

LICENSES AND PERMITS ORDINANCE

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5.01 LICENSE AND PERMIT FEES.

Unless otherwise indicated, fees for licenses and permits issued under this chapter shall be as listed on the schedule of fees in the office of the Clerk.

5.02 GENERAL PROVISIONS AS TO LICENSES.

(1) Licenses and Permits Required.

No person shall engage in any trade, profession, business or privilege in the Village for which a license or permit is required by any provision of this Code of Ordinances without first obtaining such license or permit from the Village in the manner provided in this section, unless otherwise specifically provided.

(2) Application. Unless otherwise provided, application for a license or permit shall be made in writing to the Clerk upon forms provided by the Village, and the applicant shall state the location of the proposed activity and such other facts as

may be required for or be applicable to the granting of such a license or permit.

(3) Payment of Fee. The fees required for any license or permit shall be paid at the office of the Clerk before the granting of the license or permit.

(4) Bond and Insurance. All required bonds shall be executed by two (2) sureties or a surety company and be subject to the approval of the Board. Where policies of insurance are required, such policies shall be approved as to substance and form by the Village Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the Village before the license or permit is issued.

(5) Approval or Denial of Licenses. Where approval of any Village or state officer is required prior to the issuance of any license or permit, such approval shall be presented to the Village before any license or permit is issued.

(6) Certificate. License or permit certificates shall show the name of the

licensee or permittee, date of issue, activity licensed and the term of the license or permit and shall be signed in the name of the Village by the President and the Clerk and be impressed with the Village seal. The Clerk shall keep a record of all licenses and permits issued.

(7) Terms.

(a) Unless otherwise provided, the license year shall end on June 30 of each year.

(b) Where the issuance of licenses for a period of less than one (1) year is permitted, the effective date of such license shall commence with the date of issuance.

(c) Permits shall be issued for the term set forth in the permit.

(8) Exhibition of Certificate. Every licensee or permittee shall carry his or her license or permit certificate upon his or her person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit certificate shall be exhibited at all times in some conspicuous place in his or her place of business. The licensee or permittee shall exhibit the license certificate when applying for a renewal and upon demand of any police officer, or person representing the issuing authority.

(9) Transfer. Unless otherwise provided, no license or permit shall be transferable or assignable.

(10) Determinations of the Board. All determinations made by the Board shall be subject to the provisions of Wis. Stats. Ch. 68.

(11) Inspection. Any police officer or any Village officials may enter upon the premises where any licensed or permitted activity is being conducted for the purpose of inspection at any reasonable time.

(12) Revocation and Suspension of Licenses.

(a) Except as otherwise provided, any license issued under this chapter may be revoked for cause by the Board. No license shall be revoked except upon written verified complaint filed with the Board by the President, a member of the Board, any police officer, or a resident of the Village. The licensee shall be served with a written copy of the charges and shall be given an opportunity to be heard before the Board. The licensee shall be given notice of such hearing, which shall be not more than twenty (20) nor less than five (5) days after notice, except as otherwise agreed between the parties.

(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 President or presiding officer of the Board to compel the attendance of witnesses.

(c) After hearing the evidence, the Board may revoke such license or impose a limited period of suspension. The determination of the Board shall be final, subject to review under Wis. Stats. Ch. 68, provided the licensee shall not be entitled to a further hearing unless granted by the Board.

(d) The Police Department and/or Brown County Sheriff Department shall repossess any license revoked hereunder.

(e) If the licensee does not apply for a hearing within the time provided, the license may be revoked by the Board.

(13) Refusal of License. The Clerk shall refuse to issue a license or permit to any person, partnership, or corporation if there remains any unpaid bill, fee, or tax outstanding on any parcel under that person, partnership, or corporation's control in the Village. Upon the prompt payment of those outstanding fees, the Clerk shall issue the license or permit.

5.03 REGULATION AND LICENSING OF DIRECT SELLERS AND SOLICITORS.

(1) Registration Required. It shall be unlawful for any direct seller or solicitor to engage in direct sales or solicitations within the Village without being registered and licensed for that purpose as provided herein.

(2) Definitions. In this section, the terms used shall be defined as follows:

(a) Direct Seller. Any person who sells goods or services or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of said person and shall include, but not be limited to, peddlers, solicitors and transients. For purpose of this section, the acceptance of a "donation" in exchange for goods, or an order for goods, shall be deemed an act requiring compliance with all of the regulatory provisions of this section, including registration and the posting of a bond.

(b) Permanent Merchant. A direct seller who, for at least one (1) year prior to the consideration of the application of this section to said merchant has continuously operated an established place of business in the Village or has continuously resided in the Village and now does business from his or her residence.

(c) Goods. Includes personal property of any kind and shall include goods provided incidental to services offered or sold.

(d) Charitable Organization. Includes any benevolent, philanthropic, patriotic or eleemosynary person, partnership, association or corporation, but shall not include religious organizations.

(3) Exceptions. The following shall be exempt from all provisions of this section:

(a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

(b) Any person selling goods at wholesale to dealers in such goods.

(c) Any person selling agricultural products which such person has grown.

(d) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.

(e) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with and specifically requested a home visit by said person.

(f) Any person who has had, or one who represents a company which has had, a prior business transaction such as a prior sale or credit arrangement on other than a one-time basis with the prospective customer.

(g) Any person selling, or offering for sale, a service not connected with the sale or offering for sale of goods.

(h) Any person holding a sale required by statute or by order of the court and any person conducting a bona fide auction sale pursuant to law.

(i) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Clerk proof that such charitable organization is registered under Wis. Stats. §440.41. However, any charitable organization not registered under Wis. Stats. §440.41 or which is exempt from that statute's registration requirements shall be required to register under this section.

(j) Any person who claims to be a permanent merchant, but against whom complaint has been made to the Clerk that such person is a transient merchant, provided that there is proof submitted to the Clerk that such person has leased for at least

one (1) year, or purchased, the premises from which he or she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.

(k) Any religious organization having tax exempt status under Section 501(c)(3) of the United States Internal Revenue Code upon submitting proof thereof to the Clerk.

(l) Any political candidate running for public office or citizens supporting political candidates of legitimate recognized political parties running for public office in compliance with Wisconsin statutes. Chapter 5 does not prohibit persons from circulating nomination papers, from soliciting signatures, or from soliciting campaign donations for public office.

(m) Legally chartered tax exempt organizations.

(4) Registration or Licensing.

(a) Applicants for registration or licensing must complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:

1. Full legal name, permanent address and telephone number and temporary address, if any.
2. Date of birth, age, height, sex, race, weight, color of hair and eyes.
3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents, is employed by or whose merchandise is being sold.
4. Temporary address and telephone number from which business shall be conducted, if any.
5. Nature of business to be conducted and a brief description of the goods offered and any services offered.
6. Names, addresses, and phone numbers of suppliers of articles to be sold

and proposed method of delivery of goods, if applicable.

7. Make, model, license number and state, color, and year of any vehicle to be used by applicant in the conduct of his or her business.

8. Last cities, villages, or towns, (not to exceed three (3)), where applicant conducted similar business.

9. Place where applicant can be contacted for at least seven (7) days after leaving Village.

10. Name and addresses of last two (2) Brown County property owners who can vouch for said applicant.

11. Date license is required. The dates must be consecutive dates. A new application and license is required for each occasion.

12. Hours business will be conducted.

13. Statement as to whether applicant has been convicted of any crime or ordinance violation other than a traffic violation, the nature of the offense, and date of conviction.

14. Signature of applicant.

15. Date of application.

(b) Applicants shall present to the Clerk for examination:

1. A driver's license or some other proof of identity as may be reasonably required by the Clerk.

2. A State of Wisconsin certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by State of Wisconsin authorities.

3. A State of Wisconsin health officer's certificate where applicant's business involves the handling of food or clothing, and is required to be certified under State of Wisconsin law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not

more than ninety (90) days prior to the date of application for license is made.

(c) At the time the registration is returned, an investigative fee, as listed on the schedule of fees in the office of Clerk, shall be paid to the Clerk to cover the costs of processing said registration. Religious and charitable organizations are exempt from paying said fee.

1. The applicant shall sign a statement appointing the Clerk his or her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with direct sales activities of the applicant in the event the applicant cannot, after reasonable effort, be served personally.

2. Upon payment of said fee and the signing of said statement, the Clerk shall register the applicant as a direct seller and date the entry. Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in sub. (5)(b) below, or forfeiture as provided in sub. (8) below.

(5) Investigation: Granting or Denial of License.

(a) Upon receipt of a completed registration form, the Clerk shall immediately refer it to the Police Department and/or Brown County Sheriff Department to make an investigation. The Police Department, Brown County Sheriff or his or her designee shall complete the investigation and file a report with the Clerk within seventy-two (72) hours.

(b) The Clerk shall refuse to issue a license to the applicant for any of the following reasons:

1. The application contains any material omission or materially inaccurate statement.

2. The applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the

applicant's fitness to engage in direct selling or solicitation.

3. The applicant failed to comply with any applicable provision of Par. 4(b) above.

4. If as a result of the investigation required under this section, the applicant's business or character are found to be unsatisfactory, the Police Department, Brown County Sheriff or his or her designee shall endorse on said application his or her disapproval and his or her reasons for the same and return the application to the Clerk who shall notify the applicant that his or her application was not approved and no license will be issued.

(c) In the event the Clerk shall refuse to issue the applicant a license, the Clerk shall provide the applicant an opportunity to refute said reasons for denial of the license. After the Clerk has made a final determination, he or she shall either issue the license or provide the applicant with written reasons for refusing to issue the license.

(d) Any person denied application for a license may appeal the denial through the appeal procedure provided by Wis. Stats. Ch. 68.

(6) Registration and Issuance of License.

(a) Upon compliance with the forgoing requirements and filing of a bond, if applicable, the Clerk shall register the applicant as a direct seller, transient merchant or solicitor and issue a license to the applicant. The license shall be operative only during the days requested on the registration form.

(b) Such license shall contain the signature of the Clerk, the name and address of direct seller, transient merchant or solicitor, the type of goods or services being sold or the nature of the solicitation, the dates during which the license is operative and the license number of any vehicle used for sales or solicitation.

(c) Registrants shall exhibit their license at the request of any citizen or police officer.

(d) Every applicant who intends to take sales orders and down payments for the later delivery of goods and services and is not a resident of Brown County, Wisconsin, or who is such a resident and represents a business or organization whose principal place of business located outside the State of Wisconsin, shall file with the Clerk a surety bond. The bond shall be for a term of one (1) year from the date of issuance of the license, naming the Village in the amount of one thousand dollars (\$1,000) conditioned that the applicant comply with all applicable ordinances of this Village and statutes of the State of Wisconsin regulating peddlers, canvassers, solicitors and transient merchants. Such bond shall guarantee to any citizen of this Village that all money paid as a down payment will be accounted for and applied according to the representations of the seller and that the property purchased will be delivered according to the representations of the seller. Action on such bond may be brought by the person aggrieved and for whose benefit, among others, the bond is given. The surety may, pursuant to a court order, pay the face amount of the bond to the Clerk of Courts in which suit is commenced and be relieved of all further liability.

(7) Regulation of Direct Sellers.

(a) Prohibited Practices.

1. A direct seller shall be prohibited from calling at any dwelling or other place between the hours of 7 p.m. and 9 a.m., except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers", "No Solicitors", or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

2. A direct seller shall not represent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his or her visit, his or her identity or the identity of the organization he or she represents. A charitable or religious organization direct seller shall specifically disclose what portion of the free donation or the sale price of goods being offered will actually be used for the charitable or religious purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.

3. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

4. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred foot (100') radius of the source.

5. No direct seller shall allow rubbish or litter to accumulate in or around the area in which he or she is conducting business.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his or her name, the name of the company or organization he or she is affiliated with, if any, and the identity of goods or services he or she offers to sell.

2. If any sale of goods is made by the direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit of more than twenty-five dollars (\$25), or is a cash transaction, in accordance with the procedure as set forth in Wis. Stats. §423.203 and the seller shall give the buyer two (2) copies of a typed or printed notice of

that fact. Such notice shall conform to the requirements of Wis. Stats. §423.203(1)(a), (b), and (c); (2) and (3).

3. If the direct seller takes a sales order for the later delivery of goods, he or she, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount paid in advance, whether full, partial or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

(8) Records. The Village Police Department and/or Brown County Sheriff's Department shall report to the Clerk all convictions for violation of this section and the Clerk shall note any such violation on the record of the registrant convicted.

(9) Revocation of License.

(a) Any license issued under this section may be revoked by the Village Clerk after notice if the registrant made any material omission or materially inaccurate statement in the application for a license, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this section or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(b) The Clerk shall notify the licensee in writing of the revocation of license and provide the licensee with an opportunity for an appeal hearing. Written notice of the revocation shall be mailed to the permanent address shown on the registration form or shall be served personally on the registrant. The licensee can appeal such revocation to the Village Board upon written request within thirty (30) days of such revocation. Upon receipt of a written request for an appeal hearing, the licensee shall be given notice of such hearing, which shall be not

more than twenty (20) nor less than five (5) business days after receipt of the written appeal request, except as otherwise agreed between the parties. If the licensee does not request a hearing within the time provided, the license shall remain revoked.

5.04 ALCOHOL BEVERAGES.

(1) State Statutes Adopted. In addition to those state statutes adopted in 11.72 of said Code of Ordinances, the provisions of Wis. Stats. Ch. 125, defining and regulating the sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made part of this section by reference. A violation of any of such provisions shall constitute a violation of this section.

(2) Licenses, Permits, Authorization Required.

(a) *When Required.* Except as provided by Wis. Stats. §125.06, no person shall, within the Village, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Wis. Stats. Ch. 125, requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See Wis. Stats. §125.04(1).

(b) *Separate License Required for Each Place of Sale.* Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See Wis. Stats. §125.04(9).

(3) Classes of Licenses and Fees. The following classes and dominations of licenses may be issued by the Clerk under the authority of the Board upon compliance with the law and payment of the fee herein specified, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced state

statute. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

(a) *Class A Fermented Malt Beverage Retailer's License.* See Wis. Stats. §125.25.

(b) *Class B Fermented Malt Beverage Retailer's License.* See Wis. Stats. §125.26.

1. Six (6) months. A Class "B" license may be issued at any time for six (6) months in any calendar year, for three-quarters (3/4) of the applicable license fee. Such license shall not be renewable during the calendar year in which issued. See Wis. Stats. §125.26(5).

2. Picnic. See Wis. Stats. §125.26(6).

(c) *Wholesaler's Fermented Malt Beverage License.* May not exceed twenty-five dollars (\$25) per year or fraction thereof. See Wis. Stats. §125.28.

(d) *Retail Class A Liquor License.* See Wis. Stats. §125.51(2).

(e) *Retail Class B Liquor License.* A Retail Class B liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed four (4) liters at any one time to be consumed off the licensed premises. See Wis. Stats. §125.51(3).

(f) *"Class C" Wine Licenses.* May sell wine by the glass or in an opened original container for consumption on the premises where sold. "Class C": wine licenses may be granted to an applicant only if:

- the applicant meets the qualifications set out in §125.04(5) for other retail licenses;
- the license is for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts; and
- wine is the only intoxicating liquor sold in the barroom. §125(3m), Stats. The annual fee for renewal of a wine license is the fee set from time to time by resolution of the Board.

1. A license may be issued after July 1 in any license year which shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions of months remaining until the following June 30.

2. The fee for such license shall be fifty percent (50%) of the annual license fee. The license may not be renewed during the calendar year in which issued. See Wis. Stats. §125.51(9).

(g) *Operator's License.* See Wis. Stats. §125.17.

1. Operator's licenses may be granted to individuals by the Board for the purposes of complying with Wis. Stats. §125.32(2) and Wis. Stats. §125.68(2).

2. Operator's licenses may be issued only on written application on forms provided by the Clerk.

3. Operator's licenses shall be valid for one (1) or two (2) years and shall expire on June 30 of each year or on June 30 of the second year after issuance.

(h) *Provisional Operator's License.*

1. The applicant shall submit an operator's license application, showing proof of registration for the bartender's awareness course that has been approved and complies with Wis. Stats. §125.04 and §125.17 and must pay the annual fee as provided in Section 5.01 of this chapter.

2. The applicant is then issued a provisional license for sixty (60) days and is informed that they must complete the course within sixty (60) days. Upon completion, the applicant must return the certification of completion and is then issued the permanent license.

3. If the applicant does not complete the course within the sixty (60) day period, the provisional license will expire. The applicant may then apply for another provisional license, following the same requirements as provided above and again pay the fee. Only two (2) provisional

licenses will be issued during one calendar year.

(i) *Manager's License.* See Wis. Stats. §125.18.

(j) *Reserve "Class B" Intoxicating Liquor Licenses.* The fee for a reserve "Class B" intoxicating liquor license as defined by Wis. Stats. §125.51(4)(a)4 shall be ten thousand dollars (\$10,000) for initial issuance except that the fee for the initial issuance of a reserve "Class B" intoxicating liquor license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in Section (a) for such a club or lodge. The fee established in this subdivision is in addition to any other fee required under this section. The annual fee for renewal of a reserve license is the fee set from time to time by resolution of the Board.

(4) Economic Development Grants.

The Village finds that it is in the interest of public welfare to increase the property tax base, provide employment opportunities, attract tourists, and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.

(a) After the granting of any new reserve "Class B" intoxicating liquor license and payment of the ten thousand dollars (\$10,000) initial issuance fee, the applicant may file an application for an economic development grant of ten thousand dollars (\$10,000) with the Clerk.

1. The Clerk shall determine whether the licensee is operating in compliance with the approved license.

2. The Clerk may require the assistance of any other Village agency in making said determination.

3. If the Clerk determines that the licensee is so operating, the Clerk shall deliver the finding to the Board. If the Clerk determines that the licensee is not in

compliance with the approved license, no economic development grant may be authorized and the Clerk shall make such finding in writing and cause to be delivered a copy of the findings to the licensee.

4. If the licensee disagrees with the Clerk's determination, the licensee may file a written notice of appeal upon the Clerk within ten (10) calendar days of the delivery of the written notice of the Clerk's findings.

a. Upon receiving such notice from the licensee, the Clerk shall relay said notice to the Board which shall hold a hearing thereon.

b. The Board may affirm or reverse the Clerk's determination. If the Clerk's determination is upheld, appeal thereof may be taken to circuit court pursuant to Wis. Stats. §753.04. If the Clerk's determination is reversed, the Board shall authorize the payment of the economic development grant.

(5) License Application.

(a) *Form.* Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue and filed with the Clerk at least fifteen (15) days prior to issuance. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall.

(b) *Application to be Notarized.* The application shall be signed and sworn to by the applicant as provided by Wis. Stats. §887.01.

(c) *Publication.* Prior to the issuance of a license under this section, the Clerk shall publish notice of the application in the official Village newspaper.

(d) *List of Licensees.* By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list

containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager's or operator's license.

(6) License Restrictions.

(a) *Statutory Requirements.* In addition to the requirements imposed by provision of Wisconsin Statutes adopted by reference in Sec. 5.04(1) of the Suamico Village Code of Ordinances, the following restrictions shall apply to the issuance of licenses or permits pursuant to this section:

(b) *Location.*

1. No retail "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred feet (300') from the main entrance of any established public school, parochial school, hospital, or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to the premises covered by the license.

2. This paragraph shall not apply to premises licensed as such on or before June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred feet (300') thereof by any school, hospital or church building.

(c) *Violators of Liquor or Beer Laws or Ordinances.* No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this section or whose license has been revoked under Wis. Stats. §125.12, during one (1) year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one (1) year.

(d) *Health and Sanitation Requirements.* No retail Class B license shall be issued for any premises which does not conform to the

sanitary, safety and health requirements of the State Department of Industry, Labor and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services (departments have been shuffled) applicable to restaurants and to all such ordinances and regulations adopted by the Board.

(e) *License Quota.* The number of persons and places that may be granted retail Class B liquor licenses under this section is limited as provided in Wis. Stats. §125.51(4).

(f) *Corporations.* No corporation organized under the laws of this state, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of Wis. Stats. §125.04(6).

(g) *Age Requirement.* No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of eighteen (18).

(h) *Effect of Revocation of License.* Twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

(i) *Delinquent Taxes, Assessments and Claims.* No license or license renewal shall be issued for any premises or person for which taxes, assessments or other claims of the Village or the State of Wisconsin are delinquent and non-paid. Included within the definition of delinquent taxes, delinquent assessments or other delinquent payments due the Village shall be any delinquency (unpaid) for special assessments, personal property taxes, real estate taxes, motel or hotel taxes, failure to pay any adjudicated fines or penalties, failure to pay any fees or monies due to the Village of any kind or nature, etc.

(j) *Issuance for Sale in Dwellings Prohibited.* No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

(k) *Minimum Period of Operation.* No Class B alcohol beverage license shall be issued or renewed for a business which does not operate at least one hundred four (104) days during the license year.

(l) *Inspection of Application and Premises.* The Clerk shall notify the Police Department, Fire Department and Building and Housing Inspector of all license and permit applications, and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. No license or permit provided for in this section shall be issued without the approval of a majority of the Board.

(m) *Search of Licensed Premises. Cooperation Required with Lawful Police Investigation.* It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the Village without any warrant, and the application for a license hereunder shall be deemed to consent to this provision. Any refusal to permit such inspection or refusal to cooperate with any lawful police investigation shall automatically operate as a revocation of any license hereunder and shall be deemed a violation of this section.

(n) *Safety and Sanitation Requirements.* Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(7) Form and Expiration of Licenses.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided by law. The Clerk shall affix his or her affidavit as required by Wis. Stats. §125.04(4).

(8) Transfer of Licenses.

(a) *As to Person.* No license shall be transferable as to licensee except as provided by Wis. Stats. §125.04(12).

(b) *As to Place.* Licenses issued pursuant to this section may be transferred to another premise once during any license year as provided in Wis. Stats. §125.04(12). Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be ten dollars (\$10).

(9) Posting and Care of Licenses.

Every license or permit required under this section shall be framed and posted and at all times displayed as provided in Wis. Stats. §125.04(10). No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license. Any licensee or permit holder who fails to post his license or permit as therein required shall be presumed to be operating without a license.

(10) Regulation of Licensed Premises and Licensees.

(a) *Gambling and Disorderly Conduct Prohibited.* Each licensed and permitted premises shall at all times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or gambling (except as provided by state law) shall be allowed at any time on any such premises.

(b) *Employment of Underage Person.* No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.

(c) *Sales by Clubs.* No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(d) *Safety and Sanitation Requirements.* Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(e) *Permitted Cups or Cans Only.* Intoxicants will be sold outdoors only in foam or plastic cups or cans. The use of glass bottles is prohibited, except for catered events as defined in Chapter 5.08(10).

(f) *Solicitation of Drinks Prohibited.* Any licensee, permittee, or bartender of a retail alcohol beverage establishment covered by a license or permit issued under Wis. Stats. Ch. 125, who permits an entertainer or employee to solicit a drink of any alcohol beverage as defined in Wis. Stats. §125.02(1) or any other drink from a customer on the premises, or any entertainer who solicits such drinks shall be deemed in violation of this section.

(g) *Open Containers.* A licensee or person in charge shall not allow the sale, service or consumption of alcohol beverages in open containers outside the licensed premises.

(h) *Outdoor Areas.*

1. New Applications. An application for a license pursuant to this chapter may include an outdoor area in the proposed premises. The inclusion of the outdoor area in the licensed premises shall be subject to review in the same manner as any other license application and the restrictions provided in this section.

2. Amendment. A licensee may apply to amend a licensed premises to include an

outdoor area. The request shall be filed with the Clerk no less than thirty (30) days prior to the first date of use of the outdoor area. The application for amendment shall be subject to review in the same manner as any other license application, inspection by the Building Inspector and Police Department, and the restrictions provided in this chapter.

3. Physical Requirements.

a. Outdoor Areas that Directly Abut Adjoining Residentially Zoned Properties Must:

1. Provide for a twenty foot (20') buffer between the limits of the outdoor premises and the adjoining residential lot.

2. Provide an approved privacy fence at least six feet (6') in height either surrounding the outdoor premises or extending along the property line of the premises a minimum of thirty feet (30') beyond the outdoor premises.

b. Patios and Decks.

1. A licensed outdoor area must:

i. be immediately adjacent to the indoor portion of the licenses premises.

ii. have been reviewed and approved by the Design Review Committee if installed after January 1, 2007.

iii. reasonably contain occupants to the licensed area.

2. All service shall be limited to persons seated at tables.

3. All service shall be discontinued by 10 p.m. and premises vacated by 10:30 p.m. (discontinued by 10:30 p.m. and premises vacated by 11:00 p.m. on Friday and Saturday only) except for the owner and regular employees of the licensed premises for the purpose of cleaning up.

4. Music may be broadcast directly into the outdoor area by means of outdoor speakers, jukeboxes, or other devices at a reasonable level until 10 p.m. (until 11 p.m. on Friday and Saturday).

5. The outdoor premises shall be used only for serving food and alcohol.

6. All lighting must be shielded and not be of an intensity or brilliance to create glare which is distracting to adjoining properties or can become a hazard or danger to vehicular traffic.

7. The outdoor premises must have provisions to limit the risk of vehicular traffic from entering area.

c. Beer Gardens/Outdoor Service Area.

A beer garden is defined as an enclosed area with specially marked entrances and exits. In addition to the provision of Section 5.04 (10) (h) 3.b. above, no person shall possess, sell, or offer for sale any alcohol beverages in any parking lot or any other open area for any special event unless a temporary beer garden is established in accordance with the following provisions.

1. Fencing.

i. Erect an enclosed area consisting of a fence or wall not less than six feet (6') in height or with two (2) temporary fences not less than four feet (4') in height and spaced six feet (6') apart. No fence which defines a temporary beer garden area shall be located closer than five feet (5') away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beer garden.

ii. Obtain a specific waiver of the fencing requirements contained within Section 5.04 (10) (h) 3.c.1.i. from the Board. The request shall be submitted upon a form provided by the Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Board may grant or deny, in whole or part, or may grant subject to conditions the waiver requested.

2. Noise. No musical instruments, radios, juke boxes, or other means of electric sound amplification may be used or operated in a licensed outdoor area after 10 p.m., (11

p.m. on Friday and Saturday), unless an exception has been granted pursuant to Suamico Village Ordinances.

4. Unlicensed Outdoor Area. An unlicensed outdoor area is subject to and used in conjunction with the licensed premises and shall not be used for the purpose of serving or consuming alcoholic beverages.

5. License Responsibility. Any licensed outdoor area is subject to all regulations of this chapter and Wis. Stats. Ch. 125.

6. Maintaining Order. The licensee shall maintain peace and order over any outdoor area adjacent to and used in conjunction with a licensed premises whether or not said outdoor area is licensed. Violation of this section may result in the Police Department exercising its authority under Chapter 5.04(10)(i) of the Suamico Code of Ordinances, and ordering any outdoor premises or the entire area closed in the public interest.

(i) Disorderly House.

1. Duty to Maintain Order. A licensee under this section shall have a duty to maintain peace and order in and around the licensed premises. This duty shall extend to and include any adjacent parking lot or facility adjacent to and servicing the licensed premises.

2. Police Power to Close Licensed Premises. The Police Department may order any disorderly house closed until 8 a.m. the following day when, in reasonable view of the department, the licensee or person in charge failed to maintain peace and order as per Section 5.04 (10) (i) 1. of this section, or the department otherwise believes that the public peace and safety is served by such closing by reason of threat to bodily security, property, or peaceful repose of any member of the general public.

(11) Closing Hours. The Village hereby adopts Wis. Stats. §§ 125.32(3) and 125.68(4), and any future amendments,

relating to closing hours for Class “A”, Class “B” “Class A”, “Class B” and “Class C” sales of fermented malt beverages and intoxicating liquor.

(12) Revocation and Suspension of Licenses; Non-Renewal.

(a) *Procedure.* Whenever the holder of any license under Chapter 5.04 violates any portion of this Code of Ordinances, Brown County Code of Ordinances, Wisconsin statutes, or federal law, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section and Wis. Stats. §125.11 and §125.12.

(b) *Abandonment of Premises.*

1. Grounds for Cancellation for Nonuse of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor Licenses granted under this chapter for which the subject premises:

a. Is not open for business within ninety (90) days of granting of such license; or

b. Is not open for business for a period of ninety (90) consecutive days or more; or

c. Is not open for business at least fifty percent (50%) of the days within any twelve (12) month period, either within a licensing year or overlapping two (2) licensing years may be cancelled unless, after notice and hearing as provided in Section (2) thereof, the Board may determine that good cause exists for failure of the licensee to be open for business for periods in excess of the minimums set forth in this Section. If such cause is found to exist, the Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a timeframe within which the subject premises must open for business to avoid cancellation of the subject license(s).

2. Notice and Hearing. Prior to cancellation of any license, the Clerk shall notify the licensee in writing of the Village’s intention to cancel the license for nonuse

and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than fifteen (15) days after the date of the notice. Such hearing shall be conducted as provided in accordance with Wis. Stats. §125.12(2)(b), any amendments thereto. Judicial reviews shall be as provided in Wis. Stats. §125.12(2)(d), or any amendments thereto.

(c) *License Revocation, Suspension or Non-Renewal.*

1. Notice and Hearing. Whenever a person holding a license to sell alcoholic beverages has failed to maintain the premises according to standards prescribed for sanitation, or in whose premises persons are permitted to loiter for purposes of prostitution, or when the licensee has not observed and obeyed any lawful order of the Board or police officers of the Village, has violated Village ordinances, Brown County ordinances, Wisconsin statutes, federal law, or for any other good reason, the Board shall issue a summons to be signed by the Clerk commanding the licensee complained of to appear before the Board on a day and time and at a place named in the summons to show cause why the license should not be revoked, suspended or not renewed. In addition, any resident may file a sworn, written complaint with the Clerk. Such summons shall be served not less than three (3) and not more than ten (10) days before the time at which the licensee is commanded to appear and may be served personally upon the licensee or the agent of the licensee or upon the person in charge of the licensed premises.

a. The complaint shall be served with the summons and shall set forth the offenses allegedly committed, the date and place of said offense and the facts constituting the alleged offense. If such licensee shall not appear as required by the summons, the complaint shall be taken as true, and if the

Board deems its allegations sufficient, the Board shall recommend revocation, non-renewal or suspension of the license as provided herein.

2. Procedure on Hearing; Effect of Revocation. The President shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Wis. Stats. §227.08 shall be followed. The complainant shall have the burden of proving the charges to a preponderance of the evidence. The licensee and the complainant may be represented by counsel, may call and examine witnesses and cross-examine witnesses of the other party. All proceedings and testimony shall be recorded on tape. If either party requests a stenographic recording and transcription, the Village shall make the necessary arrangements, but the expenses shall be borne by the requesting party. The Clerk shall serve as secretary to the Board and shall make and receive all exhibits admitted into the record. The Board, upon the testimony and evidence presented at the hearing, shall determine by simple majority vote of those present whether the charges are true or not.

a. If the vote is to suspend the license, it shall be for a period of not less than ten (10) days or more than ninety (90) days. Following the procedure above, the recommendation may be to revoke the license.

b. If the Board determines that the charges are not substantiated, the complaint shall be dismissed without cost to either party. The Board's action shall be recorded by the Clerk. If the complaint is found to be true, the licensee shall pay the Village the actual cost of the proceedings. If the complaint is found by the Board to be malicious and without probable cause, the complainant shall pay the costs of the proceedings in the same amount.

c. When a license is revoked, it shall be so entered on record by the Clerk and no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation, nor shall any part of the money paid as application fee for any license so revoked be refunded.

3. Point Schedule. Upon conviction by any Municipal Court, or other court of competent jurisdiction, a wholesale, retail operator's license, or any alcohol related license or permit shall be awarded demerit points as follows: fifty (50) demerit points for each violation.

a. Upon conviction, demerit points shall be awarded retroactive to the date of the violation. For demerit points up to fifty (50) within a twelve (12) month period, a warning to the licensee of the consequences of additional violations shall be issued to the license holder. If one hundred (100) demerit points are accumulated in a twelve (12) month period, the Board shall suspend the license for a period of ten (10) days.

b. Upon conviction, demerit points shall be awarded retroactive to the date of violation. If two hundred (200) demerit points are accumulated in a twenty-four (24) month period, the Board shall suspend the license for a period of thirty (30) days.

c. Upon conviction, demerit points shall be awarded retroactive to the date of violation. If two hundred fifty (250) demerit points are accumulated in a thirty-six (36) month period, the Board shall suspend the license for a period of ninety (90) days.

d. Demerit points are accumulated for each wholesale, retail, or operator's license as results from conviction for a municipal code violation or a state law violation under the terms and conditions of this Chapter. The actual demerit points are assessed upon entry of judgment and either expiration of the appeal period thereafter or the expiration of any appeal, and where the results of the

appeal sustain the Village's conviction of the holder of the wholesale, retail or operator's license.

e. Each wholesale, retail or operator's license issued under this chapter shall stand revoked without further proceedings upon any conviction in Municipal Court or any other court of competent jurisdiction (and no reversal thereof upon appeal) of either the licensed holder or any employee, or agent or representative thereof, resulting in an accumulation of three hundred (300) demerit points within a forty-eight (48) month period, or for similar violations and subsequent convictions of Wis. Stats. Ch. 125 or 139, or any other federal or state liquor or fermented malt beverage law. Any violation and subsequent conviction by the holder of the wholesale, retail or operator's license, or an offense under Wis. Stats. Ch. 125 or 139, or any other federal or state liquor or fermented malt beverage law, shall be considered a violation and conviction under this section and shall result in the accumulation of demerit points.

(d) *Other Provisions.* Any license issued pursuant to Section 5.04 shall be subject to such further regulations and restrictions as may be imposed by the Board by amendment to this section or by the enactment of new ordinances. If any licensees shall fail or neglect to meet the requirements imposed by such new restrictions and regulations, his or her license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

(e) *Effect of Revocation of License.* Whenever any license issued under Section 5.04 has been revoked, at least four (4) months from the time of such revocation

shall elapse before another license shall be issued under Chapter 5.04 for the same premises and twelve (12) months shall elapse before another license shall be issued under Section 5.04 to the person whose license was revoked.

(f) *Repossession of License or Permit.* Whenever any license or permit under this section shall be revoked or suspended by the Board or President or action of any court or Par. (d), it shall be the duty of the Clerk to notify the licensee or permit holder of such suspension or revocation and to take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.

(13) Violations by Agents and Employees. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

5.05 BLOCK PARTY PERMITS. Local residential streets may be temporarily closed for purposes of conducting block parties, upon written approval of one hundred percent (100%) of the adult landowners abutting that portion of the street sought to be closed.

(1) Permit Required. Applicants requesting a street closure for this purpose shall obtain a permit from the Clerk.

(a) After receiving permit application and validating names and addresses of adult residents abutting the portion of the street sought to be closed, the Clerk will forward permit application to the Director of Public Works for his or her approval.

(b) If approved by the Director of Public Works, the original is forwarded to the Clerk to be placed on file at the Village Office. A copy is to be given to the applicant. A copy will also be forwarded to the Police Department and Fire Department.

(c) As directed by the Director of Public Works, proper warning signs shall be placed

upon any portion of the Village street permitted to be closed herein.

(d) The permit must be obtained at least fifteen (15) days prior to the scheduled event and is only valid on dates and times stated on permit. The street must be accessible for emergency vehicle use.

(e) The applicant is liable for all costs of repairs to Village streets and/or property resulting from the block party, and will be billed for these costs. The applicant will barricade the block party site as required by the Director of Public works and is liable for all damages for failure to erect and maintain suitable barricades.

(f) Applicant must submit a rental fee for each barricade, fee as set from time to time by resolution of the Board. Only barricades supplied and approved by the Director of Public Works can be used and must be returned to Public Works within three (3) business days after party.

(g) The applicant must show proof of liability insurance at time of application for dates, location, and times of block party with the following: Limits of liability shall not be less than: bodily injury liability - not less than five hundred thousand dollars (\$500,000) each occurrence, property damage liability – not less than one hundred thousand dollars (\$100,000) each occurrence. The sponsoring party shall indemnify and hold harmless the Village for any and all damage or liability whatsoever occasioned within the described premises.

5.06 PARADES.

(1) Definitions.

(a) *Parade.* Any parade, march, run, walk, ceremony, show, exhibition, pageant, or procession, or any similar display, in or upon any street, park, or in a public place in the Village.

(b) *Parade Permit.* A permit required by this section.

(c) *Person.* Any person, firm, partnership, association, corporation, company, or organization of any kind.

(2) **Permit Required.** No person shall participate in or form any parade unless a parade permit has been obtained from the Public Works Director or Police Department.

(3) **Exceptions.** This section shall not apply to:

(a) Funeral processions.

(b) Students going to and from school classes or participating in educational activities provided such conduct is under the immediate direction and supervision of the proper school authorities.

(c) A governmental agency acting within the scope of its functions.

(4) **Application.** A person seeking a parade permit shall file an application with the Clerk on the forms provided. The Clerk will then forward the application to the Police Department and Public Works Director.

(a) The applicant shall indemnify and hold harmless the Village for any damage, injury, or liability whatsoever occasioned within the described parade or as a result of said parade.

(b) The applicant is liable for all costs of repairs to Village streets and/or property resulting from the parade and will be billed for these costs.

(c) The applicant must show proof of liability insurance at the time of application for dates, location, and time of parade with the following: Limits of liability shall not be less than: bodily injury liability – not less than five hundred thousand dollars (\$500,000) each occurrence and property damage liability – not less than one hundred thousand dollars (\$100,000) each occurrence.

(d) The applicant shall also be responsible for any or all costs incurred by the Police Department or Public Works

Department as a result of the parade. The Police Department or Public Works Department can waive any or all costs to their respective department if such waiver would be in the best interest of the Village.

(e) *Filing Period.* An application for a parade permit shall be filed with the Clerk not less than forty-five (45) days or more than ninety (90) days before the date on which it is proposed to conduct the parade.

(f) *Contents.* The application for a parade permit shall set forth the following information:

1. The name, address, and telephone number of the person seeking to conduct such parade.
2. If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization.
3. The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct.
4. The date when the parade is to be conducted.
5. The route to be traveled, the starting point, and the termination point.
6. The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles.
7. The hours such parade will start and terminate.
8. A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed.
9. The location by streets of any assembly areas for such parade.
10. The time at which units of the parade will begin to assemble at any such assembly area or areas.
11. The interval of space to be maintained between units of such parade.

12. If the parade is designed to be held by, and on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the Clerk a communication in writing from the person proposing to hold the parade authorizing the applicant to apply for the permit as an agent.

13. Any additional information which the Public Works Director or Police Department finds reasonably necessary as to whether a permit should be issued.

(g) *Late Applications.* The Public Works Director, where good cause is shown, may consider any application which is filed less than forty-five (45) days before the date such parade is proposed to be conducted.

(h) *Fee.* The fee for any parade permit shall be as set from time to time by resolution of the Village Board. The fee shall be paid at the office of the Clerk at the time of application. No fee paid shall be refunded unless the permit is denied.

(5) Standards for Issuance. The Public Works Director shall issue a permit when, from a consideration of the application, after receiving approval from the Police Department, and from such other information as may otherwise be obtained, it appears that:

- (a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- (b) The conduct of the parade will not require the diversion of so great a number of police officers of the Village to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the Village.
- (c) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the Village other than that to be occupied by the proposed line of march and areas contiguous thereto.

(d) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas.

(e) The conduct of such parade will not interfere with the movement of police, rescue, or fire fighting equipment enroute to an emergency or call for service.

(f) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or create a disturbance.

(g) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays enroute.

(6) Notice of Rejection. The Public Works Director shall act upon the application for a parade permit within five (5) working days after filing thereof. If the Police Department or Public Works Director disapproves the application, a notice of such action stating the reasons for the denial of the permit shall be mailed to the applicant within seven (7) working days after the date upon which the application was filed.

(7) Appeal Procedure. Any person aggrieved may appeal the denial of a parade permit to the Board. The appeal will be scheduled on the next available Board meeting in which the applicant has an opportunity to be heard by the Board.

(8) Notice to Village and Other Officials. Immediately upon the issuance of a parade permit, the Clerk shall send a copy thereof to the following:

- (a) Police Department.
- (b) Fire Department.
- (c) County Rescue Service.
- (d) Public Works Director.

The Clerk shall keep the original copy of the parade permit on file at the Village office.

(9) Contents of Permit. Each parade permit shall state the following:

- (a) Name of permit holder.
- (b) Address and phone number of permit holder.
- (c) Date of parade.
- (d) Starting and ending time.
- (e) The maximum length of the parade in miles or fractions thereof.
- (f) A map showing the parade route listing all streets to be traversed.
- (g) Number of street barricades to be used.
- (h) Amount of street barricade deposit received.
- (i) Such other information as the Public Works Director or Police Department shall find necessary to the enforcement of this section.

(10) Duties of Permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(11) Possession of Permit. The parade chairperson or other person heading or leading such parade shall carry the parade permit upon the person during the conduct of the parade.

(12) Public Conduct during Parades.

(a) *Interference.* No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in a parade.

(b) *Driving through Parades.* No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) *Parking on Parade Route.* The Police Department or Public Works Director may prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of the parade. The Public Works Director shall post signs to such effect, and no person shall park or leave unattended any vehicle in violation thereof. No person shall be liable for

parking on a street unposted in violation of this section.

5.07 WEIGHTS AND MEASURES REGULATIONS.

(1) Application of State Codes.

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

(2) Appointment of Inspectors. In order to assure compliance with this section, the Village hereby grants the authority and duties of sealers and inspectors required by this section to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

(3) Definitions.

(a) Commercial Weighing or Measuring Devices. Devices used or employed in establishing the size, quantity, extent, area, or measurement of quantities, things, produce or articles for sale, hire, or award, or in computing any basic charge or payment for services rendered on the basis of weight, or measure.

(b) Weights and Measurers Program. The program that includes administration and enforcement of this section, Wis. Stats. Ch. 98, and applicable Wis. Adm. Code provision, and any related actions.

(4) Weights and Measures License Required.

(a) License Requirements. Except as provided in Subs. (b), no person shall operate, or maintain any commercial weighting, or measuring devices, or any other weights, and measures or systems and accessories related thereto which are used commercially within the Village for determining the weight, measure, or count unless each such device is licensed by an annual weights and measures license issued pursuant to the provisions of this section.

(b) Exemptions. Sales permitted at a farmers market, or sales permitted by direct sellers, transient merchants and solicitors are exempt from licensing under this section.

(5) Application for License. An application for a weights and measures license shall be made in writing on a form provided for such purpose by the Clerk and shall be signed by the owner of the commercial business, or by its authorized agent. Such applications shall state the type, and number of weighing and measuring devices to be licensed, location of the devices, the applicant's full name, and post office address, and whether such applicant is an individual, partnership, limited liability company, corporation, or their entity. If the applicant is a partnership, the application shall state the names, and addresses of each partner. If the applicant is a corporation, or limited liability company, the application shall state the name and address of all officers and agents of the applicant, including the registered agent thereof. The Clerk has the right to verify the number of measuring devices reported in the application by onsite visit of the business.

(6) Issuance of License and Fees. Upon compliance with this section, the Clerk shall issue a license to the applicant upon payment of an annual fee assessment (see Paragraph (7) below). Each business shall have one (1) license for operating within the Village.

(7) Fee Assessment.

(a) *Annual Fee.* The Board shall annually assign fees to each licensee based on the number and types of weighing and measuring devices licensed as of July 1 of each year. The total of the fees assigned and the fees collected shall not exceed the actual costs of the Weights and Measures Program.

(b) *Clerk to Prepare Fee Schedule.* The Clerk shall at least annually prepare a schedule of fees based on the following:

Total number
of devices
(Program Cost) X (number of
devices per applicant)

(c) *Failure to Pay Assessment.* If the assessed fee is not paid within thirty (30) days of the date of mailing of the invoice, an additional administrative collection charge of ten percent (10%) of the fee shall be added to the amount due, plus interest shall accrue thereon at the rate of one percent (1%) per month, or fraction thereof until paid. If the licensee is the owner of the real estate premises where the licensed weights and measures devices are located, any delinquent assessment shall be extended upon the current or the next tax roll as a charge against the real estate premises for current services, as provided in Wis. Stats. §66.60(16). No licenses shall be issued or renewed under this section if the licensee is delinquent in the payment of a fee assessed under this section.

(d) *Mailing of Notices.* Schedules, notices, and invoices shall be considered mailed to a licensee when mailed by first class mail, postage prepaid, to the licensee at the licensee's address as shown on the application form.

(e) *Change of Ownership.* If the ownership of a commercial business licensed under this section is transferred during a license year, the owner of the business as of July 1 of the license year shall be liable and responsible for the payment of the fees assessed under this section.

5.08 SPECIAL EVENTS. It is the purpose of the Board of Suamico to regulate the assemblage special events of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Village, in order that the health, safety and welfare of all persons in the Village, residents and visitors alike, may be protected.

(1) License Required.

(a) No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, or sell or give tickets to an actual or reasonably anticipated special event of two hundred fifty (250) people or more, whether on public or private property without a special event license.

(b) An alcohol beverage license holder that anticipates an event of any number that requires an amendment to the alcohol beverage license must also be issued a special event license. To hold an event the person or alcohol beverage license holder must have first completed an application issued by the Clerk and/or Police Department, application for which has first been issued at least thirty (30) days in advance of the special event. A license to hold a special event issued to one (1) person and/or alcohol beverage license holder shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly. An application for a one (1) day alcohol beverage license amendment for a special event can be obtained per Section 5.04 (10) (h) 2.

(c) As used in this chapter a special event assembly means a company of persons gathered together at any location at any single time for any purpose.

(d) The fee for each license shall be as set from time to time by resolution of the Board. In addition to the annual special

event license an additional fee may be charged for subsequent events for site inspection for events that comply with previously approved site plans.

(e) A license shall permit the special event assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to nor permit to assemble at the licensed location more than the maximum permissible number of people.

(f) The licensee shall not permit the sound of the special event to carry unreasonably beyond the enclosed boundaries of the location of the assembly and during the hours of operation, plans must be made to reduce the noise Sunday through Thursday after the hour of 10 p.m. until 7 a.m. and 11 p.m. until 7 a.m. on Friday and Saturday.

(g) This Code shall not apply to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for special events which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(h) This Code shall not apply to government-sponsored fairs or events held on regularly established fairgrounds nor to special events required to be licensed by other codes and regulations of the county and Village.

(2) Conditions for Issuing License.

Before an applicant may be issued a license, the applicant shall first:

(a) Determine the maximum number of people which can be assembled or admitted to the location of the special event assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the special event assembly and provided that, where the special event assembly is to

continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the special event assembly by the zoning or health ordinances of the County and of the Village, in which the special event assembly is to be located.

(b) Provide proof that he or she will furnish at his or her own expense before the special event assembly commences:

1. Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one (1) gallon per person per day and water for bathing at a rate of at least ten (10) gallons per person per day.

2. Toilets meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) people plus the appropriate number of handicapped accessible facilities. In the event that only one (1) unit is needed it shall be a handicapped accessible unit. An efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.

3. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of solid waste production of the maximum number of people to be assembled at a rate of at least two and a half (2½) pounds of solid waste per day, together with a plan for holding and a plan for collecting all such waste at least once per day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

4. Physicians and nurses adequate emergency medical services, licensed to practice in Wisconsin sufficient to provide the average medical care enjoyed by residents of Wisconsin for the maximum number of people to be assembled at the rate of at least one (1) physician for every one thousand (1,000) people and at least one (1) nurse for every one thousand five hundred (1,500) people, together with a designated area enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, with at least one (1) emergency ambulance available for use at all times.

5. If the special event assembly is to continue during the hours of darkness, illumination sufficient to light the entire area of the assembly at a rate of at least five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the special event.

6. A parking area inside of the special event grounds sufficient to provide adequate and safe parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons or additional adequate and safe offsite parking with written approval of property owner.

7. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one (1) separate line and receiver for each one thousand (1,000) persons. Cell phones are acceptable.

8. If the special event assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wis. Adm. Code and County or other local governmental Ordinances sufficient to provide camping accommodations for the maximum number of people to be assembled.

9. Security guards approved by the Police Department, either regularly employed, duly sworn, off-duty Wisconsin police officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at a rate of at least one (1) officer or guard for every two hundred fifty to five hundred (250-500) people. The Police Department may require additional numbers of security or police officers, depending upon the circumstances of the special event or type of special event.

10. Fire protection, including alarms, extinguishing devices, and fire lanes and escapes, sufficient to meet all state and local standards for the location of the special event assembly as set forth in the Wis. Adm. Code and Ordinances of this County and Village, and sufficient emergency personnel to efficiently operate the required equipment. The Fire Chief or his or her designee may require additional manpower or equipment if the circumstances of the special event require such.

11. All reasonably necessary precautions to insure that the sound of the special event assembly will not carry unreasonably beyond the enclosed boundaries of the location of the special event assembly.

12. Provide proof that applicant has commercial general liability insurance coverage covering applicant and its agents and invitees for any and all liability and naming the Village of Suamico as An Additional Named Insured with respect to the granting of this permit. Said coverage shall not be less than one million dollars (\$1,000,000) combined single limit for bodily injury and property damage.

(3) Application for Special Event License.

(a) Application for a license to hold an actual or anticipated special event shall be made in writing to the Clerk and/or Police

Department at least thirty (30) days in advance of such special event assembly.

(b) The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in case of a partnership or by all officers of an incorporated association, society or group or, if there be no officers, by all members of such association, society or group.

(c) The application shall contain and disclose:

1. The name, age, residence, and mailing address of all persons required to sign the application by Section 5.08 (2) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence, and mailing address of each person holding ten percent (10%) or more stock of said corporation.

2. The address and/or legal description of all property upon which the assembly is to be held together with the name, residence, and mailing address of the record owners of all such property.

3. Proof of ownership of all property upon which the special event assembly is to be held or a statement made upon oath or affirmation by the record owners of all such property that the applicant has permission to use such property for a special event.

4. The nature or purpose of the special event assembly.

5. The total number of days and/or hours during which the special event assembly is to last.

6. The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can be reasonably assembled

at the location of the special event assembly, in consideration of the nature of the special event assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the special event assembly by the Zoning Ordinances of the municipality if the special event assembly is to continue overnight.

7. The maximum number of tickets to be sold, if any.

8. The plans of the applicant to limit the maximum number of people permitted to assemble.

9. The plans for fencing the location of the special event assembly and the gates contained in such fence.

10. The plans for supplying potable water including the source, amount available, and location of outlets.

11. The plans for providing toilet and lavatory facilities including the source, number and location, type, and means of disposing of waste deposited.

12. The plans for holding, collection, and disposing of solid waste material.

13. The plans to provide for medical facilities including the location of the designated medical area and construction of a medical structure, names and addresses and hours of availability of physicians and nurses, and provisions for an emergency ambulance service.

14. The plans, if any, to illuminate the location of the special event assembly including the source and amount of power and the location of lamps.

15. The plans for parking vehicles including size and location of lots, points of highway access, and interior roads including routes between highway access and parking lots.

16. The plans for telephone service including the source, number, and location of telephones.

17. The plans for camping facilities, if any, including facilities available and their location.

18. The plans for security including the number of officers and/or guards, their deployment, and their names, credentials, and hours of availability.

19. The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.

20. The plans for sound control and sound amplification, if any, including number, location, and power of amplifiers and speakers.

21. The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.

22. The application shall include the bond required and the license fee.

(4) Issuance of License. The application for a license shall be processed within twenty (20) days of receipt and shall be issued if all conditions are complied with and a satisfactory site inspection by village staff has been done. Any violation of the conditions of the permit would result in no special events permits for said location being issued for the next six (6) months.

(5) Limitation on Number of Events. Unless the license is for a catered event as defined in Chapter 5.08(10), the Village shall limit the number of events per location to no more than four (4) events per calendar year.

(6) Revocation of License. The license may be revoked by the Clerk, Fire Chief, and/or Police Department at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any condition previously met ceases to be complied with.

(7) Enforcement.

(a) The provisions of this section may be enforced by injunction in any court of competent jurisdiction.

(b) Holding a special event assembly in violation of any provision or condition in this legislation shall be deemed a public nuisance and may be abated as such.

(c) Enforcement of this chapter shall be the responsibility of the Police Department. The Building Inspector, Health Officer, or Fire Department may enforce any provisions of this chapter relating to his or her position. Each day the violation exists shall be considered a separate offense.

(8) Denial of Permit. Reasons for denial of a special event permit include, but are not limited to:

(a) The event will disrupt traffic within the Village beyond practical solution.

(b) The event will create a likelihood of endangering the public.

(c) The event will interfere with access to emergency services.

(d) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents.

(e) The event will require the diversion of Village resources(s) that would unreasonably affect the maintenance of regular Village service levels.

(f) The application contains incomplete or false information.

(g) The applicant fails to provide proof of insurance.

(h) Inadequate provision for garbage or debris removal.

(i) Inadequate provision of temporary restroom facilities.

(j) Inadequate provisions for parking.

(9) License Denial, Appeal Procedure. Any license applicant under this section who is denied a license by the Clerk and/or Police Department, or his or her designee, shall have the right to appeal said denial.

(a) The applicant can appeal the denial within ten (10) days after receiving notice of denial.

(b) The applicant must file an appeal, in writing, within said ten (10) days with the Clerk and/or Police Department.

(c) Upon receipt of the appeal, the Clerk and/or Police Department shall forward it, within two (2) days (excluding Sundays and holidays), to the Board.

(d) The Board shall then schedule a public hearing concerning the appeal, which shall be held within twenty (20) days of receipt of notice of appeal by the Clerk and/or Police Department.

(e) The Board shall give the license applicant an opportunity to be heard at the appeal.

1. If the applicant desires, he or she may be represented at the hearing by counsel and may present witnesses in the applicant's behalf.

2. Within five (5) days of the hearing, the Board shall make a decision on the appeal and shall either uphold the denial of the Clerk and/or Police Department or shall issue a license if the Board feels a license is warranted.

3. If the Board issues a license, it may impose conditions on the license in the same manner the Clerk and/or Police Department could do so under this code.

4. If the applicant desires a verbatim transcript of the appeal hearing, the applicant may request one at the applicant's expense.

(10) Catering. A caterer holding a retail license may sell alcohol beverages, caterer as defined in Wis. Stats. §125.02(3r).

5.09 DOGS LICENSED. No person shall own, harbor or keep any dog within the Village unless the dog is licensed as provided by Wis. Stats. §174.05.

(1) Multiple Dog Permit. Any person wishing to keep more than three (3) dogs but

no more than four (4), may apply for a multiple dog permit on a form provided by the Clerk. There shall be no more than three (3) dogs at any residential address without a permit. In the case of individuals providing foster care for dogs on a temporary basis, more than four (4) dogs may be allowed, subject to the recommendation of the Village Humane Officer and approval by the Village Board.

(a) Information provided on the form shall include:

1. The name, age, and breed of each dog.

2. The Village license tag number of each dog currently licensed.

3. A copy of the lot layout with housing structures clearly indicated shall be supplied with the application.

4. The appropriate fee, as set from time to time by resolution of the Board, shall also accompany the application.

(b) Upon receipt of the application and the completion of any inspections that may be required, the Clerk shall present the permit application to the Board for review. The Board shall take into consideration lot size, number of dogs requested, and housing accommodations for the dogs when making their decision to grant the permit. The Board may set additional requirements as a condition of granting the permit.

(c) Dogs listed in the application for the permit must be considered pets only. Breeding of dogs and other activities specified in the definition of kennels in Section 18.03 of the Zoning Code must comply with that section of the code.

(d) An inspection of the premises by the Humane Officer shall be conducted after the permit application is submitted to the Clerk. The written report of the Humane Officer regarding property condition shall be considered by the Board in their decision to grant the permit.

(e) In addition to the multiple dog permit, all other regular individual licensing procedures apply.

(f) Permits shall be good for one (1) year from the date of issuance. They must be reapplied for annually and are subject to review.

1. Misuse of the permit may result in the immediate suspension of the permit.

2. Conditions for the reissuance of the multiple dog permit may be added by action of the Board at any time during the permit year.

(g) The fee for the permit shall be as set from time to time by resolution of the Board.

(h) The fine for failure to apply for the proper permit or to follow the conditions set in the permit by the Board may result in a fine as set from time to time by resolution of the Board.

5.10 SEXUALLY-ORIENTED BUSINESS.

(1) Purpose and Intent.

(a) It is the purpose and intent of this ordinance to regulate sexually-oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Village and to establish reasonable and uniform regulations to prevent any deleterious location of sexually-oriented businesses within the Village, thereby reducing or eliminating the adverse secondary effects from such sexually-oriented businesses including but not limited to preventing prostitution, sexual assault, criminal activity, depreciation of property values, health risks associated with sexually-transmitted diseases, and sexual abuse. These negative secondary effects have been established based on studies by the National Obscenity Law Center.

(b) The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the

content of any communicative materials, including sexually-oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.

(c) Further it is the intent of this ordinance to specifically exempt performances at civic centers, performing arts centers, dinner theatre specifically where dance, ballet and music and dramatic performances of artistic merit are offered on a regular basis.

(2) Definitions. "Sexually-Oriented Businesses" are those businesses defined as follows:

(a) *Adult arcade.* An establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(b) *Adult bookstore, adult novelty store, or adult video store.* A commercial establishment which has as a portion of its stock-in-trade or derives a portion of its revenues or devotes a portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are

characterized by the depiction or description of specified sexual activities or specified anatomical areas.

2. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(c) *Adult booth.* Any area of a sexually-oriented business set off from the remainder of such establishments by one (1) or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult material (visual or other representations intended for individuals aged eighteen (18) and older) or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

(d) *Adult cabaret.* A nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

1. Persons who appear nude or in a state of nudity or semi-nude.

2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(e) *Adult motel.* A motel, hotel or similar commercial establishment which:

1. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual

activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

2. Offers a sleeping room for rent for a period of time less than ten (10) hours.

3. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(f) *Adult motion picture theater.* A commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(g) *Adult theatre.* A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

(h) *Escort.* A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(i) *Escort agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip, or other consideration.

(j) *Massage parlor.* Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which

occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually-oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

(k) Sexual encounter establishment. A business or commercial establishment, that as one (1) of its primary business purposes offers for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually-oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically-approved and recognized sexual therapy.

(l) Adult material. Any of the following, whether new or used:

1. Books, magazines, periodicals, or other printed matter, or digitally-stored materials.
2. Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

3. Instruments, novelties, devices, or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

(m) Employee. A person who works or performs in and/or for a sexually-oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

(n) Establishment. Means and includes any of the following:

1. The opening or commencement of any such business as a new business.
2. The conversion of an existing business, whether or not a sexually-oriented business, to any of the sexually-oriented businesses defined in this chapter.
3. The addition of any of the sexually-oriented businesses defined in this chapter to any other existing sexually-oriented business.
4. The relocation of any such sexually-oriented business.

(o) Nudity or state of nudity.

1. The appearance of the human anal cleft, anus, male genitals, female genitals, or the areola or nipple of the female breast.
2. A state of dress which fails to opaquely and fully cover the human anal cleft, anus, male or female genitals, pubic region or areola or nipple of the female breast.

(p) Operator. Means and includes the owner, permit holder, custodian, manager, operator or person in charge of any premises.

(q) Person. An individual, proprietorship, partnership, corporation, association, or other legal entity.

(r) Semi-nude. A state of dress in which clothing covers no more than the genitals, pubic region, anal cleft, anus, as well as portions of the body covered by supporting straps or devices.

(s) *Sexually-oriented business.* An adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theater, massage parlor, sexual encounter establishment, or escort agency.

(t) *Specified anatomical areas.* As used in this division means and includes any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, the appearance of the anal cleft, anus, or areola or nipple of the female breast.
2. Human male genitals in a discernibly turgid state of sexual arousal, even if completely and opaquely covered.

(u) *Specified sexual activities and/or sexual activity.* As used in this ordinance mean and include any of the following:

1. Sexual Contact. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breast for the purpose of sexually arousing or gratifying either person;
2. Sexual Conduct. Vaginal intercourse between a male and a female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without the privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse;
3. Masturbation. Manipulation of genitals for sexual gratification.

(u) *Straddle Dance.* The use by any person, including specifically, but without limitation, a sexually-oriented business employee or agent, of any part of his or her body to touch the genitals, pubic region, buttock, anal cleft, anus, or female breast of any sexually-oriented business patron or any other person, or the touching of the genitals, pubic region, buttock, anal cleft, anus, or female breast or any person by any sexually-

oriented business patron. Conduct shall be a "straddle dance" regardless of whether the "touch" is direct or through a medium. Conduct commonly referred to by the slang terms "lap dance," table dance," couch dance," and "face dance" shall be included within this definition of straddle dance.

(3) Regulations Applicable to All Sexually-Oriented Businesses.

(a) *General Compliance.* All sexually-oriented businesses shall comply with the provisions of this ordinance, all other applicable Village ordinances, resolutions, rules, and regulations, and all other applicable federal, state, and local laws dealing with but not exclusively public nuisances, sexual conduct, lewdness or obscene or harmful matter in exhibition or public display thereof.

(b) *Hours of Operation.*

1. No sexually-oriented business shall be open for business between the hours of 10 p.m. and noon.
2. All adult establishments shall be open to inspection as all reasonable times by the Police Department and Code Enforcement Officer.

(c) *Restrooms.* All restrooms in sexually-oriented businesses shall comply with Zoning Ordinances of the Village Municipal Code (hereinafter "Municipal Code") and those adopted provisions stated by reference. No adult materials or specified sexual activity or performance shall be provided or allowed at any time in the restrooms of a sexually-oriented business. Separate male and female restrooms shall be provided for and used by sexually-oriented business employees and patrons.

(d) *Restricted Access.* No sexually-oriented business patron shall be permitted at any time to enter into any of the non-public portions of any sexually-oriented business, including specifically, but without limitation, any storage areas or dressing or

other rooms provided for the benefit of sexually-oriented business employees. This section shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the sexually-oriented business premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(e) Specific Prohibited Acts.

1. No sexually-oriented business patron or any other person at any sexually-oriented business, other than a sexually-oriented business employee employed to provide adult entertainment in accordance with the regulations in this ordinance, shall appear, be present, or perform while nude or semi-nude.

2. No sexually-oriented employee or agent shall appear, be present, or perform while in a state of nudity.

3. No sexually-oriented business employee or any other person at any sexually-oriented business shall perform or conduct any specified sexual activity with or for any sexually-oriented business patron or any other sexually-oriented business employee or any other person. No sexually-oriented business patron or any other person at any sexually-oriented business shall perform or conduct any specified sexual activity with or for any sexually-oriented business employee or any other sexually-oriented business patron or any other person.

4. Straddle dances shall be prohibited at all sexually-oriented business establishments.

(f) Exterior Display. No sexually-oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way,

or any property other than the lot on which the sexually-oriented business is located. No portion of the exterior of a sexually-oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner that describe, present or represent a specified sexual activity or specified anatomical part, except to the extent specifically allowed pursuant to Section 5.10 (3) (g) with regards to signs. This section shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show, and to any window, door, or other opening.

(g) Signage Limitations. All signs of sexually-oriented businesses shall comply with Zoning Ordinances of the Suamico Municipal Code. Signs otherwise permitted pursuant to this ordinance shall contain only:

1. The name of the sexually-oriented business.

2. The specific type of sexually-oriented business conducted on the premises.

(h) Noise. No loudspeakers or sound equipment audible beyond the sexually-oriented business's premises shall be used at any time.

(i) Manager's Station. Each sexually-oriented business shall have one (1) or more manager's stations. The interior of each sexually-oriented business shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one (1) manager's station to every part of each area, except restrooms, of the premise's interior to which any sexually-oriented business patron is permitted access for any purpose.

(j) Information Posting-Main Entrance. The operator of sexually-oriented business shall ensure there are conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any

information, brochures, or pamphlets supplied by the Health Department pertaining to sexually transmitted diseases, including HIV/AIDS.

(k) *Information Charges.* The Brown County Health Department shall charge its reasonable costs for supplying such posters, brochures, pamphlets, and other information supplied under this section.

(l) *Security.* During live performances, where fifty (50) or more patrons are expected or present, an operator shall ensure there is adequate and readily identifiable security personnel stationed near any room where performers dress or change clothing.

(m) *Age Limitations.* No person under the age of eighteen (18) shall be allowed to enter, remain, or be employed on the premises of a sexually-oriented business, nor be permitted to purchase or receive, whether for consideration or not, any sexually-oriented material/adult material or other goods or services at or from any sexually-oriented business.

(n) *Loitering and Exterior Lighting and Monitoring.* It shall be the duty of the operator to:

1. Not allow customers, patrons, or visitors to stand idly by in the premises of any sexually-oriented business.
2. Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually-oriented businesses are located.
3. Post conspicuous signs stating that no loitering is permitted on such property.
4. Designate one (1) or more employees to monitor the activities of persons on the premise by visually inspecting such property at least once every thirty (30) minutes or inspecting such property by use of video cameras and monitors.
5. Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Monitoring of the exterior of the

premises shall be done continuously at all times that the premises are open for business.

6. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(o) *Location:*

1. No adult establishment shall be located:

a. Within any zoning district other than I-2.

b. Within one hundred feet (100') of any daycare.

c. Within two thousand six hundred forty feet (2,640') of an existing adult establishment.

2. For purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another adult establishment, dwelling, school, church, daycare or establishment selling or dispensing fermented malt beverages or intoxicating liquor.

(4) Special Regulations for Adult Cabarets.

(a) *General Requirements.* A sexually-oriented business that regularly features persons who appear in a state of semi-nudity or live performances that are characterized by specified sexual activities shall be operated in accordance with the following regulations. It is unlawful for an adult cabaret operator to knowingly fail to ensure compliance with the regulations of this section and encompassing chapter.

(b) *Performance Area.*

1. A person shall not appear in a state of semi-nudity or engage in a live performance which is characterized by specified sexual activities except upon designated stages or platforms permanently anchored to the floor (a "cabaret stage").

2. Each cabaret stage shall be elevated above the level of, and separate from, the patron seating areas.

3. Each cabaret stage shall be elevated at least twenty-four inches (24") above floor level.

4. All parts of the cabaret stage, or a clearly designated area thereof within which the adult cabaret employee or agent appears in a state of semi-nudity or performs, shall be a distance of at least sixty inches (60") from all areas of the premises to which patrons have access.

5. A continuous barrier or railing, the top of which is at least forty-two inches (42") measured from the cabaret stage floor, shall separate each cabaret stage from all patron seating areas.

6. No adult cabaret patron shall be allowed at any time on a cabaret stage.

(c) Prohibited Acts. An adult cabaret employee or agent may not have sexual contact or engage in sexual conduct with a patron, nor may a patron have sexual contact or engage in sexual conduct with an employee or agent. A patron shall not place any money or consideration on the person or in or on the costume of an employee or agent of the sexually-oriented business.

(d) Lighting. Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret premise so that all objects are plainly visible at all times. A minimum lighting level of not less than ten foot (10') candles of light shall be maintained by the operator of the adult cabaret in all areas of the adult cabaret where patrons are admitted.

(e) Tipping. No adult cabaret patron shall offer, and no adult cabaret employee or agent performing on any cabaret stage shall accept, any form of tip or gratuity offered directly or personally to the employee or agent by the patron. Rather, all tips and gratuities for adult cabaret employees performing on any cabaret stage shall be

placed into a receptacle provided for receipt of such tips and gratuities by the adult cabaret business.

(f) Notice of Select Rules. A sign at least two feet (2') by two feet (2'), with letters at least one inch (1") high shall be conspicuously displayed on or adjacent to every cabaret stage stating:

"This adult cabaret is regulated by the Village. Entertainers are:

1. Not permitted to engage in any type of physical sexual contact with patrons or other individuals.

2. Not permitted to accept any tips directly or personally from patrons. Any such tips must be placed into the receptacle provided by management.

3. Not permitted to appear, be present, or perform in a state of nudity."

(g) Age Limitations. No adult cabaret employee or agent or patron at an adult cabaret or on premises used therefore shall be under the age of eighteen (18).

(5) Special Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

(a) Duties of the Operator. A person who operates or causes to be operated a sexually-oriented business, other than an adult motel, which exhibits on the premises in a viewing room(s) of less than one hundred (100) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. An operator shall provide the Building Inspection Department a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted.

a. Restrooms shall not contain video reproduction equipment.

b. A professionally-prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6").

c. If and when the diagram becomes outdated due to interior changes of the above-mentioned configurations, the operator shall notify the Building Inspector of the change and provide an appropriate addendum to the diagram.

2. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the diagram filed pursuant to Section 5.10 (5) (a) 1.

3. Interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than ten foot (10') candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied or open for business.

4. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity or sexual conduct occurs in or on the premises between patrons, between patrons and employees/operator or by any of the same individually.

5. It shall be the duty of the operator, and of any employees present on the

premises, to ensure that not more than one (1) person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

6. It shall be the duty of the operator, or of any employee who discovers two (2) or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.

7. It shall be the duty of the operator, or of any employee, who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing the openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

8. It shall be the duty of the operator, during each business day, to regularly inspect the walls between viewing rooms for openings of any kind.

9. It shall be the duty of the operator, and of any employee on the premises, to initiate and enforce a no loitering policy in all viewing rooms, cubicles or booth enclosures.

10. It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business, stating all of the following on each sign, in at least one inch (1") lettering:

a. No loitering is permitted in viewing rooms;

b. The occupancy of viewing rooms is limited to one (1) person;

c. Sexual activity or sexual conduct on the premises is prohibited;

d. The making of openings between viewing rooms is prohibited;

e. Violators will be required to leave the premises.

11. Each viewing room, booth or cubicle shall meet the following construction requirements:

a. Floor coverings in viewing rooms shall be nonporous, easily cleanable surfaces, with no rugs or carpeting.

b. Wall surfaces and seating surfaces in viewing rooms, or any room or area providing patron privacy is constructed of, or permanently covered by nonporous easily cleanable material.

c. Seating within a viewing room shall be designed to accommodate only one (1) person.

d. Viewing rooms, booths or cubicles shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall not less than six feet (6') high.

e. Have at least one (1) side totally open to a public lighted aisle and unobstructed by any door, lock or other control-type devices, so that there is an unobstructed view from a manager's station at all times anyone is occupying a booth, room, or cubicle.

f. The lighting level shall be a minimum of ten foot (10') candles at all times, as measured from the floor. If a lesser level of illumination in the aisles is 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 foot (1') candle of illumination in said aisles, as measured from the floor.

g. It shall be the duty of the operator to ensure that premises are clean and sanitary at all times.

h. The operator shall ensure there are conspicuously posted inside each booth, cubicle or viewing room an unmutated and undefaced sign, poster or equivalent supplied by the Health Department which contains information regarding sexually-transmitted diseases, and the telephone

numbers from which additional information can be sought.

i. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, including the interior of each viewing room but excluding restroom interiors, to which any patron is permitted access for any purpose. A manager's station shall not exceed 32 (thirty-two) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior shall be configured in such a manner that there is an unobstructed view from at least one (1) of the manager stations of each area of the premises to which any patron is permitted access. The view required in this paragraph must be by direct line of sight from the manager's stations. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is on the premises.

j. The operator shall ensure posted regulations concerning booth, cubicle or viewing room occupancy are labeled on signs, with lettering at least one inch (1") high, placed in conspicuous areas of the premise and in each of the viewing, booth, or cubicle enclosures. The Health Department shall charge its reasonable costs for supplying such posters, brochures, pamphlets, and other information supplied under this section.

k. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises to ensure that the view area from a manager's station, as specified in Par. (11) i. above, remains unobstructed at all times by any doors, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

12. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(6) Special Regulations for Adult Novelty Stores.

(a) Age Limitations.

1. No sexually-oriented business employee or patron at an adult novelty store shall be under the age of eighteen (18).

2. No person under the age of eighteen (18) shall be admitted to any adult novelty store.

3. No person under the age of eighteen (18) shall be allowed or permitted to remain in any adult store.

4. No person under the age of eighteen (18) shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult novelty store.

(7) Special Regulations for Adult Motels.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as the term is defined in this chapter.

(b) It shall be unlawful for a person who is in control of a sleeping room in a hotel, motel, or similar commercial establishment to rent or subrent a sleeping room to a person and within ten (10) hours from the time the room is rented, rent or subrent the same sleeping room again.

(c) For the purposes of Section 5.10 (7) *(b)*, the terms "rent" or "subrent" mean the act or permitting a room to be occupied for any form of consideration.

(8) Special Regulations for Adult Theaters.

(a) Seating. Each adult theater shall provide seating only in individual chairs

with arms or in seats separated from each other by immovable arms and not on couches, benches, or any other multiple person seating structures. The number of seats shall not exceed the maximum number of persons allowed to occupy the adult theater.

(b) Aisle. Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.

(c) Sign. Each adult theater operator shall post a conspicuous sign located at or near the main entrance of the adult theater that lists the maximum number of person who may occupy the theater at any one time, and this number shall not exceed the number of seats in the auditorium or viewing area of the adult theater.

(9) Nuisance Declared.

(a) Any sexually-oriented business established, operated, or maintained in violation of any the provisions or requirements of this ordinance shall be declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth in this ordinance or the Village's Municipal Code, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person(s) from establishing, operating, or maintaining a sexually-oriented business contrary to the provisions of this ordinance.

(10) License Required.

(a) Except as provided in Section 5.10 (10) *(d)*, from and after the effective date of this ordinance, no adult establishment shall be operated or maintained in the Village without first obtaining a license to operate issued by the Village.

(b) A license may be issued only for one (1) adult establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult establishment must have a license for each.

(c) No license or interest in a license may be transferred to any person, partnership, or corporation.

(d) All adult establishments existing at the time of the passage of this ordinance must submit an application for a license within ninety (90) days of the passage of this ordinance. If an application is not received within said ninety (90) day period, then such existing adult establishment shall cease operations.

(e) Application for License.

1. Any person, partnership or corporation desiring to secure a license shall make application to the Clerk. The application shall be filed with and dated by the Clerk. A copy of the application shall be distributed within ten (10) days of receipt thereof to the Police Department, the applicable Health Department, Building Inspection Division, Public Safety Committee, and Planning Department and to the applicant.

2. The application for a license shall be upon a form approved by the Clerk. An applicant for a license, which shall include all partners or limited partners of a partnership applicant, or all officers or directors of a corporate applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- a. Name and address, including all aliases.
- b. Written proof that the individual is at least eighteen (18) years of age.
- c. All residential addresses of the applicant for the past ten (10) years.
- d. The business, occupation, or

employment of the applicant for the ten (10) years immediately preceding the date of application.

e. Whether the applicant previously operated in this or any other state, county, or Village under an adult establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reasons therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

f. All criminal convictions, whether federal or state, or Village ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.

g. Fingerprints or two (2) portrait photographs at least two inches (2") by two inches (2") of the applicant.

h. The address of the adult establishment to be operated by the applicant.

i. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and all officers and directors of the corporation.

(f) Standards for Issuance of License.

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

- a. If the applicant is an individual:
 1. The applicant shall be at least eighteen (18) years of age.
 2. Subject to Wis. Stats. Ch. 111, the applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 3. The applicant shall not have been found to have previously violated this

ordinance within five (5) years immediately preceding the date of application.

b. If applicant is a corporation:

1. All officers, directors, and others required to be named under 5.10 (10) (e) 2 shall be at least eighteen (18) years of age.

2. Subject to Wis. Stats. Ch. 111, no officer, director, or other person required to be named under 5.10 (10) (e) 2 shall have been convicted of and/or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

3. No officer, director, or other person required to be named under Section 5.10 (10) (e) 2 shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.

c. If the application is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:

1. All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least eighteen (18) years of age.

2. No persons having a financial interest in the partnership, joint venture, or other type of organization shall, subject to Wis. Stats. Ch. 111, have been convicted and/or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

2. No license shall be issued unless the Police Department has investigated the applicant's qualifications to be licensed. The results of the investigation shall be filed in writing with the Clerk no later than thirty (30) days after the date of the application.

3. The applicable Health Department, Building Inspection Division and Planning Department shall inspect the premises proposed to be licensed to verify compliance with their respective codes and shall report compliance findings to the Clerk within thirty (30) days of the date of the application.

4. No license shall be issued unless the applicant provides proof of one (1) of the following:

a. Ownership of a property zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status.

b. A lease on a building which is properly zoned to house the venture. Proper zoning includes permissible non-conforming use status.

c. An option to purchase property which is properly zoned for the venture. Proper zoning includes permissible non-conforming use status.

d. An option to lease property which is properly zoned for the venture. Proper zoning includes permissible non-conforming use status.

(g) *Fees.* A license fee as adopted from time to time by resolution of the Board shall be submitted with the application for a license. Such fee shall be waived if the proposed adult establishment is operating under or has applied for an alcohol beverage license and has paid the alcohol beverage licensing fee thereunder.

(h) *Display of License or Permit.* The license shall be displayed in a conspicuous public place in the adult establishment.

(i) *Renewal of License or Permit.*

1. Every license issued pursuant to this ordinance will terminate on December 31 of the year it is issued, 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. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate and dated by the Clerk.

A copy of the application for renewal shall be distributed by the Clerk to the Police Department and the applicant. The application for renewal shall be upon a form provided by the Clerk and shall contain such information and date, given under oath or affirmation, as is required for an application for a new license.

2. A license renewal fee shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of five hundred dollars (\$500) shall be assessed against the applicant who filed for a renewal less than sixty (60) days before the license expires.

3. If the Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Clerk.

(j) Denial of Application.

1. Whenever an initial application is denied, the Clerk shall, within thirty (30) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of the notification of denial, a public hearing shall be held at the next regularly-scheduled meeting of the Board and no more than thirty (30) days after the denial of the application. The procedure before the Board shall be as set forth in Section 5.10 (10) (k) 2 below.

2. Failure or refusal of the applicant to give any information relevant to the investigation of the application or his or her refusal to submit to or cooperate with any investigation required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the Clerk.

(k) Suspension, Revocation, or Non-Renewal of License.

1. The license granted herein may be revoked or suspended for up to six (6) months or non-renewed by the Board as follows:

a. If the applicant has made or recorded any statement required by this section knowing it to be false or fraudulent or intentionally deceptive;

b. For the violation of any provision of this section, except for establishment license matters involving violations of Village codes, in which the license shall be revoked after the second (2nd) conviction thereof in any license year;

c. After one (1) conviction of any establishment personnel of an offense under Wis. Stats. Ch. 944, or of an offense against the person or property of a patron of the property or of an offense involving substances in Wis. Stats. Ch. 161 Sub. III, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

2. Notice and Hearing. No license shall be revoked, suspended, or not renewed by the Board except upon due notice and hearing to determine whether grounds for such action exists. Such hearing shall be held before the Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her behalf under subpoena by the Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing,

the Village shall submit a report including findings of fact and conclusion of law and a recommendation as to what, if any action to taken to the Clerk within thirty (30) days of the hearing. The Board shall provide the complainant and licensee with a copy of the report. The Board shall then file its findings of fact and conclusions of law with the Clerk.

Either the complainant or licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the Board. The Board shall determine whether arguments shall be presented orally or in writing, or both. If the Board, after arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided at Sub. (1) hereinabove. The Board shall decide the matter and shall prepare a written decision which shall be filed with the Clerk and a copy thereof delivered to the licensee and complainant within thirty (30) days after its decision and no later than sixty (60) days of the report appeal.

Any decision of the Board may be appealed to the Circuit Court of Brown County, State of Wisconsin for administrative review pursuant to Wis. Stats. Ch. 277.

5.11 PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS. Wis. Stat.

§134.71, is hereby adopted and, by reference, made a part of this chapter with the same force and effect as though fully set out herein notwithstanding the below subsections. Failure to comply with any of the provisions of this ordinance shall constitute a violation of this chapter, punishable according to the penalties set

forth in Section 5.99, Suamico Municipal Code.

(1) Article. Any item of value, excluding only motor vehicles, large appliances, furniture, books, and clothing other than furs.

(2) Reportable Transaction. Every transaction conducted by a pawnbroker, secondhand article and jewelry dealers in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

(a) The bulk purchase or consignment of new or used articles from a merchant, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.

(b) Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

(3) Secondhand Article Dealer. Any person, other than an auctioneer, who engages in the business of purchasing or selling secondhand articles, with exceptions as stated in Wis. Stat. §134.71 (g).

(4) When Digital Photos are Required.

(a) The licensee must also take a color, digitized photograph of every item pawned or sold that does not have a unique serial or identification number permanently engraved or affixed, excluding only electronic media. One (1) group photo shall suffice for mass items such as several coins acquired in one (1) transaction. If a photograph is taken, it must be at least two inches (2") in length by two inches (2") in width and must be

maintained in such a manner that the photograph can be readily matched and correlated with all other records of the transaction to which they relate. Such photographs must be available to the Chief of Police, or the Chief's designee, upon request. Items photographed must be accurately depicted and submitted as digital images, in a format specified by the issuing authority, electronically cross-referenced to the reportable transaction they are associated with. Entries of required digital images shall be retained a minimum of ninety (90) days.

(5) Daily Reports to Police.

(a) Pawnbrokers and secondhand article and jewelry dealers must submit every reportable transaction to the Police Department daily in the following manner. Pawnbrokers and secondhand article and jewelry dealers must provide to the Police Department all required information pursuant to state statute, by transferring it from their computer to the web server via modem designated by the Suamico Police Department. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the Police Department using procedures that address security concerns of the pawnbroker or secondhand article and jewelry dealer and the Police Department. The pawnbroker or secondhand article and jewelry dealer must display a sign of sufficient size in a conspicuous place on the premises, which informs all patrons that all transactions are reported daily to the Police Department.

(b) If a pawnbroker or secondhand article and jewelry dealer is unable to successfully transfer the required reports by modem, the pawnbroker or secondhand article and jewelry dealer must provide the Police Department with printed copies of all

reportable transactions by noon the next business day.

(c) If the problem is determined to be in the pawnbroker's or secondhand article and jewelry dealer's system and is not corrected by the close of the first business day following the failure, the pawnbroker or secondhand article and jewelry dealer must provide the required reports as detailed in state statute, and shall be charged a daily reporting failure fee of ten dollars (\$10) until the error is corrected, or, if the problem is determined to be outside the pawnbroker's or secondhand article and jewelry dealer's system, the pawnbroker or secondhand article and jewelry dealer must provide the required reports pursuant to state statute and resubmit all such transactions via modem when the error is corrected.

(d) Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand article and jewelry dealer from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand article and jewelry dealer shall upload every reportable transaction from every business day the problem has existed.

(e) The provisions of this section notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(f) Section 5.11 (4) above shall not apply to businesses that did not have two hundred (200) reportable transactions in the past calendar year. However, any such pawnbroker or secondhand article and jewelry dealer must follow the daily reporting procedure for each reportable transaction by submitting a written transaction form approved by the Police Department to the department on the business day following the date of the reportable transaction.

(6) Fees. The fee for each license shall be as set from time to time by resolution of the Board.

5.12 CIGARETTE AND TOBACCO PRODUCTS RETAILERS LICENSE.

(1) State Statutes Adopted. In addition to those State Statutes adopted in 11.78 of said Code of Ordinances, the provisions of Wis. Stats. Ch. 134.65 defining regulating the sale of any cigarettes or tobacco products are adopted and made part of this section by reference. A violation of any of such provisions shall constitute a violation of this section.

5.13 ESCORT SERVICE LICENSE

(1) Definitions.

(a) Employee. An escort whose name is furnished by an escort service, is referred to a customer through an escort service, or is an agent, employee, independent contractor, or volunteer for an escort service shall be considered an employee of such service for the purposes of this ordinance.

(b) Escort. Any person who, for consideration, accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement, consorts with another person about any place of public resort or within any private quarters, or agrees to privately model lingerie, perform a striptease, or perform in a nude or semi-nude state for another person or persons.

(c) Escort Service. Any person who, for consideration, furnishes, offers to furnish, advertises to furnish, or refers escorts.

(d) In Call. Any agreement whereby an escort is provided on a premises owned, leased rented, or controlled by the escort or escort service.

(e) Person. Any natural person, sole proprietorship, partnership, corporation or association, excepting the United States of

America, the State of Wisconsin, and any political subdivision thereof.

(2) Exemptions. This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the Village pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which perform an escort or an escort service function as a service merely incidental to the primary function of such profession, employment, or business and which do not hold themselves out to the public as an escort or an escort service.

(3) Regulated Acts.

(a) License and Registration Required. No escort service shall operate or provide service in the Village without first obtaining a license. No person shall escort in the Village unless employed by a licensed escort service and properly registered pursuant to subsection (11).

(b) Incalls in Residential Zones. No escort or escort service may conduct incalls on residentially-zoned property.

(c) Separate License. A license may be issued only for one escort service with one trade name. Any person, partnership, or corporation which desires to operate more than one escort service must have a separate license for each service.

(d) Transfer Prohibited. No license or interest in a license may be transferred to any person, partnership, or corporation.

(e) Unlawful Acts. No escort or escort service may engage in unlawful acts while acting as an escort. A violation of a criminal statute or ordinance by an escort shall be considered a violation of this ordinance by the licensee.

(f) Advertising. No person may advertise indicating that an escort service is available in the Village of Suamico unless that service possesses a valid license. No escort service may advertise using a trade name unless that trade name is disclosed in

its application. Any advertisements or escort activity conducted under an unreported trade name shall be considered unlicensed activity.

(g) *Physical Contact Prohibited.* No escort shall touch a customer or the clothing of a customer while exposing specified anatomical areas, as defined in §5.10(2)(t), Suamico Municipal Code.

(h) *Customers under Age 18.* No person shall escort or agree to escort a person under the age of 18 years.

(4) Application for License.

(a) *Application to Clerk.* Any person, partnership, or corporation desiring to secure a license shall make application to the Village Clerk. The application for a license shall be upon a form approved by the Village Clerk. Each applicant for a license, which shall include all partners or limited partners of a partnership applicant, and all officers, directors, and any other person who is interested directly in the control of the business for corporate applicants, shall furnish the following information under oath:

1. Name, address, and age.
2. Whether the applicant holds any interest in any other escort service license or similar license or permit.
3. Whether the applicant has ever had any other escort service license or similar license or permit revoked or suspended, and the reason therefor.
4. All convictions and pending charges of felony, misdemeanor, or ordinance violations.
5. Fingerprints and two portrait photographs at least two inches by two inches of the applicant.
6. All convictions and pending charges of felony, misdemeanor, or ordinance violations of a corporation, partnership or other organization for which the applicant was or is a director, officer, partner, or

person interested directly in the control of the organization.

7. If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, and all officers and directors of the corporation, and provide a certified copy of the articles of incorporation.

8. If the applicant is a partnership, the application shall specify the name and address of all partners and provide a certified copy of the partnership agreement or articles of partnership.

(b) *Additional Information.* Each service shall furnish the following information under oath at the time of application:

1. The trade name of the escort service. An escort service may operate under only one trade name per license.
2. The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies such premises.
3. The service's Federal Employer Identification number.
4. A written plan setting forth:
 - a. The exact nature of the business to be conducted;
 - b. Office organization;
 - c. Advertising theme and method;
 - d. Copies of contracts to be used with escorts and customers;
 - e. The method of operation of the escort service, including the hours that the service will be open to the public; and
 - f. The methods of promoting the health and safety of escorts.

(5) Standards for Issuance of License.

(a) *Standards.* To receive a license to operate an escort service, an applicant must meet the following standards:

1. All persons required to be named under subsection (4)(a) shall be at least 18 years of age.

2. No person required to be named under subsection (4)(a) shall have been convicted of a felony.

3. Subject to Ch. 111, Wis. Stats., no person required to be named under subsection (4)(a) shall have been convicted of a law or ordinance violation involving moral turpitude, prostitution, obscenity, or another crime of a sexual nature in any jurisdiction.

4. No person required to be named under subsection (4)(a) shall have been convicted of a violation of a law or ordinance which substantially relates to the licensed activity.

5. No person required to be named under subsection (4)(a) shall have been a director, officer, partner, or person interested directly in the control of an organization that has been convicted of a violation of any law or ordinance which substantially relates to the licensed activity.

(b) Investigation. The Suamico Police Department shall investigate the applicant's qualifications to be licensed.

(c) False Information. Providing false or inaccurate information on the application or in the investigation of the application shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial of the application.

(d) Lack of Cooperation. Failure or refusal of the applicant to give any information required by this section or relevant to the investigation of the application or cooperate with any investigation required by this ordinance shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial of the application.

(e) Committee Review. The Village Health & Safety Committee shall review the application and the recommendation of the Police Department and recommend action to the Village Board. Should the Health & Safety Committee fail to act upon an application within 60 days of its filing, the application shall be deemed granted, except as provided in subsection (f).

(f) Pending Charges. If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsection (a) above, the Village Board may postpone action on the application until such time as the charge is resolved. Should the Village Board fail to act upon an application within 60 days of the resolution of the charge, the application shall be deemed granted.

(6) Fees. A non-refundable application fee of \$500 and a license fee of \$500 shall be submitted with the application for a license.

(7) Denial of Application. Whenever an application is denied, the Village Clerk shall, within 14 days of the denial, advise the applicant in writing of the reasons for such action. The applicant may appeal the decision to a court of competent jurisdiction.

(8) Renewal of License or Permit.

(a) Process. Every license issued pursuant to this ordinance will terminate on December 31 of the year it is issued, 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 Village Clerk not later than October 31 of the year in which the license will terminate. The application for renewal shall be filed with and dated by the Village Clerk. The application for renewal shall be upon a form provided by the Village Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(b) *Fee.* A license renewal fee of \$500 shall be submitted with the application for renewal.

(c) *Investigation.* The Suamico Police Department shall investigate the applicant's continuing qualifications to be licensed.

(9) Suspension, Revocation, or Non-Renewal of License.

(a) *Grounds.* The license granted herein may be revoked or suspended for up to six months or non-renewed by the Village Board as follows:

1. If the licensee or any person required to be named under subsection (4)(a) has made or recorded any statement required by this section knowing it to be false or fraudulent or intentionally deceptive; or

2. For the violation by the licensee, an employee, or any person required to be named under subsection (4)(a) of any provision of this section, the Suamico Municipal Code, or the Wisconsin Statutes that substantially relates to the licensed activity; or

3. After the conviction of the licensee, an employee, or any person required to be named under subsection (4)(a) of an offense under Ch. 944, Wis. Stats., an offense against the person or property of a patron, an offense involving substance in Subchapter II of Ch. 961, Wis. Stats., or any other offense which is substantially related to the licensed activity.

(b) *Notice.* No license shall be revoked, suspended, or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Health & Safety Committee. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place thereof.

(c) *Hearing.* The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense.

(d) *Recommendation.* Within 15 days of a hearing pursuant to subsection (c), the Health & Safety Committee shall submit a report to the Village Board, including a recommendation as to what, if any, action the Village Board should take with respect to the license. The Committee shall provide the complainant and licensee with a copy of the report.

(e) *Village Board Decision.* The Village Board shall consider the recommendation of the Health & Safety Committee no later than the second regularly-scheduled meeting following its receipt of the Committee's report. The complainant and licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the Village Board. The Village Board shall determine whether arguments shall be presented orally or in writing, or both. If the Village Board, after arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided at subsection (a). The Village Board shall decide the matter and shall prepare a written decision which shall be filed with the Village Clerk. The Village Clerk shall provide the licensee a copy of the decision by certified mail at the address indicated on the license, which shall be postmarked no later than 20 days after the Village Board's decision.

(f) *Appeal.* If the Village Board suspends, revokes, or non-renews a license,

the written notice provided the licensee shall indicate that the decision may be appealed to a court of competent jurisdiction.

(10) Responsibilities of the Licensee.

(a) Compliance. The licensee shall ensure compliance of the service and all employees with the provisions and requirements of this ordinance. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the licensee of the escort service by which the escort is employed, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

(b) Records and Reports Required.

Every escort and escort service shall:

1. Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

2. Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address, and telephone number of the person requesting an escort, and the name of every escort furnished.

3. The records required by subsections 1 and 2 shall be kept available and open for inspection by the Suamico Police Department during business hours.

(11) Registration of Escorts.

(a) Information. All escorts shall, prior to acting as an escort, register with the Suamico Police Department. Such registration shall include the following:

1. Name, address, birth date, any aliases, pseudonyms, or stage names used, and telephone number(s).

2. The name of the licensed escort service by which they are employed.

3. Photographs and fingerprinting with the Suamico Police Department.

(b) Identification Card. Upon registration, the Suamico Police Department will provide to each escort an identification card containing their photograph, identity, and the escort service by which the escort is employed. The escort shall keep the card available for production at all times while acting as an escort.

(c) Duration. All registrations hereunder are valid for the term of the affiliated escort service's license.

(d) Fee. The registration fee shall be \$25 per registration, which shall be paid to the Police Department to cover the costs of the identification card and administration.

(e) Employment by Multiple Services. Any escort employed by more than one escort service shall submit a separate registration for each service by which the escort is employed.

(12) Penalties and Prosecution.

(a) Forfeiture and License Revocation.

1. Any person, partnership, or corporation who is found to have violated subsection (3)(a) of this ordinance shall forfeit a definite sum not less than \$2,000 and not exceeding \$5,000 and a court shall revoke any license issued to the person under this chapter.

2. Any person, partnership, or corporation who is found to have violated any other section of this ordinance shall forfeit a definite sum not exceeding \$5,000 and a court shall revoke any license issued to the person under this chapter.

(b) Separate Offense. Separate Offense. Each violation of this ordinance shall be considered a separate offense, and any

violation continuing more than one day shall be considered a separate offense.

(13) Wis. Stats. Ch. 68, Not to Apply. Wis. Stats. Ch. 68, shall not apply to the administrative process outlined above.

(14) Severability. If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.

5.14 MASSAGE ESTABLISHMENTS

(1) Generally.

(a) 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:

1. **Manager.** Means the operator or an agent licensed under this section who shall not be licensed as a massage technician.

2. **Massage.** Means any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for a consideration.

3. **Massage establishment.** Means a place of business wherein private massage is practiced, used or made available as a principal use of the premises.

4. **Massage room.** Means the area where private massage is performed.

5. **Massage technician.** Means a person who practices, administers or uses, or offers to practice, administer or use, massage for a consideration.

6. **Operator.** Means any person, association, firm, partnership or corporation licensed by the village to operate a massage establishment.

7. **Patron.** Means any person who receives a massage under such circumstances that it is reasonably expected

that he will pay money or give any consideration therefor.

8. **Sexual or genital parts.** Means and includes the genitals, pubic area, buttocks, anus or perineum of any person, or the vulva or breasts of a female.

9. **Waiting area.** Means any area adjacent to the main entrance that is separate from any area where massages are given.

(b) Penalty. Any person violating any provision of this section shall, upon conviction, be subject to a penalty as provided in sect. 5.99.

(c) Regulated. It shall be unlawful for any person, corporation or other legal entity to suffer, cause or permit the operation of a massage establishment or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article.

(2) License.

(a) No person, corporation or other legal entity shall suffer, cause or permit the conduct of a massage establishment without having first obtained a license therefor from the village board. A separate license shall be acquired for each such establishment.

(b) No license shall be granted for any establishment, the main entrance to which is within 75 feet of the main entrance to a residence or of the common entry hall to residences, nor for any rooms in any hotel or motel.

(c) Applications shall be made in writing on forms supplied by the village clerk. If application is made for a location not previously licensed, the village clerk shall, by regular mail, notify all property owners and registered electors within 250 feet of the proposed location at least ten days before the hearing on the granting of such license.

(d) All applications shall include the following:

1. A nonrefundable fee of \$250.00.

2. The location and mailing address of the proposed establishment.

3. For an individual or for each person of a partnership or joint venture or agent of a corporation, the following:

a. Name and present address.

b. The two immediately previous addresses and dates of residence at each.

c. Height, weight, color of hair and eyes, social security number, written proof of age, full set of fingerprints and two photographs not more than 30 days old and at least two inches by two inches.

d. The business or occupation for the two years immediately preceding the date of application.

e. Whether a similar license has been revoked or suspended and, if so, the reason therefor and the location thereof.

f. Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.

4. If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each, and a statement whether such officer, director or stockholder holds office or stock in any other corporation conducting a similar business in the state. Such application shall be made by an agent registered as such who shall have been a resident of the village for at least 90 days.

5. All telephone numbers of the proposed establishment.

6. The names, addresses and telephone numbers of all persons employed by the applicant at the proposed establishment at the time of the application.

7. Certification of compliance of the proposed premises with the building code and the fire code or, in the alternative, applicant shall file a bond assuring that any work required to be done to bring the

premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes shall be conditions precedent to the opening of business.

8. The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.

(e) The issuance of the license shall allow for the licensing of up to three additional managers for each establishment.

(3) Massage technician's and manager's permits.

(a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to do so. Any person who is issued a license of registration by the state department of regulation and licensing pursuant to subchapter XI of chapter 440 of the Wisconsin Department of Regulation and Licensing Administrative Code is exempt from this section.

(b) Applications for permits shall be in writing on forms supplied by the village clerk:

1. A nonrefundable fee of \$50.00.

2. Applicant's full name and present address, social security number, written proof of age in excess of 18 years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not more than 30 days old and at least two inches by two inches.

3. Applicant's two previous addresses and dates of residence at each.

4. The applicant's business, occupation or employment during the two years immediately preceding date of application.

5. Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefor and the location thereof.

6. Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.

7. For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than 30 days prior to the date of application.

8. The name and address of the licensed massage establishment by which the applicant is employed.

9. A statement signed by the applicant that all information contained therein is true and correct.

(4) Granting of licenses and permits.

(a) Licenses and permits may be granted by the village board after a hearing at which the applicant may be heard at the applicant's option. At least ten days' notice of such hearing shall be given to the applicant.

(b) The village board shall grant a license or permit within 30 days of application unless it is shown, for a massage establishment license, that the operation, as proposed by the applicant, does not comply with all applicable state laws and village ordinances, and for all licenses and permits, that the applicant or any partner or any officer, director or stockholder of a corporate applicant has been convicted in a court of competent jurisdiction of an offense under Wis. Stats. ch. 944 or involving substances included in Wis. Stats. § 961.11 et seq., or of an offense against the person or property of another within the past three years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application or any document required by the village in conjunction therewith, or that the applicant

has not resided in the village for at least 90 days prior to the date of the application.

(c) In the event of denial, the applicant shall receive written notification thereof, setting forth the reasons for the denial, within ten days after such denial.

(d) Licenses or permits granted by the village board shall expire one year from the date of granting. Reapplication therefor shall not be less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.

(e) No license or permit shall be transferred between locations or persons and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.

(f) The massage technician's permit does not entitle the holder to operate or manage a massage establishment unless the technician is the sole proprietor of the establishment and employs no other person in the business.

(5) Regulations of Operations.

(a) Operation regulations - For establishments. Each establishment shall, at all times, maintain and comply with the following general regulations:

1. The establishment shall comply with all state laws and all ordinances of the village.

2. Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services shall be permitted on such sign.

3. No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.

4. Only massage technicians having permits issued pursuant to this article shall be employed as massage technicians by the establishment.

5. The practice of all massage technicians employed by the establishment shall be limited to the licensed premises.

6. No person under the age of 18 years shall be permitted on the premises.

7. No intoxicating beverages or substance included in Wis. Stats. ch. 161, subch. II, shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge therefor and when a food preparation area, including a sink with hot and cold running water, is a part of the establishment.

8. The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance.

9. The operator or a manager having a permit shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment.

10. The establishment shall permit inspections of the premises at any time during business hours by village building inspectors, fire inspectors, health inspectors or personnel of any law enforcement agency.

11. The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in subsection (10) of this section.

12. The establishment shall report any change of fact required on the application form and all personnel changes to the village clerk within ten days after such change.

(b) Same - For technicians. Each technician shall at all times comply with the following regulations:

1. The technician shall practice only on the premises of a licensed massage establishment.

2. The technician shall massage only patrons over the age of 18 years.

3. No technician shall administer a massage:

a. If said technician believes, knows or should know that he is not free of any contagious or communicable disease or infection.

b. To any massage patron exhibiting any skin fungus, skin infection, skin inflammation or skin eruption.

4. The technician shall report any change of fact required in the application form to the village clerk within ten days after such change.

5. It shall be unlawful for any person:

a. In a massage establishment to place his hand upon, to touch with any part of his body, to fondle in any manner, or to massage a sexual or genital part of any other person.

b. In a massage establishment to expose his sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage establishment to expose the sexual or genital parts, or any portion thereof, of any other person.

c. While in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the sexual or genital parts of his body.

d. Owning, operating or managing a massage establishment, knowingly, to cause, allow or permit in or about such massage establishment any agent, employee or any other person under his control or supervision to perform such acts prohibited in subsection (5)a, b or c of this section.

e. In a massage establishment, for a consideration, to offer to perform or to make available, permit or in any way participate in

the performance of any act prohibited by subsection (5)a, b or c of this section.

(6) Revocation or Suspension of License or Permit.

(a) Grounds. The license or permit granted herein may be revoked, or suspended for up to six months, by the village board for any of the following reasons:

1. If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive.
2. For the violation of any provision of this article.
3. If a technician's or manager's permit, after one conviction of any offense under Wis. Stats. ch. 944, or of an offense involving substances included in Wis. Stats. ch. 161, subch. II, or of any offense against the person or property of a patron, whether such occurred on or off the premises of the establishment.
4. If an establishment license, after one conviction of any establishment personnel of an offense under Wis. Stats. ch. 944, or of an offense against the person or property of a patron or of an offense involving substances in Wis. Stats. ch. 161, subch. II, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

(b) Notice and hearing. No license or permit shall be revoked or suspended by the village board, except upon due notice and hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee or permittee. The notice shall be served upon the licensee or permittee at least 15 days prior to the date of the hearing and shall state the time and place thereof. The licensee or permittee shall be entitled to be heard, to be represented, to cross examine opposing witnesses, and to

present witnesses in his own behalf under the subpoena of the village board if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee or permittee at the expense of the licensee or permittee. The village board shall decide the matter and shall prepare a written decision which shall be filed with the village clerk and a copy thereof mailed to the licensee or permittee within 20 days after the hearing.

(c) Exceptions. This article shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

1. Physicians, surgeons, chiropractors, osteopaths, masseurs, physical therapists licensed or registered to practice their respective professions under the laws of the state, or nurses registered under the laws of the state acting under their direction and control, or certified massage therapists operating out of a physician, surgeon or chiropractic facility and acting under their direction and control.
2. Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the state, provided that such massage as is practiced is limited to the head and scalp.
3. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

(7) Operation without a license a public nuisance. The operation of a massage establishment without a license or the activity of an individual as a massage technician without a permit is deemed a public nuisance and may be enjoined by the village.

5.99 PENALTY, SEVERABILITY, AND ENFORCEMENT.

(1) Penalty. Any person who violates, or knowingly allows or permits any violation of, any provision of this ordinance,

shall be subject to a forfeiture of not less than twenty-five dollars (\$25) and not more than two thousand five hundred dollars (\$2,500) per violation. Failure or refusal to pay forfeiture may result in imprisonment for a period of not more than ninety (90) days for each offense. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues.

(2) Severability. If a court of competent jurisdiction deems any provision of this ordinance invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of the same. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the court's decision, portions remaining in the ordinance shall retain the full force and effect thereof.

(3) Enforcement. Enforcement of this chapter shall be the responsibility of the Board or its designee, and/or Police Department.

Village of Suamico

Chapter 5

Ordinance 2008-06 Creating Section 5.11 Pawnbrokers

Adopted 5-5-08

*Ordinance 2008-17 Amending Section 5.04(12) Alcohol Beverages, Revocation and
Suspension of Licenses*

Adopted 6-16-08

Ordinance 2009-21 Amending Section 5.09

Adopted 10-5-09

Ordinance 2010-03 Amending Chapter 5.04 (12) (c) 3 Alcohol Beverage Point Schedule

Adopted 1-4-10

Ordinance 2010-04 Amending Chapter 5 Licensing and Permits

Adopted 1-4-10

Ordinance 2013-06 Adding Chapter 5.13 Escort Service License

Adopted 6-17-13

Ordinance 2015-01 Amending Chapter 5.08 of the Municipal Code

Adopted 3-2-15

Ordinance 2015-06 Amending Chapter 5 Licenses and Permits of the Village Code

Adopted 6-15-15

Ordinance 2017-08 Amending Chapter 5 Licenses and Permits

Adopted 8-7-17

Ordinance 2017-09 Amending Chapter 5 Licenses and Permits

Adopted 8-7-17

Ordinance 2017-15 Creating Chapter 5.14 Massage Establishments

Adopted 12-1-17

Ordinance 2018-08 Creating and Amending Chapter 5 Licenses and Permits

Adopted 7-16-18