secs. 14-181—14-210. Reserved.**

**Article V.  
Massage Establishments And Massage Technicians**

**Division 1. - Generally**

**Sec. 14-211. Purpose and intent.**

It is the purpose and intent of the town that the operation of massage establishments and massage technicians as defined in this article shall be regulated so as to further the public interest, safety and welfare by providing minimum building, sanitation and health standards for such establishments and providing minimum qualifications for massage technicians.

(Code 1982, § 12.06(1))

**Sec. 14-212. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Health officer* means the health officer of the town or his authorized representative.

*Massage* means any method of rubbing, pressing, stroking, kneading, tapping, pounding, vibrating or stimulating the superficial parts of the human body with the hands or with any instrument.

*Massage establishment* means any establishment wherein one of the principal functions is such that massage is given, engaged in or carried on, or permitted to be given, engaged in or carried on.

*Massage technician* means any person who administers to another person, for any form of consideration, a bath, massage, manipulation of the body, electric vibration, magnetic stimulation or similar procedure.

(Code 1982, § 12.06(2))

Cross reference— Definitions generally, § 1-2.

**Sec. 14-213. Required clothing and prohibition of sexual massages.**

- (a) Massages shall not be given unless patrons are wearing clothing fully covering their genitals and female patrons are in addition wearing clothing fully covering their breasts. Massage technicians shall at all times be fully clothed from the knee to the neck in clean, opaque, nontransparent, light colored clothing.



- (b) No massage technician shall massage the genital area of any patron, including the breasts of any female patron, nor shall any operator or owner of a massage establishment allow or permit such massage in such massage establishment.

(Code 1982, § 12.06(16))

**Sec. 14-214. Hours of operation.**

Massage establishments shall commence operations no earlier than 8:00 a.m. and the hours of operation shall extend no later than 10:00 p.m. Massage technicians shall not practice or administer massages at massage establishments at any time outside the hours of operation. The entrances and exists of massage establishments which are used by the patrons of such massage establishments shall be locked during the hours which the massage establishments are closed.

(Code 1982, § 12.06(17))

**Sec. 14-215. Suspension or revocation of permits.**

Any massage establishment or massage technician's permit issued under this article shall be subject to suspension or revocation by the town board for violation of any provision of this article or for any grounds that would warrant the denial of the issuance of such permit in the first instance. Prior to the suspension or revocation of any permit issued under this article, the permittee shall be entitled to a hearing held before the town board at which time evidence shall be received for the purpose of determining whether or not such permit shall be suspended or revoked, or whether the permit may be retained. If the permit is suspended or revoked, the notification and reasons for such suspension or revocation shall be set forth in writing and sent to the permittee by means of registered or certified mail or hand delivery to the address stated in the permit.

(Code 1982, § 12.06(18))

**Sec. 14-216. Injunctive relief.**

In addition to the legal remedies provided in this chapter, the operation of any massage establishment in violation of the terms of this article shall be deemed a public nuisance and may be enjoined by the town through its authorized representatives, including at all times the town attorney without further authorization of the town board.

(Code 1982, § 12.06(19))

**Secs. 14-217—14-240. Reserved.**

**Division 2.**  
**Massage Establishments**

**Sec. 14-241. Massage establishment permit required.**

No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the town, as the owner or operator of a massage establishment as defined in section 14-212, without having procured a permit as provided in this article, nor without complying with all statutes, ordinances and regulations applicable to such establishment and unless such permit is in effect at the time of such operation.

(Code 1982, § 12.06(3))

**Sec. 14-242. Permit application.**

- (a) The application for a permit under this article shall be upon a form provided by the clerk-treasurer and shall set forth the exact nature of the services to be provided and the proposed place of business and facilities therefor, and the name and address of each applicant and such other information as the clerk-treasurer may require. If the applicant is a corporation, the names and residence addresses of each of the officers and directors of such corporation and of each stockholder owning more than ten percent of the stock of the corporation shall be set forth. If the applicant is a partnership, the names and residence addresses of each of the partners including limited partners shall be set forth.
- (b) In addition to the provisions of subsection (a) of this section, any applicant for such a permit shall furnish the following information:
  - (1) The two previous addresses, if any, three years immediately prior to the present address of applicant.
  - (2) Written proof that the individual or partnership applicant is over the age of 18 years.
  - (3) Individual or partnership applicant's height, weight, sex, color of eyes and hair.
  - (4) Two portrait photographs at least two inches by two inches.
  - (5) Business, occupation or employment of the applicant for the three years immediately preceding the date of the application.
  - (6) The history of the applicant in operation of a massage establishment or similar business or occupation, including, but not limited to, whether or not such person when previously operating in this town or any other town, village, city or state under permit, has had such permit revoked or suspended and the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

- (7) All criminal convictions other than misdemeanor traffic violations, and the reasons therefor.
- (8) The name and address of each massage technician who is or shall be employed in such establishment.
- (9) Such other identification and information necessary to discover the truth of the matters required to be set forth in the application.
- (10) Nothing contained in this section shall be construed to deny to the investigation officer the right to take the fingerprints and additional photographs of the applicant.

(Code 1982, § 12.06(4))

#### **Sec. 14-243. Exemptions.**

The permits required by this article shall not apply to hospitals, nursing homes, sanitarium, persons holding an unrevoked certificate to practice the healing arts or physical therapy under the laws of the state.

(Code 1982, § 12.06(5))

#### **Sec. 14-244. Permit investigation and fee.**

An investigation fee, in the amount specified in section 14-35, no part of which shall be refundable, shall accompany all applications for a massage establishment permit. Upon receipt of such application, the clerk-treasurer shall refer the application to the building inspector, plumbing inspector, electrical inspector, the fire department and the health officer, each of whom within a period of 30 days from the date of application shall review records or make an inspection of the premises proposed to be devoted as a massage establishment and shall make a written recommendation to the town board concerning compliance with the respective requirements.

(Code 1982, § 12.06(6); Ord. No. 2008-01, § 5, 12-22-2008)

#### **Sec. 14-245. Requirements for issuance of permit.**

The town board shall issue such permit within 30 days after completion of the investigation if upon investigation and the reports filed it is found:

- (1) The operation, as proposed by the applicant, if permitted, would comply with all applicable laws, including, but not limited to, the town's building, plumbing, electrical and health code and the county zoning regulations and the provisions of this article.
- (2) The applicant has not been convicted in a court of competent jurisdiction of:

- a. An offense involving lewd conduct; nor an offense involving the use of force nor violence upon the person of another.
  - b. Any offense involving the willful making of a false statement or theft from a person.
- (3) The applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statement of facts in the permit application or any other document required by the town in conjunction therewith.
- (4) The applicant or any shareholder, partner or other participant in such massage business has within the five years prior to application been engaged in the massage establishment business and has not had any license issued by another authority revoked for violation of any ordinance or law regulating such establishment.

(Code 1982, § 12.06(7))

#### **Sec. 14-246. Denial of a permit.**

If a permit under this article is denied, notification and reasons for denial shall be set forth in writing and sent to the applicant by means of registered or certified mail or hand delivery to the address given in the application.

(Code 1982, § 12.06(8))

#### **Sec. 14-247. Sanitation requirements.**

- (a) All premises used by permittees under this article shall be subject to periodic inspection by the town for safety of the structure and the propriety of plumbing, electrical wiring, ventilation, heating and sanitation. One artificial, illuminated white light of not less than 100 watts shall be provided in each room where a massage is being administered. The walls shall be clean and painted with an approved, washable, mold-resistant paint in all rooms where the water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Separate restrooms shall be provided for men and women.
- (b) Towels, sheets and linens of all types and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, clothes and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the linen has first been laundered. Heavy white paper may be substituted for sheets provided that such paper is used once for every person and then discarded into a sanitary receptacle. Every massage establishment shall have the following facilities for patrons:
- (1) Separate toilet rooms and shower facilities for men and women.
  - (2) Individual, private dressing rooms for each patron.

- (3) Locker facilities for patrons' property.

(Code 1982, § 12.06(9))

**Sec. 14-248. Inspection by town officers.**

The investigating officers of the town, including the health officer, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with the building, fire, electrical, plumbing or health regulations. If an applicant for either a massage establishment permit or a massage technician's permit has a communicable or venereal disease or if the applicant is in violation of any federal, state or local health law or regulation, the application may be denied. If a permit has been issued, it may be revoked or suspended in the matter set forth in this article.

(Code 1982, § 12.06(10))

**Sec. 14-249. Transfer of massage establishment permit.**

No massage establishment permit shall be transferable except with the written approval of the town board. Any application for such a transfer shall be in writing and shall be accompanied by a filing and investigation fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, no part of which shall be refundable. The application for such transfer shall contain the same information as required for an initial application for such permit. If the transfer is denied, notification and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered and certified mail or hand delivery.

(Code 1982, § 12.06(11))

**Secs. 14-250—14-270. Reserved.**

**Division 3.  
Massage Technician**

**Sec. 14-271. Permit required; contents.**

No person shall practice massage as a principal, an employee or otherwise within the town unless such person has been issued a massage technician permit by the town board and such permit remains in effect in conformity with the provisions of this article. The application shall be upon a form provided by the clerk-treasurer and shall set forth the following information:

- (1) The applicant's full name, residential address and residence telephone number.
- (2) The name and address of the massage establishment where the applicant is employed and the name of the owner of massage establishment.

- (3) The names and addresses of any previous establishments where the applicant has been employed as a massage technician.
- (4) The criminal record, if any, other than misdemeanor traffic violations, of the applicant.
- (5) Whether any permit to engage in the practice of massage as a massage technician or otherwise has previously been denied applicant or revoked and the circumstances of such denial or revocation.
- (6) The furnishing of a portrait photograph at least two inches by two inches, together with a complete set of such person's fingerprints.
- (7) Written proof that the applicant is over the age of 18 years.
- (8) Certificate from a medical doctor stating that the applicant has, within 30 days immediately prior to filing the application, been examined and found to be free from any contagious, communicable disease or venereal disease of any kind.
- (9) Applicant shall also furnish a diploma or certificate of graduation from a recognized school wherein the method; profession and work of massage techniques are taught. The town board reserves the right to investigate and determine whether or not such diploma presented by the applicant, is in fact from an established school for the teaching of such curriculum.

(Code 1982, § 12.06(12))

#### **Sec. 14-272. Permit investigation and fee.**

All applications for massage technician's permit shall be accompanied by an investigation fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, no part of which shall be refundable. Upon receipt of such application, the clerk-treasurer shall refer the application to the town health officer who, within a period of 30 days from the date of application shall make an investigation and submit a written recommendation thereon to the town board concerning compliance with the respective requirements.

(Code 1982, § 12.06(13))

#### **Sec. 14-273. Issuance or denial of permit.**

The town board may issue such permit within 30 days after completion of the investigation if, upon investigation and reports filed, it is found:

- (1) That the applicant has not been convicted in a court of competent jurisdiction of any offense involving:
  - a. Lewd conduct of any kind whatsoever, including disorderly conduct which in any way involves lewd conduct.
  - b. The use of force and violence upon the person of another.

- (2) That the applicant has not knowingly and with intent to deceive made any false, misleading or fraudulent statement of facts in the permit application or in any other document required by the town in conjunction therewith.
- (3) That the applicant has not been refused nor had any such license issued by any other municipal entity revoked within five years prior to the filing of such application. If such permit is denied, notification and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or hand delivery.

(Code 1982, § 12.06(14))

#### **Sec. 14-274. Display of permits.**

The owner or operator shall display the massage establishment permit issued and the permit of each and every massage technician employed in the establishment in an open and conspicuous place on the premises.

(Code 1982, § 12.06(15))

#### **Secs. 14-275—14-300. Reserved.**

### **Article VI. Mobile Homes And Mobile Home Parks**

Cross reference— Environment, ch. 22; land division, ch. 28; solid waste, ch. 34; streets, sidewalks and other public places, ch. 38; utilities, ch. 54.

State Law reference— Mobile home parks, Wis. Stat. § 66.0435.

#### **Division 1. Generally**

#### **Sec. 14-301. Purpose.**

It is the purpose of this article to provide for the regulation, licensing and inspection of mobile home parks within the town in accordance with Wis. Admin. Code ch. Comm 95.

(Code 1982, § 12.07(1))

#### **Sec. 14-302. Scope.**

The provisions of this article shall apply to the owner and operator, if other than the owner, of any mobile home or mobile home park.

(Code 1982, § 12.07(2)(a))

### **Sec. 14-303. Relief.**

When strict adherence to these regulations is shown to be impractical by proof satisfactory to the licensing authority, the licensing authority may approve modifications as needed consistent with the intent hereof to safeguard public health, safety and welfare, subject to the provisions of section 14-353.

(Code 1982, § 12.07(2)(b))

### **Sec. 14-304. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved* means acceptable to the town based on its determination as to conformance with appropriate standards and good public health practices, subject to the further provisions of section 14-353.

*Basic unit* means the mobile home, excluding hitch, awnings, cabanas, storage unit, carport, windbreak, nonwinterized porch or similar appurtenant structures.

*Licensing authority* means the town.

*Mobile home* means that which is, or was, as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances, and includes, without limitation thereby, the definition of mobile home as set forth in Wis. Admin. Code ch. Comm 95.

*Mobile home park* means any plot of ground owned by a person, state or local government upon which two or more units, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

*Mobile home park management* means the persons legally responsible for the operation of the mobile home park.

*Person* means the individual, partnership, firm, company or corporation, whether tenant, owner, lessee, licensee or their agent, heir or assign.

*Site* means a plot of ground within a mobile home park designed for placement of one mobile home unit.

(Code 1982, § 12.07(3))

Cross reference— Definitions generally, § 1-2.



**Sec. 14-305. Adoption of Wisconsin Administrative Code.**

The provisions of Wis. Admin. Code ch. Comm 95 are hereby adopted by reference and the state department of commerce shall have the power to grant variances thereto, which shall be in writing, subject to the approval and acceptance of the town. The town shall have the power to grant variances to portions of this article which are more restrictive than the provisions of Wis. Admin. Code ch. Comm 95, if such town variance complies with the requirements of the applicable provisions of Wis. Admin. Code ch. Comm 95, or a written variance to Wis. Admin. Code ch. Comm 95 granted by the state department of commerce.  
(Code 1982, § 12.07(10))

**Secs. 14-306—14-320. Reserved.**

**Division 2. License**

**Sec. 14-321. Required; exemption.**

No person shall maintain or operate, within the limits of the town, any mobile home park unless such person first obtains from the town a license therefor. All such mobile home parks in existence on August 9, 1953, shall, within 90 days, obtain such license and, in all other respects, shall comply fully with the requirements of this article, except that the licensing authority shall, upon application of a mobile home park operator, waive such requirements that require prohibitive reconstruction costs if such waiver does not affect sanitation requirements of the town or create or permit to continue any hazard to the welfare and health of the community and occupants of the mobile home park.  
(Code 1982, § 12.07(4)(a))

**Sec. 14-322. Placement of mobile home outside mobile home park.**

No person shall keep, maintain or place any mobile home upon a lot, piece or parcel of ground within the town outside a mobile home park; provided, however, that upon written application in case of hardship, the town board may permit a mobile home to be kept, placed or maintained outside of a licensed mobile home park for a period of not more than 90 days. Upon written application, the town board may grant up to three additional consecutive extensions of 90 days each, but in no case shall any mobile home be kept, placed or maintained outside a licensed mobile home park in the town for more than 360 days. Nothing in this article shall be construed to prevent the placing of a mobile home upon any premises within the town when such mobile home is placed thereon solely for the purpose of display or sale and is not actually in use or occupied.  
(Code 1982, § 12.07(4)(b))

### **Sec. 14-323. Application for license.**

Application for a license to operate a mobile home park shall be filed with the clerk-treasurer on a form prescribed by the town board. Such application shall be in writing, signed by the applicant and shall contain the following information:

- (1) The name, address and age of the applicant.
- (2) The location and legal description of the mobile home park.
- (3) The complete plan of the park, giving the address, exterior dimensions, maximum number of mobile homes to be accommodated therein, the actual or proposed sanitary facilities, the proposed drainage facilities, fire prevention system to be maintained and such other pertinent information as the town board may require.
- (4) Accompanying and to be filed with the original application for a mobile home park shall be plans and specifications which shall comply with all town ordinances and provisions of the state department of health and family services. The plans and specifications shall show the actual or proposed locations of all mobile homes and all other or similar structures; streets; toilets, showers or baths and all other sanitary facilities; fire prevention apparatus; lighting facilities and such other information as the town board may require to be shown on such plans and specifications.
- (5) The application shall be accompanied by a license fee, as specified in section 14-35
- (6) By the filing of such application, the applicant shall be deemed to have consented to an inspection, prior to the issuance of the license, by the town board, town health officers and any other town officers or their agents for the purpose of determining whether or not such license shall be granted.
- (7) The town board may approve or deny an application in the exercise of its discretion, having regard to the effect of the establishment of such mobile home park upon the public health, safety and welfare. The clerk-treasurer, after approval of the application and upon completion of the work according to the plans shall issue the license.
- (8) All licenses issued shall expire on June 30 of each year. No license shall be transferable, either as to the applicant or the licensed premises.
- (9) All applications for license renewal shall be in writing signed by the applicant on forms furnished by the town and shall be in substantial compliance with the applications for original license. An annual license fee, as specified in section 14-35, shall be paid with each application for license renewal.

(Code 1982, § 12.07(5); Ord. No. 2008-01, §§ 6, 7, 12-22-2008)

### **Sec. 14-324. Revocation and suspension.**

- (a) Any license granted under the provisions of this article shall be subject to revocation or suspension for cause by the town board upon complaint filed with the clerk-treasurer, signed by any code enforcement officer, health officer or building inspector, after a public hearing upon such complaint; provided, however, that the holder of such license shall be given ten days' notice in writing of such hearing and shall be entitled to appear and be heard as to why such license should not be revoked.
- (b) A licensee shall be deemed liable for revocation or suspension if the licensee violates any of the regulations and standards for the operation of a mobile home park as established in this article, or if the licensee fails to pay the monthly parking permit fees set forth in this article.
- (c) Any holder of a license which is revoked or suspended by the town board may, within 20 days of the date of such revocation or suspension, appeal therefrom to the circuit court by filing a written notice of appeal with the clerk-treasurer, together with a bond executed to the town in a sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution with two sureties or a bonding company approved by the clerk-treasurer, conditioned for the faithful prosecution of such appeal and the payment of costs adjudged against the licensee, all as provided for by Wis. Stat. § 66.0435.

(Code 1982, § 12.07(9))

### **Secs. 14-325—14-340. Reserved.**

## **Division 3. Standards and Regulations**

### **Sec. 14-341. Purpose.**

To protect and promote the public health, morals and welfare, the standards and regulations in this division for every mobile home park are hereby established.

(Code 1982, § 12.07(6))

### **Sec. 14-342. Drainage and grading.**

Every mobile home and mobile home park shall be located on a well-drained area and the premises shall be properly graded so as to prevent the accumulation of storm or other waters. No mobile home or mobile home park shall be located in any area that is situated so that drainage of contaminated liquids or solids can be deposited on its location.

(Code 1982, § 12.07(6)(a))

### **Sec. 14-343. Site requirements.**

- (a) Each site shall be clearly defined or delineated. The basic unit shall not occupy in excess of one-fourth of the area of the site, and the complete unit including all accessory structures shall not occupy more than one-half of the area of the site. Mobile home parks, which as of January 26, 1981, existed lawfully with mobile home sites that do not comply with the minimum area requirements in this subsection, may continue to operate. Expansion and modification of such mobile home parks shall, however, be in accord with current regulations.
- (b) Each unit shall be located on a lot of not less than 5,000 square feet with a minimum width of 45 feet. The unit shall be so located on a site that there shall be at least a clearance between basic units. No unit shall be located less than 25 feet from the right-of-way line of a highway or ten feet to the right-of-way line of a public street or internal private street system of the mobile home park. Each lot shall contain a parking space upon which the unit shall be situated, which parking space shall be graveled or paved with concrete or bituminous material. Each such parking space shall be not less than ten feet wide, nor shorter than the length of the unit to be parked thereon plus five feet.
- (c) Each mobile home park shall be completely surrounded except for permitted entrances and exits by a yard in addition to all other required yards and open spaces, which shall not be less than 15 feet wide and permanently planted in grass, flowers, shrubs or trees.  
(Code 1982, § 12.07(6)(b))

### **Sec. 14-344. Street and driveway standards.**

- (a) All sites in a mobile home park shall abut upon a street having a width of at least 36 feet, either graveled or paved with concrete or bituminous material.
- (b) All streets and driveways in a mobile home park shall be maintained in good condition, have natural drainage and be lighted at night to a minimum of five footcandles.

(Code 1982, § 12.07(6)(c))

### **Sec. 14-345. Parking.**

There shall be parking spaces for automotive vehicles provided within each mobile home park, surfaced with gravel, concrete or bituminous material in the ratio of two such parking spaces for each unit site. Each automobile parking space in a mobile home park shall be not less than nine feet wide, nor 160 square feet in area, exclusive of maneuvering and access space.

(Code 1982, § 12.07(6)(d))

### **Sec. 14-346. Recreational area.**

Each mobile home park shall contain a recreational area. A minimum of one-half acre of area for such use shall be provided for each 50 sites or fraction thereof. The minimum recreational area in a mobile home park shall be one-half acre.

(Code 1982, § 12.07(6)(e))

### **Sec. 14-347. Water supply.**

An adequate supply of pure water for drinking and domestic purposes shall be provided in an amount sufficient to care for the needs of the maximum number which can be accommodated in a mobile home park and shall be installed in compliance with the town plumbing and well codes and shall meet the applicable requirements of the state department of natural resources as set forth in Wis. Admin. Code chs. NR 108, 111, 112 and 114.

(Code 1982, § 12.07(6)(f))

### **Sec. 14-348. Sewage disposal.**

- (a) Service availability. The requirements covering the sewage disposal facilities for all mobile home parks are based upon the availability of public utilities as well as the practicability of connection to the public utilities.
- (b) Public utilities. When acceptable public sewage facilities are available to the mobile home park, connection and use is required.
- (c) Private sewage disposal.
  - (1) Private sewage disposal systems are permitted in a mobile home park when a public sewer facility is not available to the premises. The system shall be located on the premises and be designed and constructed in accordance with Wis. Admin. Code ch. Comm 82.
  - (2) Plans and installation details covering the design and construction, alteration and extension of private sewage disposal systems in a mobile home park shall be approved by the section of plumbing and fire protection systems of the state department of health and family services prior to construction.
  - (3) Sufficient area of suitable soils for the initial soil absorption system and one replacement system of adequate size to serve the ultimate number of sites to be provided, shall be available in the mobile home park.

(Code 1982, § 12.07(6)(g))

### **Sec. 14-349. Plumbing.**

- (a) Generally. All plumbing shall meet the requirements contained in Wis. Admin. Code ch. Comm 82 applicable to mobile homes and mobile home parks.
- (b) Water connection. A separate valved water service shall extend to each site in the mobile home park.

(Code 1982, § 12.07(6)(h))

**Sec. 14-350. Solid wastes.**

- (a) Garbage. All garbage which is not disposed of through a garbage disposal unit connected with the sewerage system shall be kept in separate, leakproof, nonabsorbent containers equipped with tight-fitting covers unless otherwise protected from flies and insects located within 100 feet of any site in a mobile home park, and the contents shall be disposed of as often as necessary to prevent decomposition or overflow.
- (b) Cleanliness. Garbage cans in a mobile home park should be washed each time they are emptied unless provided with a single service sanitary removable waterproof liner.
- (c) Restriction. The use of wooden or paper containers for garbage in a mobile home park is prohibited.
- (d) Rubbish. Fly-tight containers with covers are required for cans, bottles and other rubbish in a mobile home park. The contents of such containers shall be disposed of as often as necessary to prevent overflow.

(Code 1982, § 12.07(6)(i))

**Sec. 14-351. Management.**

- (a) Office. The mobile home park management shall maintain an office in the park or in close proximity thereof for immediate communication.
- (b) Duties; owner. The mobile home park owner or operator, together with any attendants or persons in charge of a mobile home park, shall:
  - (1) Keep a register which is to be open at all reasonable times and upon reasonable notice to inspection by appropriate state and local officers, of all owners of mobile homes located in the mobile home park.
  - (2) Maintain the mobile home park in a clean, orderly and sanitary condition at all times.
  - (3) Cooperate with local health officers in all cases of persons or animals infected or suspected of being infected with any communicable disease.
  - (4) Post copies of these regulations in one or more conspicuous places in the mobile home park where the mobile home park personnel and visitors can easily see them.
- (c) Duties; occupants. All occupants of mobile homes shall:
  - (1) Maintain their site in a clean, orderly and sanitary condition at all times.
  - (2) Abide by all applicable state and local regulations and the rules established by the mobile home park management.

(Code 1982, § 12.07(6)(j))

### **Sec. 14-352. State license and inspection.**

- (a) Requirement. Before being open for public use, each mobile home park, as defined in section 14-304, shall be licensed by the state department of health and family services.
- (b) Inspection. Prior to the issuance of a license under this division and at least one other time during the license year, the town health officer shall conduct a sanitary inspection of each mobile home park, complete a report of such inspection and submit copies of such report to the clerk-treasurer and the state department of health and family services. Such reports shall be on forms provided by the state department of health and family services.

(Code 1982, § 12.07(7))

### **Sec. 14-353. License and monthly mobile home fee.**

- (a) Each licensee shall pay an annual fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution to the clerk-treasurer in advance for each calendar year or fraction within each mobile home park within the town limits, except where the park is in more than one municipality, the fee shall be in such fraction as the number of spaces in the mobile home park within the town bears to the entire number of spaces in the mobile home park.
- (b) Each transferee of a mobile home park license shall pay a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution in advance to the clerk-treasurer for transfer of any such license.
- (c) In addition to the license fee provided in subsections (a) and (b) of this section, the town shall collect from each occupied mobile home occupying space or lots in a mobile home park in the town a monthly parking permit fee computed as follows: beginning January 1, 1980, the town assessor shall determine the total fair market value of each occupied mobile home in the town subject to the monthly parking permit fee. The fair market value, minus the tax-exempt household furnishings thus established, shall be equalized to the general level of assessment on other real and personal property in the town. The value of each occupied mobile home thus determined shall be multiplied by the tax rate established on the preceding May assessment of general property. The parking permit fee shall first be reduced by the credit allowed under Wis. Stat. § 79.10. The total annual parking permit fee thus computed shall be divided by 12 and represent the monthly mobile home parking permit fee. The fee shall be applicable to occupied mobile homes moving into the town any time during the year. The mobile home park operator shall furnish information to the clerk-treasurer and the town assessor on occupied mobile homes added to his mobile home park within five days after their arrival, on a form prescribed by the state department of revenue. As soon as the town assessor receives the notice of an addition of an occupied home to a mobile home park, he shall determine its fair market value and notify the clerk-treasurer of his determination. The clerk-treasurer shall equalize the fair market value established by the town assessor and shall apply the tax rate for that year, divide the annual parking permit fee thus determined by 12 and notify the mobile homeowner of the monthly fee to be collected from the mobile homeowner. Liability for payment of the fee shall begin on the first day of the next succeeding month and shall remain on the mobile home only for such months as the occupied mobile home remains in the town. A new fee rate and evaluation shall be

established each January and shall continue for that calendar year. The valuation established shall be subject to review as are other values established under Wis. Stat. ch. 70. If the board of review reduces a valuation on which previous monthly payments have been made, the town shall refund past excess fee payments. The monthly parking permit fee for mobile homeowners within a mobile home park shall be paid by the mobile homeowner to the clerk-treasurer on or before the tenth of the month following the month for which such parking permit fee is due. No such fee shall be imposed for any space occupied by a mobile home accompanied by an automobile, if the mobile home and automobile bear license plates issued by any other state than Wisconsin, for an accumulating period not to exceed 60 days in any 12 months, or if the occupants of the mobile home are nonresident tourists or vacationists. Exemption certificates in duplicate shall be accepted by the treasurer of the licensing authority from qualified nonresident tourists or vacationists in lieu of monthly mobile home permit fees. When one or more persons occupying a mobile home are employed in the state, there shall be no vacationer, nonresident exemption from the monthly parking permit fee. The licensees of a mobile home park shall be liable for the monthly parking permit fee for any mobile home occupying space therein as well as the owner and occupant thereof.

- (d) The monthly parking permit fee shall be collected by the licensee (mobile home park operator) from each mobile homeowner in the mobile home park of the licensee, required to pay such permit fee hereunder and remit such fees to the clerk-treasurer.
- (e) The fee for a mobile home located outside of a licensed mobile home park shall be paid by the owner of the mobile home, the occupant thereof or the owner of land on which it stands, the same as and in the manner provided for mobile homes located in a mobile home park, and the owner of such land shall be required to comply with the reporting requirements of subsection (c) of this section, provided that the fee shall be paid directly to the clerk-treasurer on or before the tenth day of the month following the month for which such parking permit is due.
- (f) This article shall not apply where a mobile home park is owned and operated by any county under the provisions of Wis. Stat. § 59.52(16)(b).
- (g) Failure to timely pay the tax under this article shall be treated in all respects like a default in payment of personal property tax and shall be subject to all procedures and penalties applicable thereto under Wis. Stat. ch. 70 and Wis. Stat. ch. 74.

(Code 1982, § 12.07(8))

**Secs. 14-354—14-380. Reserved.**

## **Article VII. Nonintoxicating Beverages**

State Law reference— Nonintoxicating beverages, Wis. Stat. § 66.0433 et seq

### **Division 1. Generally**

**Secs. 14-381—14-400. Reserved.**



## **Division 2. License**

### **Sec. 14-401. Required.**

No person shall operate, conduct or maintain within the limits of the town any business or selling of nonintoxicating beverages as defined in Wis. Stat. § 66.0433(1), whether at retail or wholesale, without first procuring a license to do so as provided in this division. The licenses shall be issued by the clerk-treasurer under the authority of the town board.  
(Code 1982, § 12.08(1))

### **Sec. 14-402. Application.**

- (a) Applications for licenses under this division shall be filed with the clerk-treasurer for presentation to the town board at any regular or special meeting thereof. A license fee, as specified by section 14-35, shall accompany all applications. If the license under this article is denied, the fee shall be returned upon demand. The premises to be licensed shall be described in the application.
- (b) All persons granted licenses under this division shall cause their licenses to be prominently displayed in their place of business.
- (c) The whole license fee shall be charged for the whole or any fraction of the license year.

(Code 1982, § 12.08(1)(a)—(c); Ord. of 8-14-2000; Ord. No. 2008-01, § 8, 12-22-2008)

### **Sec. 14-403. Moving of licensed premises; transferability.**

If the place of business is moved from the premises designated in the license to another location in the town within the license period, the licensee shall give notice of such change of location and the license shall be amended accordingly without payment of any additional fee. No such license, however, shall be transferable from one person to another.  
(Code 1982, § 12.08(2))

State law reference— Similar provisions, Wis. Stat. § 66.0433(1)(am).

### **Sec. 14-404. Residency.**

No license under this division shall be granted to any person not a resident of the town, nor subject to Wis. Stat. §§ 111.321, 111.322 and Wis. Stat. § 111.335 to any person who has been convicted of a felony, unless the person has been restored to civil rights.  
(Code 1982, § 12.08(3))

State law reference— Similar provisions, Wis. Stat. § 66.0433(1)(b).

### **Secs. 14-405—14-430. Reserved.**

## Article VIII. Fireworks

Cross reference— Fire prevention and protection, ch. 26; fireworks, § 30-71 et seq.  
State Law reference— Fireworks, Wis. Stat. § 167.10.

### Sec. 14-431. Definitions.

*Fireworks* means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

- (1) Fuel or a lubricant.
- (2) A firearm cartridge or shotgun shell.
- (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
- (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
- (5) A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
- (6) A toy snake which contains no mercury.
- (7) A model rocket engine.
- (8) Tobacco and a tobacco product.
- (9) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.
- (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter grain of explosive mixture.
- (11) A fuseless device that is designed to produce audible or visible effects or audible and visible effects, and that contains less than one-quarter grain of explosive mixture.
- (12) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.
- (13) A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

- (14) A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.
- (15) A novelty device that spins or moves on the ground.

**Sec. 14-432. Sale and use.**

- (a) *Sale Prohibited.* No person may sell or possess with intent to sell any fireworks or those devices described in Sec. 14-431 (5), (6), (9) through (14) within the limits of the town.
- (b) *Permit Required for Use.* No person may use or possess fireworks as described in Sec. 14-431 (5), (6), (9) through (14) within the town without a user's permit from the town. Fireworks, other than those prohibited by the laws of the state, may be used and displayed in open fields, public parks, private parks or rivers, lakes, and ponds.
- (c) *Application.* All permit applications shall be filed with the clerk-treasurer in writing upon payment of an application fee in an amount set from time-to-time by the town board. All applications shall be on a form prepared by the town clerk and shall include at a minimum the following:
  - (1) The name and address of the permit holder;
  - (2) The kind and quantity of fireworks which will be used; and
  - (3) The date and location of permitted use.
- (d) *Referral and Approval.* The town clerk shall refer complete applications to the town board for review and approval following review and recommendation by the chief of the fire department and the code enforcement officer. A user's permit may be issued by the town chairperson or his designee to a person listed under subsection (e)(1) through (e)(7) of this section upon receiving approval by the town board. The issuance of any such permit shall not be deemed a guarantee by the town or any of its officers or designees that the use of any fireworks shall be safe. Permits issues shall contain all of the following information:
  - (1) The name and address of the permit holder;
  - (2) The general kind and approximate quantity of fireworks which have been approved for use;
  - (3) The date and location of permitted use; and
  - (4) Other special conditions prescribed by ordinance
- (e) *Authorized Permittees.* A permit under this section may be issued only to the following:
  - (1) A public authority.
  - (2) A fair association.
  - (3) An amusement park.

- (4) A park board.
  - (5) A civic organization.
  - (6) An individual or a group of resident or nonresident individuals.
  - (7) An agricultural producer for the protection of crops from predatory birds or animals.
- (f) *Miscellaneous Prohibitions.*
- (1) A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
  - (2) No person may use a device listed under Section 14-431 (5),(6), (9) through (14) within the town, except upon private property with the owner's consent
  - (3) No person may possess or use fireworks or a device listed under Section 14-431 (5),(6), (9) through (14) while attending any permitted fireworks display.
  - (4) No permit shall be granted for the display or use of any fireworks within 100 feet of any gasoline pump, gasoline filling station or bulk station or any building in which gasoline or volatile liquid is sold in quantities in excess of one gallon.
  - (5) A permit under this section may not be issued to a minor.

#### **Sec. 14-433. Liability insurance required.**

The person issuing a permit under this article shall require a policy of liability insurance showing evidence of fireworks liability, for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit granted under this article, in the amount of no less than \$1,000,000, with the town of Yorkville named as an additional insured. Any person injured thereby may bring an action on the policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the insurer to all persons shall not exceed the amount of the bond or policy. The policy and documentation showing the town as an additional insured shall be filed in the office of the clerk-treasurer prior to permit issuance.

#### **Sec. 14-434. Permit to be provided to fire chief and code enforcement officer.**

A copy of a permit under this section shall be given to municipal fire chief and Code Enforcement Officer at least two days before the date of authorized use.

#### **Sec. 14-435. Parental liability.**

A parent or legal guardian of a minor who consents to the use of fireworks by a minor is liable for damages caused by the minor's use of the fireworks.

**Sec. 14-436. Enforcement.**

Fireworks stored, handled, sold, possessed or used by a person in violation of this Article, shall be seized. The fireworks shall be destroyed after conviction for a violation; and if not convicted shall be otherwise returned to the owner.

**Sec. 14-437. Penalty.**

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Article shall forfeit not more than \$1,000.00.

**Sec. 14-438 -14-460. Reserved.**

**Article IX. Cigarettes And Tobacco Products**

State Law reference— Cigarettes and tobacco products license, Wis. Stat. § 134.65.

**Division 1. Generally**

**Secs. 14-461—14-480. Reserved.**

**Division 2. License**

**Sec. 14-481. Required.**

No person shall in any manner, directly or indirectly, manufacture, sell, exchange, dispose of or give away or keep for sale any cigarettes or tobacco products without first applying for and obtaining a license therefor from the clerk-treasurer in the manner provided in Wis. Stat. § 134.65. This division shall not apply to jobbers or manufacturers doing interstate business with customers outside the state.

(Code 1982, § 12.10(1))

**Sec. 14-482. General requirements.**

The fee for a license under this division is set forth in section 14-35 and shall be submitted together with the application to the clerk-treasurer for presentation to the town board at any regular or special meeting. The clerk-treasurer under the authority of the town board shall issue licenses under this division. All licenses issued under this division shall indicate thereon the name of the licensee and the place where he is authorized to conduct the licensed business.

- (1) All persons granted licenses under this division shall cause their licenses to be prominently displayed in their place of business.

- (2) The whole license fee shall be charged under this division for the whole or any fractional part of the license year.

(Code 1982, § 12.10(2)(a), (b); Ord. of 8-14-2000; Ord. No. 2008-01, § 10, 12-22-2008)

**Sec. 14-483. Transfer of license; fee.**

Upon payment of a fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, a license issued under this division may be transferred from the licensee to another owner, but no license shall be transferable as to the location of the licensed premises.

(Code 1982, § 12.10(2)(c))

**Secs. 14-484—14-510. Reserved.**

**Article X. Pool, Billiard Halls And Bowling Centers**

**Secs. 14-511—14-530. Reserved.**

**Division 2. License**

**Sec. 14-531. Required.**

No person shall keep for gain or operate any pool or billiard table or bowling center in the town without having made application and secured the appropriate license and paid the required fee therefor.

(Code 1982, § 12.11(1))

**Sec. 14-532. Application procedure.**

All applications for licenses under this division shall be made in the manner as provided in section 14-482 and shall, in addition, specify the exact number of pool or billiard tables or bowling centers to be licensed on such premises.

(Code 1982, § 12.11(2))

**Sec. 14-533. Fee.**

The license fee for each pool or billiard table or bowling center for each year or fraction thereof shall be as stated in section 14-35.

(Code 1982, § 12.11(3))

**Secs. 14-534—14-560. Reserved.**

## **Article XI. Dancehalls**

### **Division 1. - Generally**

#### **Sec. 14-561. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dancehall* means any room or place or space at which a public dance may be held, or any hall or academy in which classes in dancing are held and instruction in dancing given, and shall include pavilions and amusement parks; except, however, this shall not include halls or academies where bona fide instruction in dancing is given to children 17 years of age or under. The fact that the room or place or space is not used exclusively for dancing, but merely as an incidental activity in connection with the operation of some other business, shall not exclude the room, place or space from the definition of the term "public dancehall."

*Person* means natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being used.

*Public dance* means any dance to which admission can be had by the public generally with or without the payment of a fee, with or without the purchase, possession or presentation of a ticket or token, or any other dance operated by club membership, season ticket or invitation, or any other dance open or offered to the public generally, regardless of whether the music is furnished by an orchestra, phonograph, radio, juke box or any other device, and regardless of whether such dance is the exclusive or principal activity provided, or whether such dance is an incidental activity permitted by a person in connection with his operation or some other commercial activity.

(Code 1982, § 12.12(1))

Cross reference— Definitions generally, § 1-2.

**Secs. 14-562—14-580. Reserved.**

### **Division 2. License**

#### **Sec. 14-581. Required.**

No person shall permit or allow any room, space, place or building owned, leased, managed, supervised or controlled by him to be used for the purpose of a public dancehall unless the dancehall shall have been licensed under the provisions of this article, regardless of the type of music employed and regardless of whether such dancing is incidental to the operation of another commercial activity.

(Code 1982, § 12.12(2))

### **Sec. 14-582. Application for license.**

The application for any license permitted under this article shall be filed with the clerk-treasurer. Such application shall contain the following:

- (1) Name, age, residence, occupation and citizenship of the applicant, if any individual, or the names of the principal officers, their residences and ages if the applicant is an association or corporation. The application shall also contain the name or names of one or more persons whom such firm, partnership or association shall designate as manager or person in charge, with his address.
- (2) The length of time such applicant, if an individual, or the manager or person in charge, in case the applicant is a firm, partnership, corporation or association, has resided in the county; his place of previous employment; whether he has been convicted of violating any law or ordinance regulating the conduct of public dancehalls or public dances, and if so, when and in what court.
- (3) The premises where such public dancehall is to be located or conducted as well as the location of the room or rooms to be occupied for the purpose of conducting such dance, and the total amount of floor space to be used for dancing purposes.
- (4) Whether the applicant or manager has, either alone or with someone else, previously engaged as owner, lessee or employee in conducting a public dancehall, when, where and for how long.
- (5) The name and address of the person owning the premises for which the license is sought.
- (6) Whether a hotel, roominghouse, lodginghouse, restaurant or tavern is conducted in any part of the premises for which the license is sought.

(Code 1982, § 12.12(3))

### **Sec. 14-583. When licenses refused.**

- (a) No dancehall license shall be issued unless the town board finds that all of the persons named in the application as applicant, manager or person in charge are residents of the state, that the proposed public dancehall complies with and conforms to all ordinances, laws and regulations governing public buildings and health and fire regulations applicable thereto, and that it is a safe and proper place for such proposed use.
- (b) No license shall be granted unless the town board finds that the applicant, manager or person in charge is capable of maintaining the public peace and good order at a public dance. In determining whether or not the applicant is capable of meeting the required standard, the town board shall consider the records of law enforcement agencies or of any courts that touch upon the applicant's operation of a dancehall in the preceding license year.



- (c) No license shall be granted unless adequate modern toilet facilities are provided within the building where the public dance is to be held, an adequate supply of drinking water is available, the premises are properly lighted and ventilated, and all parts of the premises are safe and sanitary.
- (d) No license under this article shall be granted to any applicant or applicants who have been convicted within five years of the date of the application of a second offense against any of the provisions of this section or any similar ordinance of any other municipality.
- (e) No license under this article shall be granted to any applicant to whom a license has been refused or has been suspended or revoked until at least six months shall have elapsed from the date of refusal, suspension or revocation unless he can show that the reason for such refusal, revocation or suspension no longer exists.
- (f) No license under this article shall be granted to a person under 18 years of age.
- (g) No license under this article shall be granted to any person who knowingly makes any false statement in his application for a dancehall license.

(Code 1982, § 12.12(4))

#### **Sec. 14-584. Classification as to types of licenses.**

Nontransferable licenses for public dances shall be issued the following four divisions of classification, namely: Class A, Class B, Class C, and special permit licenses.

- (1) Class A. A Class A license is required for the premises in which a public dance is held where a charge is made for admission or where admission is by means of the purchase, possession or presentation of a ticket or token or where the dance is advertised as such and where an orchestra is employed to furnish dance music.
- (2) Class B. A Class B license is required for the premises in which a public dance is held and where no charge is made for admission or where admission is not by means of the purchase, possession or presentation of a ticket or token and where an orchestra is employed to furnish the dance music.
- (3) Class C. A Class C license is required when dancing is incidental to such other business conducted in the premises used for dancing and where no charge, either directly or indirectly, is made for admission and no orchestra or musicians are employed to furnish the music for such dancing.
- (4) Special permit. A special permit license may be granted to hold not more than two public dances in any structure or premises not licensed under either subsection (1), (2), or (3) of this section, and such special permit license shall be valid only within a specified 24-hour period.

(Code 1982, § 12.12(5))

**Sec. 14-585. License fees.**

The fees for the four classes of dancehall licenses shall be as stated in section 14-35.  
(Code 1982, § 12.12(6))

**Sec. 14-586. Method of issuing licenses.**

- (a) All applications for dancehall licenses shall be accompanied by the appropriate license fee fixed in this article. If such license is denied, such fee shall be returned to the applicant.
- (b) The clerk-treasurer shall submit the application for a dancehall license to the town board for its consideration. The town board may schedule a public hearing on the application; provided, however, before the denial of any renewal application, the town board shall grant the applicant a hearing. If the town board is satisfied that the requirements of this article have been met and, if it is determined that the issuance of a license is not contrary to the public health, safety and welfare, the town board may grant a license to the applicant.
- (c) All licenses under this article shall be numbered in the order of their date of issuance and shall state clearly the name of the licensee, the location of the public dancehall, the date of issuance and expiration and the amount of fee paid.
- (d) Each license, except a special permit license, issued under this article shall expire on June 30 of each year and any license issued shall be posted in a conspicuous place within the hall in which the dance is to be held.

(Code 1982, § 12.12(7))

**Secs. 14-587—14-610. Reserved.**

**Division 3. Regulations**

**Sec. 14-611. Rules and regulations.**

- (a) No person shall post a license issued under this article on premises other than those described in the application.
- (b) No person conducting a public dance or operating a dancehall, or any manager or agent of such person, shall:
  - (1) Permit during any public dance in such hall the use of intoxicating liquor or fermented malt beverages in violation of law.

- (2) Permit the presence of any intoxicated person or persons under the influence of intoxicating liquors or drugs in such dancehall or on the premises in which such dancehall is located.
  - (3) Permit the presence of any minor 17 years of age or under in such dancehall who is not accompanied by his parent or lawful guardian.
  - (4) Permit any public dance beyond the hour of 1:00 a.m. or before the hour of 9:00 a.m.
- (Code 1982, § 12.12(8))

**Sec. 14-612. Miscellaneous provisions.**

- (a) Nothing in this section shall be construed to prevent the attendance of children 17 years of age or under at bathing beaches or public dancehalls when public dances are not being held.
- (b) No person, licensee, proprietor or manager of any dancehall shall advertise, operate, maintain, promote or aid in the advertising, operating, promoting or maintaining of any mental or physical endurance contest in the nature of a marathon, dance or any other like endurance contest whether under that or similar names.
- (c) No person, licensee, proprietor or manager of any dancehall shall conduct a public dance or public ball in the manner or form commonly known as a "taxi-dance," and no license shall be issued for any public dance to be conducted in the form or manner commonly known as "taxi-dance."
- (d) This article shall not apply to dances conducted by any church, grade school, high school or college, or other recognized educational institution located in the town which are intended primarily to be attended by students of such schools or of similar schools, or to dances conducted by any 4-H Club, parent-teacher or similar organization, or any fraternal society when conducted in conformity with the rules of such society.

(Code 1982, § 12.12(9))

**Sec. 14-613. Penalties.**

In addition to any other penalties provided in this chapter, or in lieu thereof, the town board may suspend or revoke the license of any dancehall proprietor or manager if any of the provisions of this article are violated.

(Code 1982, § 12.12(10))

**Secs. 14-614—14-640. Reserved.**

## **Article XII. Public Shows**

**Secs. 14-641—14-660. Reserved.**

### **Division 2. Permit**

#### **Sec. 14-661. Permit required.**

No person shall conduct, exhibit, operate or maintain within the town any circus, menagerie, carnival, play, game, race, contest, theatrical performance, theater, concert, athletic event of any kind or any other public amusement or show to which admission may be had by the payment of a fee or by the purchase or presentation of a ticket or token obtained for money or other valuable thing or in which a charge is made indirectly for admittance, unless a license or permit shall be obtained therefor. This article shall not apply to events conducted under the sole control and supervision of educational, charitable or religious organizations where the entire proceeds of such show or amusement are devoted to such organization.

(Code 1982, § 12.13(1))

#### **Sec. 14-662. Application procedure.**

All applications for permits under this division shall be made in the manner provided in this chapter and shall specify in addition two previous places of employment of the applicant and the nature of the show or amusement.

(Code 1982, § 12.13(1)(a))

#### **Sec. 14-663. Fees.**

The permit fee for permits issued under this division are set forth in section 14-35, or a fraction thereof for any show, event or amusement not regularly conducted within the town at least 60 days in each year except carnivals, which shall be subject to the daily permit fee regardless of tenure.

(Code 1982, § 12.13(1)(b); Ord. No. 2008-01, § 11, 12-22-2008)

#### **Sec. 14-664. Yearly fee.**

The fee for permits issued under this division for any ongoing theater, show, event or amusement, including movie houses, shall be as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution, renewable on the anniversary date of issuance.

(Code 1982, § 12.13(1)(c))

**Secs. 14-665—14-680. Reserved.**

## **Division 3. Restrictions**

### **Sec. 14-681. Inspection of premises.**

The clerk-treasurer shall refer all applications filed under this article to the code enforcement officer and building inspector who shall investigate and inspect each application to determine whether the place sought to be licensed complies with all applicable laws and ordinances and is a proper place for the purpose for which it is to be used.

(Code 1982, § 12.13(2)(a))

### **Sec. 14-682. Miscellaneous conditions.**

No permit shall be issued for any public show within a district other than that permitted under the county zoning ordinance, nor to any person under 18 years of age. The town board, in weighing whether to issue such permit, shall consider the detrimental effect of such show to the owners of the property situated within 1,000 feet of the premises contained in the application, shall consider if the premises contained in the application shall allow adequate on-premises parking for vehicles of patrons of the premises and employees of the business conducted on the premises, shall consider whether adequate fire and police protection can be afforded to the premises as outlined in the application, and shall consider and may provide specific conditions in the permit for the hours of operation of such amusement. No permit shall be issued unless the premises on which the show is to be held complies with all applicable laws including, but not limited to, the town's building, plumbing, electrical and health codes and the county zoning regulations. The town board may require proof of adequate insurance, and may impose additional conditions on the issuance of a permit related to the exercise of its powers under Wis. Stat. § 60.22(3). No applicant to whom a permit has been refused shall make further application for a period of at least six months. No permit shall be issued under this article to any applicant or licensee or permittee whose license or permit has been revoked within two years of the date of application, nor, subject to Wis. Stat. §§ 111.321, 111.322 and Wis. Stat. § 111.335, to any person who has within five years of the date of application been convicted of a felony.

(Code 1982, § 12.13(2)(b); Ord. No. 2012-04, § 1, 6-25-2012)

### **Sec. 14-683. Sanitation requirements.**

All premises used by permittees under this article shall be subject to periodical inspection by the town for safety of the structure and the propriety of plumbing, electrical wiring, ventilation, heating and sanitation. The investigating officers of the town including the health officer may enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to enforce compliance with the building, fire, electrical, plumbing and health regulations.

(Code 1982, § 12.13(2)(c))

### **Sec. 14-684. Prohibition of obscenity.**

No person, individually or in connection with another, shall either sell or offer for sale, display, charge admission to see, exhibit in any way, or own or have possession of a premises where

there is sold, offered for sale or displayed or exhibited in any way any material, movie, picture, book or article of any nature, wherein there is depicted or contained in the written or spoken word:

- (1) Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.
- (2) Patently offensive representations or descriptions of masturbation, excretory functions, lewd exhibition of the genitals, sadomasochistic abuse, sexual activities in any way involving a child, fellatio, cunnilingus, bestiality, which the average person taking the material as a whole and applying contemporary community standards would find appeals to the prurient interest and is patently offensive; and that the material, taken as a whole, lacks serious literary, scientific, political or artistic value.

(Code 1982, § 12.13(3))

**Secs. 14-685—14-710. Reserved.**

### **ARTICLE XIII. Auction Sales**

State Law reference— Auctions, Wis. Stat. ch. 480.

#### **Sec. 14-711. Definition.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Auction sales means all sales by auction of four or more articles of merchandise whether the property is sold to the highest bidder in fact or by "dutch auction," by bidding down the seller thereof or adding to the quantity of property offered for sale at a fixed price or any other way if made to evade the provisions of this article.

(Code 1982, § 12.14(1))

Cross reference— Definitions generally, § 1-2.

#### **Sec. 14-712. Permit required.**

No person shall exercise the business of auctioneer or conduct auction sales without a permit. This article shall not apply to the following:

- (1) Sales made by virtue of a chattel mortgage or by order or judgment of this state or federal government;
- (2) Sales made by or on behalf of any executor or administrator or by an assignee for the benefit of creditors; sale of state or federal property;

- (3) Closing-out sales by resident merchants where all taxes on such stock or inventory have been paid;
- (4) Sales of livestock or farm property of any farmer who has resided in the county continuously for one year or more and on which taxes have been paid; and
- (5) Sales conducted by a religious, fraternal or benevolent society, a school or a nonprofit organization.

(Code 1982, § 12.14(2))

### **Sec. 14-713. Hours of operation.**

No auction sales shall be conducted between the hours of 10:00 p.m. and 8:00 a.m.  
(Code 1982, § 12.14(3))

### **Sec. 14-714. Application and fee.**

Each application for a permit for an auction sale shall be accompanied by a per day fee, as specified in section 14-35.  
(Code 1982, § 12.14(4); Ord. No. 2008-01, § 12, 12-22-2008)

### **Sec. 14-715. Suspension or revocation.**

In addition to procedures in article II of this chapter, the town chairperson may, at any time, suspend for not more than ten days any permit granted under this article on the basis of misrepresentation of property offered for sale, substituting of articles sold to the highest bidder; bidding in on the property by the licensee, owner, auctioneer or agents of them, or for violation of any town ordinance or state law in the interest of public, health, safety or general welfare.

### **Secs. 14-716—14-750. Reserved.**

## **Article XIV. Slaughterhouses And Offensive Businesses**

### **Sec. 14-751. License required; slaughterhouse defined.**

- (a) License requirement. No person shall construct, operate or maintain a slaughterhouse in the town without first obtaining a license to do so from the state department of agriculture in compliance with the provisions of Wis. Stat. § 97.42.
- (b) Definition. As used in this article, the term "slaughterhouse" shall mean a place where cattle, swine, sheep, goats or horses are killed or dressed for human consumption, excepting such killing or dressing, or both, by farmers of animals produced on their own

farms where such killing or dressing occurs and excepting occasionally such killing or dressing by individuals for their own use.

(Code 1982, § 12.15(1))

Cross reference— Definitions generally, § 1-2.

**Sec. 14-752. Slaughterhouse; location.**

No person shall construct, operate or maintain a slaughterhouse in the town within three-eighths of one mile of any residence or other structure used for dwelling purposes.

(Code 1982, § 12.15(2))

**Sec. 14-753. Offensive business; location.**

No person shall construct, operate or maintain an offensive business in the town within three-eighths of one mile of any residence or any structure used for dwelling purposes. As used in this section, the term "offensive business" shall mean the killing or dressing of any animal in the usual course of a business or occupation, excepting the killing or dressing by farmers of animals produced on their own farms where such killing or dressing occurs.

(Code 1982, § 12.15(3))

**Secs. 14-754—14-780. Reserved.**

**Article XV. Junk Dealers**

**Sec. 14-781. Compliance with article required.**

No person shall engage in the junk business except in strict accordance with the provisions of this article.

(Code 1982, § 12.16(1))

**Sec. 14-782. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Junk* means pig iron, chain, brass, copper, tin, lead, other base metals, automobiles, trucks, trailers or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper, wastepaper, paper clippings, rags, rubber, glass or bottles and all articles and things discarded as manufactured articles composed of or consisting of any one or more of the articles mentioned, including industrial metal or scrap or other material commonly included within the term "junk." Also included within the meaning of "junk" are those items included within the definitions of rubbish, refuse, garbage and abandoned, dismantled, inoperable, junked or wrecked motor vehicles set forth in chapter 22, article III.



*Junk business* means the buying, selling, gathering, delivering or storing of junk.

*Junk dealer* means a person who buys, sells, gathers, delivers or stores junk and maintains a yard or building therefor.

*Junk peddler* means a person engaged in buying and gathering junk by means of a wagon, cart or other vehicle.

(Code 1982, § 12.16(2))

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-783. Application for license.**

- (a) Application for a junk dealer's license shall be made to the clerk-treasurer and shall contain the following information:
  - (1) The full name and residence of the applicant; and if a firm or association, the full name and residence of the firm or association; and if a corporation, the full name and residence of the officers thereof.
  - (2) The address and description of the premises for which the license is desired.
  - (3) A complete statement of the business to be carried on.
  - (4) An enumeration of the articles and merchandise to be handled on the premises and a statement as to whether the junk to be stored is combustible or incombustible.
  - (5) Such other information as the town board may from time to time require.
- (b) Each applicant for a license shall execute a permit granting the town board or any of its representatives permission to inspect and search the premises. Any false statement contained in such application shall automatically nullify any license issued pursuant thereto.
- (c) Licenses under this article shall be granted by the town board. In considering such application for a license under this article, the town board shall take into account, among other things, the nature and development of surrounding property, the proximity of churches, schools, public buildings or other places for public gathering, the health, safety and general welfare of the public, traffic volume, congestion and hazard at the location of applicant's proposed place of business.

(Code 1982, § 12.16(3))

### **Sec. 14-784. Fees.**

- (a) The license fee, in an amount specified by section 14-35, per annum or fractional part thereof for each junk business.

- (b) There shall be a fee, in an amount specified by section 14-35, per annum for each junk peddler using one wagon, cart or other vehicle. For each additional wagon, cart or other means of conveyance used for each purpose, such licensee shall pay an additional sum as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution. Each licensee engaged in collecting or gathering junk shall be furnished with a plate with the number of his license described thereon which shall be securely fastened by the licensee in some conspicuous place on the wagon, cart or other vehicle so used by him.

(Code 1982, § 12.16(4); Ord. No. 2008-01, § 13, 12-22-2008)

#### **Sec. 14-785. License numbers.**

All licenses shall be numbered consecutively and the clerk-treasurer shall furnish each licensee a card setting forth his name and the number of such license.

(Code 1982, § 12.16(5))

#### **Sec. 14-786. Revenues and expenses.**

The clerk-treasurer shall secure the necessary blanks or cards and the expense thereof shall be paid by the town out of the general fund and all monies derived from such licenses shall be turned into the general fund.

(Code 1982, § 12.16(6))

#### **Sec. 14-787. Limitation upon issuance of licenses.**

A separate license shall be required for each place of business and each shall particularly describe the premises for which issued.

(Code 1982, § 12.16(7))

#### **Sec. 14-788. Restriction of licenses.**

- (a) Accumulation of junk. No person except a licensed junk dealer or junk peddler shall buy, collect, gather junk or shall allow the junk to accumulate in any substantial amount in the town.
- (b) Storage restrictions. No junk shall be accumulated, stored or placed on any premises in the town within 750 feet from the centerline of any public highway or roadway or within one-half mile from the nearest residence, school, church or other place of public gathering. No burning of junk shall be done on such premises unless such burning takes place not less than 1,000 feet from the centerline of any public highway or roadway within the town and not less than one-half mile from the nearest residence, school, church or other place of public gathering.
- (c) Storage of combustible junk. No combustible junk shall be stored in any building unless such building is approved by the building inspector and is of fireproof construction.

- (d) Enclosure of junkyards. Every junkyard shall be enclosed by a substantial enclosure consisting of a solid fence, to be approved by the building inspector, not less than eight feet in height and maintained in proper condition. Junk placed in a junkyard shall be piled as to not rest against or project through the enclosure. No person shall affix or display or permit to be affixed or displayed upon such enclosure any picture, sign, bill, placard, pamphlet, notice or other thing for the purpose of advertising or notification. The words "Post No Bills" shall be painted on such enclosure at intervals in letters six inches high.
- (e) Record of purchases. A written record consisting of an accurate description and price of the goods, articles and things purchased, together with the name, age and residence of the seller shall be maintained by each licensee under this article. Such record shall be available to any code enforcement officer for inspection at any reasonable times.
- (f) Purchase from certain persons. No purchase shall be made from any child or children under 18 years of age or from any intoxicated or unknown person.
- (g) Purchase of certain property. No person shall purchase used pipe, faucets, boilers, spigots or coils from any person except the manufacturer thereof, a licensed plumber, a licensed peddler or the owner of the building from which material is taken.
- (h) Rodents and vermin. Effective means for the elimination of the rodents and vermin commonly infesting junk areas shall be administered by all licensees under this article.
- (i) Garbage. No person shall store any garbage materials on the premises licensed under this article.
- (j) Revocation. See section 14-46 for provisions regarding the revocation of licenses.

(Code 1982, § 12.16(8))

### **Sec. 14-789. Limitation of licenses granted.**

The town board shall issue no more than one license to cover junkyards for each 5,000 inhabitants or fraction thereof, except that if a greater number of licenses have been granted, issued or in force in the town than shall be permissible under such limitation, the town board may issue and grant such licenses equal in number to those granted, issued or in force on the effective date of this section, but the town board shall not grant and issue any additional licenses above the number of licenses existing on such date until the number of licenses shall correspond to the limitation provided in this section.

(Code 1982, § 12.16(9))

### **Secs. 14-790—14-820. Reserved.**

## **Article XVI. Gravel Pits, Sand Pits And Dumps**

### **Sec. 14-821. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Asphalt or tar paving mix plants* means plants wherein asphalt, tar or other petroleum products or byproducts are prepared or mixed, either alone or with other ingredients, as a material for paving or surfacing.

*Concrete ready mix plants* means plants where water, gravel, sand, crushed stone or other aggregate is mixed with cement and placed within a truck or trucks for the purpose of mixing such ingredients and to create and manufacture concrete thereby while such truck is in transit to its ultimate point of delivery.

*Dump* means the use and maintenance of lands for the dropping down or deposit of garbage, junk, refuse or other waste materials.

*Gravel pits and sand pits* mean any place where gravel, sand or dirt, or any combination thereof, is removed from its natural state of deposit by digging, pushing or any other method and sold or held for sale.

*Quarry* means any place where materials, consisting in whole or in part of rock or stone, are removed from their natural state by cutting, blasting, digging or pushing or by any other method and sold or held for sale.

(Code 1982, § 12.17(1))

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-822. Operator's license required.**

No owner of land shall permit any person to operate a quarry, a gravel pit, a sand pit, an asphalt or tar paving mix plant, a concrete ready mix plant or a dump within the town without first obtaining a license to do so from the town board.

(Code 1982, § 12.17(2))

### **Sec. 14-823. Owner's permit.**

No owner of land shall permit any person to operate a quarry, gravel pit, sand pit, asphalt or tar paving mix plant, a concrete ready mix plant or a dump within the town without first obtaining a permit therefor from the town board.

(Code 1982, § 12.17(3))

**Sec. 14-824. Operator's permit application; fee.**

- (a) Applications for permits to operate a quarry, gravel pit, sand pit, asphalt or tar paving mix plant, concrete ready mix plant or dump within the town shall be submitted in writing to the town board and shall set forth the following:
  - (1) Name, residence or office address of applicant.
  - (2) Description of the premises to be used.
  - (3) Statement of the nature of the proposed operation, including a description of the machinery to be used; the type and size of buildings to be constructed; the type and amount of explosives to be used or stored, if any; the smoke and dust control devices to be utilized, if any; the highways to be used for the truck traffic to and from the location; devices to protect the public from dangers inherent to the proposed use; deodorants or odor control devices, if any; method of concealing unsightly deposits, if any; and any other pertinent data which the applicant deems material.
  - (4) Hours of intended operation.
  - (5) The method and manner of draining surface water and accumulated water from the licensed premises.
  - (6) The method and manner of restoring the area of the operation after the cessation of operation to a condition of practical usefulness and reasonable physical attractiveness.
  - (7) Name, residence or office address of owner and date on which owner's permit was issued.
- (b) The application shall be accompanied by a fee, as specified by section 14-35, to defray the cost of publication, investigation and public hearings, if any.  
(Code 1982, § 12.17(4); Ord. No. 2008-01, § 14, 12-22-2008)

**Sec. 14-825. Owner's permit application; fees; term.**

- (a) Applications for owner's permits shall be submitted in writing to the town board and shall set forth the following:
  - (1) Name, residence or office address of applicant.
  - (2) Description of the premises to be used.
  - (3) Zoning of the premises to be used.
  - (4) Statement of the nature of the proposed operation.
  - (5) A description of the surrounding property and its use.

- (b) The application shall be accompanied by a fee as specified in section 14-35
- (c) The license, if granted, shall be in effect for a period of five years.

(Code 1982, § 12.17(5); Ord. No. 2008-01, § 15, 12-22-2008)

#### **Sec. 14-826. Public hearing.**

- (a) Upon receipt of an application submitted as provided in this chapter, the town board shall personally inspect the premises for which a permit is requested and shall set a date for public hearing upon such application, which date shall be not more than 30 days after the receipt of the application by the town board. A public hearing shall be held at the place specified in the town and a notice of the meeting shall be published in a newspaper of general circulation in the town at least five days before the date of public hearing. At such public hearing, the town board shall hear all persons interested in the granting or denying of the permit and may take testimony relative to the application.
- (b) Where the license applied for relates to the renewal of a permit previously granted, no publication shall be required and no public hearing shall be held.

(Code 1982, § 12.17(6))

#### **Sec. 14-827. Preexisting operator's licenses and nonconforming uses.**

Any person who was operating under a license which antedates the effective date of ordinance from which this section is derived or by reason of any permitted nonconforming use, shall be subject to the provisions of this chapter. No application by such person shall be denied unless it is established that the existing operation constitutes a public nuisance as defined in this Code. The town board may impose reasonable terms and conditions upon such operation. No additional agreement for restoration and no additional bond shall be required of such applicant, but a restoration agreement and bond may be required if a restoration agreement and bond were not previously required.

(Code 1982, § 12.17(7))

#### **Sec. 14-828. Variance between application and license.**

- (a) At any time prior to the determination by the town board, any applicant may request that his application be amended to reduce the area of land, the term of the permitted or the intended use of the premises and the town board may act on such amended application without requiring further publication or public hearing.
- (b) If at any time it is apparent that an error has been made in the legal description of the land to be permitted and the town board is satisfied that the amendment of such legal description shall work no hardship on any other person, it may direct that the clerk-treasurer amend the application, or the license if already issued, to set forth the proper legal description of the licensed premises.

(Code 1982, § 12.17(8))

**Sec. 14-829. Determination by town board.**

- (a) Within five days after the public hearing if required and otherwise within 30 days of receipt of application the town board shall make a determination as to whether or not the proposed use described in the application shall be detrimental to the health, safety and welfare of the public of the town. Such determination shall be made on the basis of the information contained in the application together with the evidence presented at the public hearing and a personal inspection of the premises by the members of the town board.
- (b) The town board shall, as a condition to the issuance of an operator's license, demand an agreement with the applicant whereby the applicant agrees to restore the premises in accordance with the representations contained in the application. The town board shall demand that a performance bond, written by a licensed surety company in an amount sufficient to secure the performance of the restoration agreement, be furnished to the town. The amount of such bond shall be not less than an amount set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution for each acre of land included in the application.

(Code 1982, § 12.17(9))

**Sec. 14-830. Hours of operation.**

No licensee shall operate his business except between the hours of 7:00 a.m. and 7:00 p.m. A temporary variance for a period not in excess of 30 days may be granted upon application to the town board.

(Code 1982, § 12.17(10))

**Sec. 14-831. Term of operator's license.**

- (a) Such operator's license shall have a term of one year or such shorter period as the town board shall prescribe and shall not be assignable. Such license shall further terminate:
  - (1) Upon the change of ownership of the firm, company, corporation or municipality operating the licensed business.
  - (2) If the use specified in the license is not carried on in accordance with the representations contained in the application or if such use is changed to another use enumerated in this article or if the license use has been discontinued for more than six months.
- (b) If any event prescribed above occurs, another license shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the licensed business, the operation of a new business or the resumption of the discontinued business.
- (c) The town board may consider an application under subsection (b) of this section without the necessity of publication or a public hearing.

- (d) Any license issued under subsection (b) of this section shall be deemed an original license and the licensed operator shall be bound by the terms of this article.

(Code 1982, § 12.17(11))

### **Sec. 14-832. Revocation of operator's license.**

The following acts shall constitute grounds for revocation of a license:

- (1) Failure to discharge or drain surface water or accumulated water from the licensed premises in such method and manner as shall not interfere with the use of lands, drains and ditches or other persons, firms or corporations, municipally owned or otherwise.
- (2) Any change in the manner of operation specified in the application as approved by the town board in granting the original license.
- (3) Failure during and after excavation to provide adequate lateral support to roadways or to the lands of abutting property owners. No excavating shall take place within 25 feet of any roadway or property line and the licensee shall excavate such further distance away from such roadway or property line as is necessary to provide lateral support.

(Code 1982, § 12.17(12))

### **Sec. 14-833. Revocation of owner's permit.**

An owner's permit may be revoked for any of the reasons enumerated in section 14-829. Revocation of an owner's permit shall be deemed an automatic revocation of any operator's permit covering the same premises.

(Code 1982, § 12.17(13))

### **Sec. 14-834. Revocation procedures.**

See section 14-46 for provisions relative to revocation procedures.

(Code 1982, § 12.17(14))

### **Sec. 14-835. Denial of permit.**

If a permit is denied for any business enumerated in this article with respect to any particular parcel of realty, no application for the same business on the same parcel of land, or any part thereof, may be filed within one year from the date of such denial. If, however, a new application reveals a material difference, the town board may proceed to hear and determine such new application within such year.

(Code 1982, § 12.17(15))



**Secs. 14-836—14-860. Reserved.**

## **Article XVII. Shooting Facilities**

### **Sec. 14-861. Definition.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Shooting facility* means any place where fixed or movable targets are set up and arranged for the purpose of being shot at for practice or marksmanship by more than two persons discharging firearms at about the same time, including a skeet or trap field.

(Code 1982, § 12.18(1))

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-862. License required.**

No person shall operate a shooting facility within the town without first obtaining a license therefor from the town. No owner of land shall permit any person to operate a shooting facility upon any lands within the town without a license having been first obtained from the town board.

(Code 1982, § 12.18(2))

### **Sec. 14-863. Application; fee.**

- (a) Application. Application for licenses to operate a shooting facility within the town shall be submitted in writing to the town board and shall set forth the following:
- (1) Name, address and phone number of the applicant and all range masters.
  - (2) Schematic layout of shooting facility, showing relation to property lines and adjoining properties, including dimensions and distances.
  - (3) A description of the surrounding property and its use.
  - (4) Hours of intended operation.
  - (5) Type of firearms to be used (small-bore, high power, pistol and shotgun).
- (b) Fee. The license application for a shooting facility shall be accompanied by a fee as set forth in section 14-35 to defray the cost of publication, investigation and public hearings, if any.

(Code 1982, § 12.18(3); Ord. No. 2008-01, § 16, 12-22-2008)

**Sec. 14-864. Regulation of existing shooting facilities.**

This article shall apply to all shooting facilities within the town.  
(Code 1982, § 12.18(4))

**Sec. 14-865. Public hearing.**

- (a) Upon receipt of an application submitted as provided in section 14-863, the town board shall personally inspect the premises of a shooting facility for which a license is requested and shall set a date for public hearing upon such application, not more than 30 days after the receipt of the application by the town board. A public hearing shall be held at the place specified in the town. Notice of such meeting shall be published in a newspaper of general circulation in the town and mailed to the applicant at least five days before the date of the public hearing. At the public hearing the town board shall hear all persons interested in the granting or denying of such license and may, if it sees fit, take testimony relative to the application.
- (b) An existing license for a shooting facility may be renewed by the town board without publication and public hearing. No renewal shall be denied without publication and public hearing.

(Code 1982, § 12.18(5))

**Sec. 14-866. Determination by town board.**

Within five days after the public hearing, if required, and otherwise within 30 days of receipt of application, the town board shall make a determination as to whether or not the proposed use described in the application will be detrimental to the health, safety and welfare of the public. Such determination shall be made on the basis of the information contained in the application together with the evidence presented at the public hearing, and a personal inspection of the premises by the members of the town board. If not found to be detrimental to the public health, safety and welfare, the town board shall issue a license to the applicant, subject to such reasonable conditions as the town board may impose to protect the public health, safety and welfare.

(Code 1982, § 12.18(6))

**Sec. 14-867. Term of operator's license.**

The license for a shooting facility shall have a term of one year and shall expire on June 30 of each year.

(Code 1982, § 12.18(7))

**Sec. 14-868. Conditions of operator's license.**

- (a) The license for a shooting facility shall not be assignable. Such license shall terminate:

- (1) Upon the change of ownership of the licensed business.
  - (2) If the licensed operation has been discontinued for more than six months.
- (b) If a license terminates, another license shall be applied for and obtained by the proposed operator as a condition precedent to the continued operation of the licensed business, the operation of a new business, or the resumption of the discontinued business. Any license issued pursuant to this subsection shall be deemed an original license and the licensed operator shall be bound by the terms thereof.
- (c) Any shooting facility licensed under this article, except skeet and trap ranges, shall comply with the following conditions:
- (1) A qualified range master shall be present on the firing line during all times when shooters are on the firing line. A qualified range master will officially open and close the range by flying a red flag at the top of a 12-foot high pole on top of the backstop. The flag shall be made of red cloth six feet long and three feet wide.
  - (2) A bullet stop shall be used and shall be a hillside or dirt barricade with a minimum height of 25 feet and extending at least 25 feet beyond each end of the target line. Rifle ranges with targets set beyond 100 yards shall have a bullet stop with heights increased in accordance with the current standards published by the National Rifle Association of America. Ranges built with baffles may reduce the height of bullet stops upon approval of the town board.
  - (3) All bullet stops shall be seeded or sodded on the forward slope to minimize possible ricochets. The impact area behind each target shall have all stones removed and a device to prevent the bullet from sliding up and over the bank.
  - (4) The entire range, including the bullet stops and firing lines, shall be enclosed with a barrier at least four feet high to prevent animals and careless persons from wandering into the field of fire. This barrier shall be posted every 200 feet with a two-foot by two-foot sign easily read with a warning such as "Danger—Shooting Range—No Trespassing." When a fence that can be climbed over is used as a barrier, the vegetation shall be cut to a height of no more than eight inches so that the range master has full view of the complete shooting range.
  - (5) The firing line should be graded smooth and have a slight slope from front to rear. Firing line and target lines must be 90 degrees to the line of fire. Firing points shall be spaced a minimum of five feet apart with a numbered peg set on each firing point and a corresponding number on the target line.
  - (6) Only one shooter and his coach shall be allowed at each firing point on the firing line at the same time.
- (d) Skeet and trap ranges shall comply with the following conditions:
- (1) A qualified referee shall be present on the field to start, stop and control all shooters.

- (2) A skeet field shall have all vegetation cut to a minimum height of eight inches within a 100-yard radius in front of station number 8.
- (3) A trap field shall have all vegetation cut to a maximum height of eight inches within a 100-yard radius in front of the trap house.
- (4) The 300-yard shotfall zone must be in a clear and unobstructed view of the referee so that shooting can be stopped when unauthorized persons or animals enter this zone.
- (5) In multiple skeet field layouts, a protection fence will be required between fields.
- (6) Then current standards as published by the National Rifle Association shall be used in planning and approval of skeet and trap fields.

(Code 1982, § 12.18(8))

#### **Sec. 14-869. Revocation of license.**

Any change in the manner of operation specified in the application for a shooting facility license as approved by the town board in granting the original license and any violations of the provisions of this article shall constitute grounds for revocation of the license.

(Code 1982, § 12.18(9))

#### **Sec. 14-870. Revocation procedures.**

See section 14-46 for provisions relative to license revocation procedures.

(Code 1982, § 12.18(10))

#### **Sec. 14-871. Denial of license.**

If a license is denied for any business enumerated in this article with respect to any particular parcel of realty, no application for the same business on the same parcel of land, or any part thereof, may be filed within one year from the date of such formal denial, unless a new application shall reveal a material difference from the prior application.

(Code 1982, § 12.18(11))

#### **Secs. 14-872—14-900. Reserved.**

### **Article XVIII. Gaming Machines**

#### **Sec. 14-901. License required.**

No person or corporation, private, municipal or otherwise, shall keep and maintain any gaming machines in the town for which a fee or charge is imposed to play the gaming machine without

first having obtained a license therefor from the town and having paid the required license fee. For purposes of this article, the term "gaming machine" shall mean any machine or device designed for and permitting one or more persons to play a game or games and shall include, without limitation, pinball, electronic and video game machines.  
(Code 1982, § 12.19(1))

**Sec. 14-902. Application procedure.**

All applications for licenses under this section shall be made in the manner as provided in section 14-482 and, in addition, shall specify the number, types, and serial numbers of all such gaming machines for which a license is sought.  
(Code 1982, § 12.19(2))

**Sec. 14-903. Revocation or nonrenewal.**

In addition to any other reason for which such license may be revoked or nonrenewed by law or under this Code, any license issued hereunder with respect to a gaming machine may be revoked or nonrenewed for allowing the machine to be used for any illegal purpose, including, but not limited to, gambling.  
(Code 1982, § 12.19(3))

**Sec. 14-904. Fee.**

The license fee for each gaming machine shall be as stated in section 14-35.  
(Code 1982, § 12.19(4))

**Secs. 14-905—14-930. Reserved.**

**Article XIX. Cable Television**

State Law reference— Regulations by town, Wis. Stat. § 66.0419.

**Sec. 14-931. Purpose.**

The purpose of this article is to supervise and regulate, to the extent permitted by law, cable television systems within the town in the public interest and to provide for the issuance of franchises to operate cable television systems within the town.  
(Code 1982, § 12.20(1))

**Sec. 14-932. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Additional service* means any communication service other than basic cable service provided on a CATV system by a grantee.

*Basic cable service and basic service* mean the lowest priced level of service offered by a grantee to subscribers, which includes local broadcast stations.

*Cable system (CATV system)* means a system of antennas, cables, wires, lines, fiber optic cables, towers, wave guides or other conductors, converters, equipment or facilities, used for distributing video programming to home subscribers, and/or producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electrical signals to, from and between subscribers and other users.

*Channel* means a band of frequencies six megahertz wide capable of carrying one standard audio-visual television signal.

*FCC* means the Federal Communications Commission of the United States.

*Grantee* means a person who has been granted a franchise for a CATV system in the town.

*Gross revenues* means all revenues received by a grantee from grantor's subscribers for cable services, excluding grantor's proportionate share of: taxes and other assessments collected for governmental authorities; bad debt expense; subscriber deposits; copyright fees; programming fees paid by grantee for nonbroadcast program services; and installation and disconnect charges.

*Subscriber* means any person or entity who subscribes to a service provided by a grantee.

(Code 1982, § 12.20(2))

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-933. Privileges granted.**

A grantee shall be granted a nonexclusive franchise and privilege to construct, operate and maintain in, upon, along, across, above, over and under the public roads and rights-of-way of the town and all extensions thereof and additions thereto, poles, wires, cable underground conduits, and other television conductors and fixtures necessary for the operation and maintenance in the town of a CATV system for a term of 25 years, subject to the following conditions:

- (1) Utilization of existing facilities. Where feasible to do so, the grantee shall endeavor to obtain rights to use poles and conduits belonging to the franchise holders or utilities within the town. Approval of the assignment of such rights to a grantee by such other franchise holders may be granted by the town board, in its discretion. It is the intention of the town that a grantee shall utilize existing public utility poles and conduits where feasible. All poles and conduits installed within the town shall be made available for attachment or use by a grantee, at just and reasonable rates. If such poles or facilities are not made so available, a grantee may erect its own poles upon application to and approval by the town.

- (2) Interference. All transmission and distribution structures, lines and equipment erected by a grantee within the town shall be located so as not to interfere with the proper use of the roads and rights-of-way of the town, and to cause minimum interference with the rights or reasonable convenience of property owners or occupants of lands adjoining any of such road and rights-of-way, and not to interfere with existing public utility installations. In all areas of the town where the cables, wires or other like facilities of all public utilities are placed underground, the grantee shall place its cables, wires or other like facilities underground in conformity with the standards established for such utilities.
- (3) Restoration. If a grantee disturbs any pavements, sidewalks, driveways, or other surfacing, or any other property, it shall, at its own expense, and in the manner provided by the town, replace and restore all such pavements, sidewalks, driveways, or other surfaces of any roads or rights-of-way disturbed and return any and all property to its conditions immediately prior to being disturbed.
- (4) Alterations. If at anytime during the period of the franchise the town shall lawfully elect to alter, or change the grade or location of any road or right-of-way, a grantee shall upon reasonable notice by the town, remove, relay and relocate its poles, wires, cable underground conduits, manholes and other fixtures at its own expense, and in each instance comply with the requirements of the town.
- (5) Installations. A grantee shall not place poles, conduits, or other fixtures above or below ground where the poles, conduits, or other fixtures will unreasonably interfere with any gas, electric, telephone fixtures, water hydrant or other utility, and all such poles, conduits or other fixtures placed in any road shall be so placed so as to comply with all requirements of the town.
- (6) Trimming. A grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks and public places of the town so as to prevent the branches of such trees from coming into contact with the wires and cables of the grantee.
- (7) Approval. Prior to the erection by a grantee of poles or other wire holding structures, the grantee shall secure approval of the town with regard to the location, height, type and other pertinent aspects of such facilities.

(Code 1982, § 12.20(3))

**Sec. 14-934. Type and capacity of equipment and standard of service.**

- (a) A grantee shall engineer, install, maintain, operate and equip its CATV system so as to meet the technical standards of the FCC.
- (b) The signals distributed by a grantee shall be the best possible signals available under the circumstances existing at the time and shall provide the best possible quality reception to each subscriber.
- (c) The standards of equipment and service specified in this article to be utilized and rendered by a grantee are intended as minimum standards and nothing in this article shall be construed as an attempt to relieve a grantee from complying fully with existing

FCC regulations nor from meeting future standards of the FCC within the times for compliance specified by the FCC.

(Code 1982, § 12.20(4))

**Sec. 14-935. Subscriber rates.**

The town shall have the option, upon proper notice to a grantee and an opportunity for the grantee to comment, to regulate basic cable rates according to the extent authorized by the U.S. statutes and regulations adopted pursuant thereto.

(Code 1982, § 12.20(5))

**Sec. 14-936. Service.**

- (a) As part of the consideration for the rights and privileges granted to a grantee, the grantee shall provide one free drop, with no monthly service charge for basic service to the town hall building, fire and police stations, public library, and to all public and parochial primary and secondary schools located within the town, which are passed by the cable system.
- (b) A grantee shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its subscribers. Except where an emergency requires a more expedited procedure, the grantee may interrupt service for the purpose of repairing or upgrading the system only during periods of minimum use.

(Code 1982, § 12.20(6))

**Sec. 14-937. Compensation to the town.**

- (a) In consideration of the terms of the franchise, the grantee shall pay to the town a sum equal to four percent of the gross revenues of the grantee received during each calendar year during the period of the franchise. These fees shall be payable to the town in annual payments on June 30 of each year. The grantee shall keep complete records of accounts showing dates and payments received.
- (b) Upon reasonable notice, the town shall have the right to inspect the grantee records showing its gross receipts for basic service and additional service from which its franchise payments are computed, and the right of audit and recomputation of any and all amounts paid under the franchise shall be always accorded to the town. No acceptance of any payment by the town shall be construed as a release of or an accord or satisfaction of any claim the town might have for further or additional sums payable under this article or for any other performance or obligation of the grantee under this article.
- (c) Payments of compensation made by a grantee to the town under the provisions of this article shall not be considered in the nature of a tax, but shall be in addition to any and



all taxes which are now or hereafter required to be paid by any law of the United States, the state, the town, or any other taxing authority.

(Code 1982, § 12.20(7))

**Sec. 14-938. Liability and indemnification.**

- (a) A grantee shall agree to pay all damages and penalties which the town may be required to pay as a result of granting the franchise, and a grantee shall agree to save the town harmless from any and all liability arising out of the franchise, the granting of the franchise or the operation of the cable system thereunder; provided, however, the grantee shall not be liable for occurrences or acts which are wholly or partially the fault of the town and in respect of which the grantee is not at fault. A grantee may assume the defense of any such claim or it may permit the town to defend itself. If the town assumes its own defense with the grantee's consent, the grantee shall pay all expenses incurred by the town in defending itself with regard to all damages and penalties payable because of an act for which the grantee is liable under this indemnity, including, but not limited to, all out-of-pocket expenses, disbursements and attorney's fees.
- (b) In any instance where the town intends to seek reimbursement or indemnification pursuant to subsection (a) of this section, it shall promptly notify the grantee of the claim so as to allow grantee to assume or participate in the defense. The town, its employees and agents shall cooperate fully with the grantee in the defense of such a claim and shall make its records fully available as grantee or its representatives deem necessary. Should the town compromise or settle any claim without the grantee's express consent, it shall forfeit its right to indemnification or reimbursement.
- (c) The grantee shall maintain, in full force and effect during the term of its franchise, liability insurance insuring the town and the grantee in the minimum amounts of:
  - (1) Two hundred fifty thousand dollars for bodily injury or death or to any one person, with the limit of \$750,000.00 for bodily injury or death resulting from any one accident;
  - (2) Fifty thousand dollars for property damage resulting from any one accident.

(Code 1982, § 12.20(8))

**Sec. 14-939. Transfer of franchise.**

The CATV franchise shall not be assigned or transferred, in whole or in part, without the consent of the town, such consent shall not be unreasonably withheld.

(Code 1982, § 12.20(9))

### **Sec. 14-940. Change of control of grantee.**

No transfer of more than 51 percent of the ownership or control of the grantee shall be made without prior approval of the town. Such approval shall not be unreasonably withheld.  
(Code 1982, § 12.20(10))

### **Sec. 14-941. Franchise renewal.**

- (a) A franchise may be renewed for an additional 25 years if:
  - (1) The grantee has substantially complied with the material terms of the existing franchise and with applicable law;
  - (2) The quality of the grantee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable service or other services provided over the cable system has been reasonable in light of community needs;
  - (3) The grantee has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in the grantee's application; and
  - (4) The grantee's application indicates it can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.
- (b) In any renewal proceeding, a grantee shall be afforded adequate notice and the grantee and the town, or its designee, shall be afforded a fair opportunity for full participation, including the right to introduce evidence, to require the production of evidence, and to question witnesses. A transcript may be made of any such proceeding at the cost of the grantee.
- (c) A proceeding under this section shall be completed within 12 months of its commencement, within which time the town shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the grantee. Such decision shall state the reasons therefor.
- (d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subsection (a) of this section, pursuant to the record of the proceeding under subsection (b) of this section.

(Code 1982, § 12.20(11))

### **Sec. 14-942. Filings of communication with regulatory agencies.**

Copies of all petitions, applications and communications submitted by a grantee to the FCC, or any other federal, or state, regulatory commission or agency having jurisdiction in respect to any

matters affecting CATV operations authorized pursuant to a franchise granted hereunder shall also be submitted upon request to the town.  
(Code 1982, § 12.20(12))

**Sec. 14-943. Filing of plats, maps and records.**

A grantee shall file upon request with the clerk-treasurer of the town true and correct copies of maps and plats of existing and proposed installations, and such maps and plats shall be updated upon request of the town.  
(Code 1982, § 12.20(13))

**Sec. 14-944. Improving and modifying CATV system.**

A grantee shall monitor technological developments in the cable communications industry and shall, at request of town board, consult on implementing such changes as are required to meet substantially unfilled needs and interests in commercially available programming where economically feasible.  
(Code 1982, § 12.20(14))

**Sec. 14-945. Remedies.**

- (a) Default. Nonperformance or violation by a grantee of any term or provision of a franchise shall constitute a default. In such event, the town shall send a written default notice by certified mail, return receipt requested, and the grantee shall have 60 days from the receipt of such notice to correct or remedy the default; provided, however, if the default has caused a public safety problem, the town may shorten such period to cure or, if reasonably necessary, to cause a cure to be effected and to charge the grantee therefor. If the grantee corrects or remedies the alleged default within the 60-day period or such lesser period designated by the town board, then no default will have been deemed to have occurred. The grantee may within 15 days of receiving such notice notify the town that there is a dispute as to whether a violation has, in fact, occurred. Such notice by grantee to town shall specify the matters disputed by grantee. The town shall hear the grantee's dispute at the next regularly scheduled town board meeting. (b) Revocation. If a grantee fails to disprove or correct the violation within the time period specified, the town board may revoke the franchise.

(Code 1982, § 12.20(15))

**Sec. 14-946. Force majeure.**

Prevention or reasonable delay of any performance under a franchise due to circumstances or acts of God beyond the control of the grantee, shall not be deemed noncompliance with or a violation of the franchise.  
(Code 1982, § 12.20(16))

**Sec. 14-947. Conflicting laws, rules and regulations.**

If the laws of the United States or the state, or rules and regulations of any agency of the United States or the state, whether presently in existence or hereinafter enacted or set in force, are in conflict with any provision or portion thereof, of this article, those provisions (or portions thereof) of this article which are in conflict therewith shall be deemed amended so as to comply with such laws, rules and/or regulations.

(Code 1982, § 12.20(17))

**Sec. 14-948. Removal of facilities.**

At the termination of a franchise at the end of the term or otherwise, a grantee shall at the grantee's expense, remove all such facilities from the town streets and public property. Upon termination of service to any subscriber, the grantee shall promptly remove all of its facilities and equipment from the premises of each subscriber upon the request of and at no cost to the subscriber.

(Code 1982, § 12.20(18))

**Sec. 14-949. Severability.**

If any provision of this article shall be invalid, the remaining provisions hereof and their application shall not be affected thereby.

(Code 1982, § 12.20(19))

**Secs. 14-950—14-980. Reserved.**

**Article XX. Adult Oriented Entertainment Establishments**

**Division 1. - Generally**

**Sec. 14-981. Findings.**

Based on evidence concerning the adverse secondary effects of adult oriented establishments on the community, as set forth in reports made available to the town board, and on the holdings and findings in *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986), *Young v. American Mini Theatres*, 427 U.S. 50, 96 S.Ct. 2440, 49 L.Ed.2d 310 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504 (1991), *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425, 122 S.Ct.1728, 152 L.Ed.2d 670 (2002), *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000), *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988 (7th Cir. 2002), and *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003), as well as studies and summaries of studies conducted in and compiled by other municipalities, including Los Angeles, CA, Phoenix, AZ, Beaumont, TX, and St. Croix County, WI, the town board finds that:

- (1) Crime statistics show that all types of crimes, especially sex-related crimes, occur with greater frequency in neighborhoods where adult oriented establishments are located.
- (2) Adult oriented establishments may contribute to an increased public health risk through the spread of sexually transmitted diseases, and such increased risk is a significant and legitimate matter of concern to the town.
- (3) Studies on the relationship between adult oriented establishments and neighboring property values have consistently found a negative effect on both residential and commercial property values.
- (4) There is an increased potential for the infiltration of organized crime into the community via the operation of adult oriented establishments for the purpose of perpetrating unlawful conduct.
- (5) The consumption of alcoholic beverages on the premises of an adult oriented establishment exacerbates the harmful secondary effects that such businesses have on the community.
- (6) Given this well-documented correlation between adult oriented establishments and the harmful secondary effects itemized above, the town board has determined that the locational criteria imposed by county zoning are not alone adequate to protect the health, safety and general welfare of town residents, so the board deems it necessary to regulate, to the extent allowed by law, the operation of adult oriented establishments within the town. By this article, it is not the town board's intent to suppress the constitutionally protected speech occurring within adult oriented establishments, nor does the town board anticipate that the limited regulations contained herein will have the effect of "chilling" the expression of such speech within the town. To the contrary, the town board's purpose in adopting this article is limited to minimizing the occurrence and impact of the harmful secondary effects associated with adult oriented establishments and ensuring that the protected speech occurring therein is expressed in a safe, healthy, and lawful environment.

(Ord. No. 2003-04, § 1(12.21(1)), 11-24-2003)

### **Sec. 14-982. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning:

*Adult bookstore* means an establishment:

- (1) Which has a facility or facilities, including but not limited to booths, cubicles, rooms, or stalls, for the presentation of "adult entertainment", as defined in this section, including adult oriented films, computer video, movies or live performances for observation by patrons therein; or

- (2) Having as a substantial or significant portion of its stock in trade, for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, DVDs, or magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities as defined in this section.

*Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which features:

- (1) Live performances which are characterized or distinguished by the exposure of specified anatomical areas or the removal of articles of clothing; or
- (2) Films, motion pictures, videocassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing specified anatomical areas or specified sexual activities.

*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 an emphasis on any actual or simulated specified sexual activities or specified anatomical areas.

*Adult mini-motion picture theater* means an enclosed building with a capacity of less than 50 persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult modeling studio* means any establishment or business where individuals pay money or other consideration to observe, sketch, draw, paint, sculpt or photograph a person who displays his or her specified anatomical areas. Adult modeling studios shall not include a proprietary school licensed by the state or a college, technical college, or university; or adult modeling in a structure:

- (1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing;
- (2) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
- (3) Where no more than one nude or seminude model is on the premises at any one time.

*Adult motion picture theater* means an enclosed building with a capacity of 50 or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons therein.

*Adult novelty shop* means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on or design for specified sexual activity or stimulating such activity.

*Adult oriented establishment* means any premises including, but not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult modeling studios, adult novelty shops, or adult cabarets. It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult entertainment, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. The term "adult oriented establishment" further includes any establishment open to the public upon the premises of which is conducted an enterprise having as its dominant theme or which is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as herein defined.

*Booths, cubicles, rooms, compartments and stalls* mean enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business adult entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the adult entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, the terms "booth," "cubicle," "room," "compartment" and "stall" do not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing adult entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the state pursuant to Wis. Stat. ch. 50.

*Nudity* means the appearance of the human bare anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or the nipple or areola of the female breast, with less than a fully opaque covering; or showing of the covered male genitals in a discernibly turgid state.

*Operators* means any person, partnership, or corporation operating, conducting, maintaining or owning any adult oriented establishment.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola.
- (2) Human male genitals in a discernibly turgid state, even if opaquely covered.  
Specified sexual activities means simulated or actual:
  - (1) Showing of human genitals in a state of sexual stimulation or arousal.
  - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus.

- (3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(Ord. No. 2003-04, § 1(12.21(2)), 11-24-2003)

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-983. Physical layout of establishment.**

Any adult oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- (1) Access. Each booth, room or 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.
- (2) Construction. Every booth, room or cubicle shall meet the following construction requirements:
  - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
  - b. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
  - c. All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
  - d. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
  - e. The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
- (3) Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupants of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.
- (4) Inspections. The building inspector shall conduct monthly inspections of the premises to insure compliance with the provisions of this subsection.

(Ord. No. 2003-04, § 1(12.21(10)), 11-24-2003)

### **Sec. 14-984. Compliance with regulations.**

- (a) It shall be a violation of the provisions of this section for an operator to authorize or knowingly permit any employee action that is in violation of this section. Any violation by an operator of this subsection shall be separate and distinct from the employee's



violation, and both the employee's and the operator's violations shall be punishable as set forth herein.

- (b) Any act or omission of any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (c) No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view adult entertainment.
- (d) The operator must ensure that at least one employee is on duty and situated such that he or she has an unobstructed view into each occupied booth, room or cubicle at all times that such booth, room or cubicle is occupied.
- (e) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (f) The operator shall maintain at least ten footcandles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one footcandle of illumination in such aisles, as measured from the floor.
- (g) The operator shall ensure compliance of the establishment and its patrons with the provisions of this section.
- (h) It shall be a violation of this section for any person to knowingly or intentionally appear in a state of nudity in an adult oriented establishment.
- (i) The sale, use, or consumption of alcohol on the premises of an adult oriented establishment is prohibited.

(Ord. No. 2003-04, § 1(12.21(11)), 11-24-2003)

#### **Sec. 14-985. Hours of operation.**

- (a) No adult oriented establishment shall be open between the hours of 12:00 midnight and 10:00 a.m., Monday through Saturday or anytime on Sundays.
- (b) All adult oriented establishments shall be open to inspection at all reasonable times by the code enforcement officer, the county sheriff's department, the building inspectors, and the health department.

(Ord. No. 2003-04, § 1(12.21(12)), 11-24-2003)

### **Sec. 14-986. Exemptions.**

- (a) The provisions of this article do not apply to the following establishments: theatres, performing arts centers, civic centers, and dinner theatres where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis, and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers, and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or seminude performances. While expressive live nudity may occur within these establishments, this article seeks only to minimize and prevent the secondary effects of adult oriented establishments on the community, and the town board is not aware of any negative secondary effects that have been associated with these establishments.
- (b) The provisions of this article also do not apply to any medical or therapeutic treatment facilities that are owned and operated by medical professionals licensed to practice within this state.

(Ord. No. 2003-04, § 1(12.21(14)), 11-24-2003)

### **Secs. 14-987—14-1000. Reserved.**

## **Division 2. License**

### **Sec. 14-1001. Required.**

- (a) Except as provided in subsection (d) of this section, no adult oriented establishment shall be operated or maintained in the town without first obtaining a license to operate issued by the town.
- (b) A license may be issued only for one adult oriented establishment located at a fixed and certain place. Any person who desires to operate more than one adult oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person.
- (d) All adult oriented establishments existing at the time of the passage of this section must submit an application for a license within 60 days of the passage of this section.
- (e) Notwithstanding section 14-1002, an adult oriented establishment license shall not be granted to a premises in which the town board has determined that said premises operated as an adult oriented establishment without a license within one year prior to the date of application. This prohibition applies to a premises for a period of one year following the town board's determination.

(Ord. No. 2003-04, § 1(12.21(3)), 11-24-2003)

## **Sec. 14-1002. Application.**

- (a) Any person desiring to secure a license shall make application to the clerk-treasurer. The application shall be filed in triplicate and dated by the clerk-treasurer. A copy of the application shall be distributed promptly by the clerk-treasurer to the code enforcement officer and to the applicant.
- (b) The application for a license shall be upon a form provided by the clerk-treasurer. An applicant for a license shall furnish the following information under oath:
  - (1) Name (including all aliases) and address.
  - (2) Written proof that the individual is at least 18 years of age.
  - (3) The name, if known, and address of the adult oriented establishment to be operated by the applicant and the exact nature of the adult use to be conducted.
  - (4) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name (including all aliases) and address of the registered agents, and the name and address of all shareholders owning more than 15 percent of the stock in such corporation and all officers and directors of the corporation. Within 20 days of any change in registered agents, notice of such change shall be provided to the clerk-treasurer by the licensee.
  - (5) If the applicant is a partnership, the names (including all aliases) and addresses of all partners. If the applicant is a limited liability company, the names (including all aliases) of all members.
  - (6) Whether the applicant or any person required to be named is currently operating, or has previously operated, in this or any other county or state, under an adult oriented establishment license or similar business license or permit; and whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (c) Within 30 days of receiving an application for a new license or an application to renew a license, the clerk-treasurer shall notify the applicant whether the application is granted or denied. Any application for a license that does not include all of the information and documents required under this section, or the appropriate application fee required by this section, shall be deemed to be incomplete and shall be returned to the applicant without any action thereon being taken by the town.
- (d) Whenever an application is denied, or a license is not renewed, the clerk-treasurer shall advise the applicant in writing of the reasons for such action. If the town board denies the license, the decision may be reviewed under article VII of chapter 2.
- (e) Refusal of the applicant to give any information relevant to the application or his refusal or failure to appear at any reasonable time and place for examination under oath regarding such application or his refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he

is ineligible for such license and shall be grounds for denial thereof by the clerk-treasurer.

(Ord. No. 2003-04, § 1(12.21(4)), 11-24-2003)

### **Sec. 14-1003. Standards for issuance.**

To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

- (1) If the applicant is an individual:
  - a. The applicant must be at least 18 years of age.
  - b. The applicant shall not have been found to have previously violated this article within five years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
  - a. All officers, directors, and stockholders required to be named under section 14-1002(b) shall be at least 18 years of age.
  - b. No officer, director, or stockholder required to be named under section 14-1002(b) shall have been found to have previously violated this article within five years immediately preceding the date of the application.
- (3) If the applicant is a partnership, limited liability company, joint venture or any other type of organization where two or more persons have a financial interest:
  - a. All persons having a financial interest in the partnership, limited liability company, joint venture or other type of organization shall be at least 18 years of age.
  - b. No person having a financial interest in the partnership, limited liability company, joint venture or other type of organization shall have been found to have violated any provision of this article within five years immediately preceding the date of the application.

(Ord. No. 2003-04, § 1(12.21(5)), 11-24-2003)

### **Sec. 14-1004. Fees.**

A license fee, as set forth in section 14-35, shall be submitted with the application for a license. If the application is denied, one half of the fee shall be returned.

(Ord. No. 2003-04, § 1(12.21(6)), 11-24-2003; Ord. No. 2008-01, § 17, 12-22-2008)

### **Sec. 14-1005. Display.**

The license shall be displayed in a conspicuous public place in the adult oriented establishment. (Ord. No. 2003-04, § 1(12.21(7)), 11-24-2003)

### **Sec. 14-1006. Renewal.**

- (a) Every license issued pursuant to this article will terminate at the expiration of one year from date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the clerk-treasurer. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be upon a form provided by the clerk-treasurer and shall contain such information and data given under oath or affirmation as is required for an application for a new license.
- (b) A license renewal fee as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty as set forth in the schedule of fees on file in the town clerk's office and which may be revised by town board resolution shall be assessed against any applicant who files for a renewal less than 60 days before the license expires. If the application is denied, one half of the total fees collected shall be returned.
- (c) Any law enforcement agencies with any information bearing on the operator's qualifications may file that information with the clerk-treasurer.
- (d) The building inspector shall inspect the establishment prior to the renewal of a license to determine compliance with the provisions of this article.

(Ord. No. 2003-04, § 1(12.21(8)), 11-24-2003)

### **Sec. 14-1007. Revocation.**

- (a) The town board may revoke, suspend, or refuse to renew a license for any of the following reasons:
  - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (2) The operator or any employee of the operator violates any provision of this article, the county Zoning Code, or any rules or regulations adopted by the town board pursuant to this article provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the town board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The operator becomes ineligible to obtain a license or permit.

- (4) Any cost or fee required to be paid by this article is not paid.
- (b) The town board, before revoking or suspending any license or permit, shall give the operator at least ten days written notice of the charges and an opportunity for a public hearing in accordance with article VII of chapter 2. If the operator does not file a timely request for a public hearing, the allegations set forth in the charges shall be taken as true, and if the town board finds the charges sufficient the license shall be revoked or suspended. If the operator files a written request for a hearing with the clerk-treasurer within ten days of receipt of the charges, a public hearing shall be held in accordance with article VII of chapter 2
- (c) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (d) Any operator whose license is revoked shall not be eligible to reapply for a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult oriented establishment for six months from the date of revocation of the license. For purposes of this section, a revocation of a license takes effect when the licensed premises ceases operations as an adult oriented establishment.

(Ord. No. 2003-04, § 1(12.21(9)), 11-24-2003)

**Secs. 14-1008—14-1020. Reserved.**

## **Article XXI. Communication Towers And Antennas [11]**

Cross reference— Utilities, ch. 54. (Back)

### **Sec. 14-1021. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term "tower" includes the structure and any support thereto.

(Code 1982, § 12.22(1))

Cross reference— Definitions generally, § 1-2.

### **Sec. 14-1022. Administrative review fees.**

- (a) An applicant seeking a tower-related conditional use permit from the county and the town, pursuant to the county zoning code, shall submit to the town, at the time of making such application, a nonrefundable fee in the amount specified by section 14-35 to offset a portion of the costs of reviewing the application.
- (b) Any person or entity seeking approval from the county and town for the location or co-location of an antenna on an existing structure or tower shall submit to the town, as part of the site plan review process, a nonrefundable fee in the amount specified by section 14-35 to offset a portion of the costs of reviewing the site plan.

(Code 1982, § 12.22(2); Ord. No. 2008-01, § 18, 12-22-2008)

### **Sec. 14-1023. Technical review.**

If the town determines that it is necessary to consult with a third party in considering a permit or site plan, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the town shall be grounds for denial or revocation of a conditional use permit or nonapproval of a site plan. The applicant may provide the town the names of consultants which the applicant believes are qualified to assist in resolving the issues before the town.

(Code 1982, § 12.22(3))

### **Sec. 14-1024. Collocation.**

The holder for a permit for any tower on which collocation occurs shall, within 30 days of such collocation, provide written notification to the town of the identity of the collocator and the nature of the equipment installed. Within 30 days of the date on which any collocated use ceases, the permit holder shall provide the town with written notice of the cessation of such use.

(Code 1982, § 12.22(4))

### **Sec. 14-1025. Indemnification.**

The town does not warrant any tower or antenna against design or structural failure. The town does not certify that the design is adequate for any tower and the town accepts no liability through the issuance of a conditional use permit or approval of a site plan. By acceptance of a conditional use permit or approval of a site plan, the applicant agrees to indemnify the town against each and every claim, demand, or cause of action that may arise or be made against the town by reason or in any way arising out of any defect or imperfection in the tower and/or antenna, or any failure to repair the tower and/or antenna, and also against every claim, demand, or cause of action against the town by reason of any liability that is or may be imposed on the town, on account of any such defect, imperfection or any failure to repair the tower and/or antenna.

(Code 1982, § 12.22(5))