

CHAPTER 6.00 LICENSES AND PERMITS

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6.01 INTOXICATING LIQUORS, FERMENTED MALT BEVERAGES AND SOFT DRINKS.

A. State Statutes Adopted.

The current and future provisions of Wisconsin Statutes Chapter 125, defining and regulating the types, sale, procurement, dispensing, and transfer of alcoholic beverages, including provisions relating to the penalty to be imposed, or the punishment for, violation of such statutes, are adopted and made part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated in this section, are intended to be made a part of this section, in order to secure uniform statewide regulations of alcohol beverages in this state. (#08-05)

B. CLASSES OF LICENSES; FEES. There shall be the following classes of licenses which, when the fee as set forth specified by resolution is paid, and the license issued shall permit the holder to sell, deal, or traffic in intoxicating liquor or fermented malt beverages as provided in Wisconsin Statutes:

1. Class "A" Fermented Malt Beverages License is for the sale of fermented malt beverages for off-premises consumption only.
2. Class "B" Fermented Malt Beverages License is a fermented malt beverage license for the sale of fermented malt beverages for on or off-premises consumption.
3. "Class A" Intoxicating Liquor License is for the sale of intoxicating liquors for off-premises consumption only.
4. "Class B" Intoxicating Liquor License is for the sale of intoxicating liquor for off or on premises consumption. No such license shall be issued except to a person to whom is also issued a Class "B" Retail Fermented Malt Beverage License.

5. Temporary Class “B” Fermented Malt Beverage License. Such license may be issued to a bona fide club, municipal association, agricultural society or lodge that has been in existence for a period of not less than six (6) months prior to the date of application to sell fermented malt beverages at a gathering or meeting of such organization upon the terms and conditions and hours of operation as set by the Village Board and upon the payment of a fee specified by Resolution.
6. Operator Licenses that may be issued are: Regular Operator License, Temporary Operator License, Provisional Operator License, and Managers License. All license applications shall be approved or denied by the Village Board for the purpose of complying with Wisconsin Statutes Chapter 125 and this chapter. The fee for such license shall be set by resolution. (#08-05)
7. “Class C” Intoxicating Liquor License is a license authorizing the sale of wine for consumption on the premises where sold. A Class “C” Intoxicating Liquor License may not be issued to a restaurant where alcohol sales exceed 50% of the total gross receipts and may not be issued to a party not possessing a Class “B” Fermented Malt Beverage License.
8. Fermented Malt Beverages Wholesale Licenses may be issued by the Village Board.

C. APPLICATION FOR LICENSE.

1. Intoxicating Liquor and Fermented Malt Beverages. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by law and shall be sworn to by the applicant as provided by Chapter 125 of Wis. Stats. and shall be filed with the Village Clerk not less than 15 days prior to the granting of such license. Such application shall be accompanied by the cost of publication as provided by Chapter 125 of Wis. Stats.
2. Operator’s License. Application for such license shall be made in person to the Village in writing.

D. GRANTING OF LICENSES.

1. Opportunity shall be given by the Village Board to any person to be heard for or against the granting of any Intoxicating Liquor or Fermented Malt Beverages License. Each License shall be numbered in the order in which issued and shall state the premises for which issued, the date of issuance, the fee and the name of the licensee.

2. Class “A” and “B” Fermented Malt Beverages Licenses, and “Class A” and “Class B” Intoxicating Liquor Licenses shall only be permitted as a Conditional Use in Business or Business PUD Zoning Districts. (#96-13)

E. RESTRICTIONS ON GRANTING LICENSES.

In addition to the requirements imposed by the Statutes adopted in Subsection A the following provisions shall apply to the granting of licenses under this section:

1. Licenses shall be issued in accordance with Chapter 125 of Wis. Stats.
2. No license shall be granted for operation of any premises upon which taxes or assessments or other financial claims of the Village are delinquent and unpaid.
3. No retail Class “A” or Class “B” licenses shall be issued or renewed unless the premises to be licensed or for which the license is to be renewed conform to sanitary, safety, fire, electrical, plumbing, and health requirements of applicable State laws and regulations and Village Ordinances. (#96-13)
4. The Village shall inspect the licensed premises and send a written notice to the license holder of the items not in compliance with Village Code and State Statute Regulations no later than April 15th of each year itemizing said non-compliance items. If the licensed premises have not been brought into compliance as required by the notice, no license shall be issued until the premises are in compliance. (#96-13)
5. A retail “Class A” Intoxicating Liquor License shall be issued only for a premises on which the sale of intoxicating liquors, fermented malt beverages, wine, and related items is the primary retailing business, and is physically separate from the premises of any other retailing business.

F. POLICIES AND QUOTA.

1. Quota of “Class A” Intoxicating Liquor License: The Village may issue one license for each 2500 population or fraction thereof.
2. Quota for “Class B” Intoxicating Liquor License: The Village may issue one license for each 500 population or fraction thereof except as otherwise provided for in State Statutes.
3. Quota for “Class C” Intoxicating Liquor License: The Village may issue “Class C” Intoxicating Liquor Licenses provided they do not exceed the quota established for “Class B” Intoxicating Liquor Licenses.

4. Population is to be determined by the last preceding population estimate as calculated annually by the State Department of Administration.
5. The licensed premises for consumption of beverages shall be restricted to the inside of a building. The Village Board may allow consumption on contiguous property owned or rented by the licensee only by the granting of a conditional use permit under the provisions of Chapter 14 of the Code of Ordinances.

G. CONDITIONS OF LICENSE.

1. Entry of Officers. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from such premises of all things and articles held in violation of Village Ordinances or State laws, and consents to the introduction of such things and articles into evidence in any prosecution that may be brought for such offense.
2. Disorderly Conduct is Prohibited. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.
3. Gambling Prohibited. No gambling or game of chance shall be permitted in any form upon the licensed premises unless specifically permitted by Wisconsin Statutes. With regard to enforcement for the possession of five or fewer video gambling machines on a Class B licensed premise, the village shall defer to the Wisconsin Department of Revenue. (#10-02)
4. Illegal Beverages Prohibited. No beverages of an alcoholic content prohibited by the laws of the United States shall be sold, bartered, exchanged, offered or exposed for sale, or kept in or about the premises.
5. Revocations, Suspensions, Non-issuance or Non-renewable. The Village Board may revoke, suspend, refuse to renew or refuse to issue a new license for reasons stated in Wisconsin Statutes, Chapter 125, (#08-05) or for continued violation of Village Ordinances according to the procedures prescribed by Chapter 125, Wis. Stats. (#96-13)

H. MISCELLANEOUS PROVISIONS.

1. Licensed premises means the area described in the license or permit.
2. Opening hours for retail beer and liquor stores are per State Statutes 125.32(3) and 125.68(4). (#12-02)
3. It shall be unlawful for a licensee or agent of the licensee to serve alcohol beverages while intoxicated. Intoxication shall mean having a blood alcohol content of .08 or more. A police officer may ask the person to

submit to a Preliminary Breath Test upon reasonable suspicion. Refusal to submit may be considered by the Village Board as grounds for revocation, suspension, non-issuance, or non-renewal of a license for the licensee, agent, and/or the establishment. If the licensed premises' principal business is the sale of alcohol beverages, the police will order it closed if no other licensed server is on the premises. (#08-02)

4. All licenses issued under this section shall expire on June 30 of each year. (#08-05)
5. Licenses and permits shall be issued only to those persons eligible under WI Stats. Chapter 125. Licenses and permits granted in error shall be void. (#08-05)

6.02 CIGARETTES.

- A. STATE STATUTES ADOPTED. Chapter 134.65, 134.66 and 254.92 (#09-04) Wisconsin Statutes, are hereby adopted and made a part of this Chapter.
- B. PURCHASE AND POSSESSION OF CIGARETTES AND TOBACCO PRODUCTS ARE PROHIBITED.

1. Definitions:

“*Cigarette*” means any roll of tobacco wrapped in paper or any substance other than tobacco.

“*Law Enforcement Officer*” means any person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he is employed to enforce.

“*Tobacco Products*” means cigar, cheroots, stogies, periques, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, snuff flour, cavendish, plug and twist tobacco, fine cut and other chewing tobaccos; shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but “tobacco products” does not include cigarettes, as defined above.

2. Except as provided in Subsection 3, no person who is less than 18 years of age may do any of the following:
 - a. Buy or attempt to buy any cigarettes or tobacco product.

- b. Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
 - c. Possess any cigarette or tobacco product.
3. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Section 134.65 (1) of Wis. Stats.
 4. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of Subsection 2 committed in his or her presence.
 5. Any person who violates the provisions of this Ordinance shall be subject to a penalty as provided in the Village Code.

6.03 PEDDLERS, CANVASSERS/SOLICITORS, TRANSIENT, SEASONAL MERCHANTS. (#96-21)

- A. LICENSE OR PERMIT REQUIRED. No person shall engage in the business of peddler or trucker within the Village of Jackson without first obtaining a license from the Village Clerk in compliance with the provisions of this article. No person shall engage in the business of canvasser, solicitor, transient or seasonal merchant in this Village without first obtaining a permit from the Village Clerk with the provisions of this article.
- B. EXEMPTIONS. This article, or any part thereof, except as hereinafter noted, shall not apply to the following:
 1. Any person delivering newspapers, fuel, dairy products, or bakery goods to regular customers on established routes;
 2. Any person selling goods at wholesale to dealers in such goods;
 3. Any person selling agricultural products which such person has grown;
 4. Any permanent merchant or employees thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this country and who delivers such goods in their regular course of business;
 5. 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 home visit by, said person;

6. Any person who has had, or one who represents a company which has had, a prior business transactions, such as a prior sale or credit arrangement, with the prospective customer;
7. Any person holding a sale required by Statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
8. Any employee, or 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 of such sales for or on behalf of said organization, provided that there is submitted to the Clerk, proof that such charitable organization is registered under Chapter 440.41 of Wisconsin Statutes. Any charitable organization not registered under Chapter 440.41 of Wisconsin Statutes, or which is exempt from that Statute's registration requirements shall be required to register under this Ordinance; the aforementioned category of charitable organizations shall comply with Sections 6.03 regarding Application and Issuance of Licenses.
9. Any person who claims to be a permanent merchant, but against whom a complaint has been made to the Clerk that such person is a transient merchant; provided that they submit to the Clerk proof that such person has leased for at least one (1) year, or purchased, the premise from which he/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 the complaint was made.

C. DEFINITIONS.

1. Peddler – The word “peddler” as herein used shall include any individual whether principal, agent, or employee, who engages in, does, or transacts business, in the Village of Jackson using the public thoroughfares therefore, and/or traveling door-to-door selling and delivering wares and/or services, and receiving cash payment.
2. Canvasser/Solicitor – The words “canvasser” and “solicitor” as herein used shall include any individual, whether principal, agent, or employee. Who solicits business from door-to-door, or by appointment on the premises of the prospective buyer, for the sale of merchandise and/or services to be delivered and paid for at a later date, either by cash in one lump sum or on contract.
3. Transient/Seasonal Merchants – The words “transient merchant” and “seasonal merchant” as herein used shall include any individual, whether principal, agent, or employee, who engages in, does or transacts any temporary, seasonal or transient business in the Village of Jackson, either in one location or by moving his/her place of business from location to location in the Village selling goods, merchandise, services, or wares, and whether or not for the purpose of carrying on

such business such individual hires, leases, occupies, or uses a building, structure, vacant lot, or vehicle, for the exhibition and sale of such goods, merchandise, services and wares.

4. Application – The application shall be submitted on the proper form together with the fee specified in Section 5-5.07 of this article. The application shall be filed with the Village Clerk and shall be sworn by the applicant, and shall contain such information as the Village Clerk may require for the effective enforcement of this article, and the safeguarding of the residents of the Village from fraud, misconduct, or abuse.
5. Investigation – Issuance - Upon receipt of each application and fee, the Village Clerk shall immediately institute such investigation of applicant’s business and moral character as he deems necessary for the protection of the public good, and shall endorse his approval or disapproval upon said application within seventy-two (72) hours after it has been filed with the Village Clerk, and shall issue or deny the license in accordance with the findings after presentation by the applicant of a receipt from the Village Treasurer showing payment of the proper fee. If upon investigation, the Village Clerk denies the request for a license, the fee shall be refunded after a \$5.00 investigation charge has been deducted.
6. Bond – If the Village Clerk determines from his investigation of the application that the interests of the Village or the inhabitants of the Village require protection against possible misconduct of the license, or that the applicant is otherwise qualified, but due to causes beyond his/her control is unable to supply all of the information required by Section 5-5.04, the Village Clerk may require the applicant to file a bond in the sum of \$500 with surety acceptable to the Village President running to the Village conditioned upon the fact that he/she will fully comply with the ordinances of the Village and the laws of the State relating to peddlers, canvassers/solicitors, or transient/seasonal merchants, and guaranteeing to any citizen of the Village of Jackson doing business with he/she that the property purchased will be delivered according to the representations of the applicant, provided months after the expiration of the license of the principal.
7. Fee – The fee shall be as contained in Appendix “A” of this Chapter.

D. EXPIRATION, RENEWAL AND TRANSFER.

All licenses referenced herein this Article shall be issued for a period of one (1) month (30 days) from the date of issue. All licenses referenced herein this Article are renewable upon expiration provided no justifiable complaint has been filed against the license; however, the Village Clerk is hereby empowered to revoke the license at any time, for just cause, resulting in the forfeiture of the fees contained herein. All licenses referenced under this Article are personal, and may not be transferred.

E. REGULATION AND RESTRICTIONS.

1. Consent Required.

No peddler, canvasser/solicitor, or transient/seasonal merchant as herein defined shall go in or upon any private residence, business establishment, or office in the Village of Jackson for the purpose of soliciting orders for goods, merchandise, services, wares, or peddling the same, or soliciting subscriptions from magazines or other periodicals where a sign bearing the words: "No Peddlers", "No Canvassers", "No Solicitors", or words of similar meaning are displayed.

2. Display of License.

Persons licensed under the provisions of this Article shall display the license issued by the Village Clerk on the outermost layer of clothing on the front one third of the body at all times when engaged in the activities so covered by the Article.

3. Misrepresentation Prohibited.

No license shall intentionally misrepresent to any prospective customer the purpose of his/her visit or solicitation, nor the name or business of his/her principal, if any, nor the source of supply of the goods, merchandise, services or wares which he/she sells or offers for sale, nor the disposition of the proceeds or profits of his/her sales.

4. Loud Noises and Speaking Devices.

No licensee, nor any person in his/her behalf, shall shout, cry out, blow a horn, ring a bell, blow a whistle, or use any sound amplifying device upon any of the streets, alleys, parks or other public places of the Village, or upon private premises where sound of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, merchandise, services, or wares which such licensee proposes to sell.

5. Use of Streets.

No license shall have any exclusive right to any location in the public streets, nor shall any licensee be permitted a stationary location thereon, nor be permitted to operate in a congested area where such operation might impede or inconvenience the public use of such street. For the purpose of this Code, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested, and the public impeded or inconvenienced.

6. Hours.

No licensee, nor any person on his/her behalf, shall engage in door to door selling of goods, merchandise, services, wares or soliciting other than between the hours of 9:00 AM to 9:00 PM, local time.

F. REVOCAION OF LICENSE.

Licenses issued under the provisions of this Article of the Jackson Code may be revoked by the Village Clerk, at anytime for just cause, including, but not limited to misrepresentation, or incorrect statement contained in the application or made in the course of carrying on business; conviction of licensee of any crime or misdemeanor, or conducting the licensed business in an unlawful or disorderly manner or in such manner as to menace the health, safety, or general welfare of the public. Any violation by any party licensed under the provisions of this Article, specifically Section 5-5.09, entitled "Regulations and Restriction", Subsections (A) through (F), shall be just cause for revocation.

The licensee may appeal the Village Clerk's decision to revoke his/her license, by filing, in writing, a statement objecting to the Village Clerk's decision. This appeal shall be submitted to the Village Board, at its next regularly scheduled meeting, for hearing and determination of revocation. If the Village Board upholds the Village Clerk's decision of revocation of license, the licensee shall forfeit all associated application fees.

G. PENALTIES.

Any person who shall violate any of the provisions of this Article shall be subject to a forfeiture of an amount not less than five dollars (\$5.00) not to exceed five hundred dollars (\$500.00), together with the costs of prosecution; and in default thereof, shall be imprisoned in the County Jail in Washington County until such forfeiture and the costs of prosecution are paid, but in any event for a term not to exceed thirty (30) days. Each day of violation of any of the provisions of this Article shall be construed to be a separate violation, and shall be punished as such.

APPENDIX "A" FEE SCHEDULE.

- A. Peddlers, Canvassers/Solicitors, Transient and Seasonal Merchants: \$100.00 for a thirty-day (30) period, or any part thereof.

6.05 MOBILE HOME PARKING PERMITS.

The owner or occupant of every mobile home shall pay and be jointly and severally liable for the payment of a monthly parking permit fee to the Village. Such monthly parking permit fees shall be collected by the permittee, who is primarily liable for the payment thereof. The determination of the amount of such fee, the review thereof, and the enforcement of the payment and the disposition of such fee shall be in accordance with Wis. Stats. Section 66.058.

6.06 ENTERTAINMENT.

- A. License Required. Any person owning, conducting or managing for gain within the Village any exhibition, show, amusement, carnival, circus, concert or musical entertainment shall obtain a license. This license shall pertain to activities within the structure on the premises. See Section 6.06(D), exceptions, for activities conducted on the premises outside the structure.
- B. Application. Application for a license shall be submitted on forms supplied by the Village Clerk. The application shall be accompanied by a certificate of insurance showing that the applicant is covered by liability insurance by an insurance company licensed to do business in Wisconsin in the amount of \$300,000 for the injury or death of one person, \$1,000,000 for any one accident and \$50,000 for property damage. If the entertainment involves carnival type rides, proof of current inspection of such rides by the Wisconsin Department of Commerce must also be furnished.
- C. Fees. The fee shall be as established by resolution.
- D. Exceptions. This Section shall not be construed to require a license for premises holding a lecture on a scientific, moral, educational or literary subject, or for a concert of music given exclusively for a scientific, religious, educational or literary subject or for any lecture, concert, performance, exhibition or show given or made by the citizens of the Village, none of whom makes a vocation of providing such amusement. All uses conducted externally on premises on license site shall require a conditional use permit.

6.07 MESSAGE ESTABLISHMENT LICENSING/OPERATION.

- A. MESSAGE ESTABLISHMENT LICENSE.
 - 1. LICENSE REQUIRED. No person shall carry on the business of operating a message establishment within the Village without a valid license issued pursuant to the provisions of this Section for each and every such place of business.
 - 2. APPLICATION FEE. Any person desiring to obtain a license to operate a message establishment shall apply in writing upon a form prescribed by and filed with the Village Clerk. An application fee as

established by resolution shall accompany the application to defray the costs of the investigation.

3. CONDITIONAL USE PERMIT. Applicants for a license under this Section shall be required to obtain a Conditional Use Permit pursuant to the Village Code prior to granting of the license.
 - a. Yearly Review. The conditional use (if granted) shall be reviewed on an annual basis by the Planning Commission (Village Board). If the Planning Commission (Village Board) finds that the provisions of this Section 6.07 have been violated on the permitted premises during the previous year, the Planning Commission (Village Board) shall notify the permittee, in writing, of the violations and the facts supporting same and require the permittee to appear before the Planning Commission (Village Board) at a time and date certain, but not less than three (3) nor more than ten (10) days from the date of notice.
 - b. Hearing.
 1. If the permittee does not appear and the Planning Commission (Village Board) finds the violations sufficient, the Conditional Use Permit shall be revoked.
 2. The procedure on hearing shall be that as established in Sections 68.11(2) and (3) of Wisconsin Stats.
 - c. Determination. The Planning Commission (Village Board), within twenty (20) days of the completion of the hearing, shall issue its decision, in writing, and mail a copy thereof to the permittee.
 - d. Appeal. The permittee may seek review thereof by certiorari within thirty (30) days of the date of the final decision.
5. INVESTIGATION. Applications for licenses under this Section shall be referred to the Chief of Police, and Fire Inspectors, all of whom shall cause an investigation to be made and report their findings to the Village Board.
6. GRANT OR DENIAL OF LICENSE. Within thirty (30) days of receipt of an application, the Village Board shall either grant or deny a massage license. The Board shall grant a massage license if it finds:
 - a. The required fees have been paid.
 - b. The application conforms in all respects to the provisions of this Section.

- c. The applicant has not knowingly made a material misstatement in the application for the license.
- d. The applicant was fully cooperative in the investigation of his/her application.
- e. The massage establishment as proposed by the applicant would comply with this Code, including, but not limited to, the Village's building, fire, zoning and health regulations.
- f. The applicant, if an individual, or any of the stockholders, any officers or directors of the corporation, or if the applicant is a partnership, the partners have not been convicted of any crime involving dishonesty, fraud, deceit or immorality as outlined in Chapter 944 of Wis. Stats. within five (5) years prior to the date of the application, subject to Chapter 111.32(5)(H)(2)(b) of Wis. Stats.
- g. The applicant has not had a massage establishment license or a massage technician permit or other similar license or permit denied or revoked for cause by this Village or any other municipality located in or out of this state within five (5) years prior to the date of application.
- h. The applicant, if an individual, or any of the officers and directors if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, is 18 years of age.
- i. The applicant, if a corporation, is licensed to do business and is in good standing in the state.

B. DEFINITIONS AND TERMS.

- 1. MASSAGE. Any process, or procedure, upon the external parts of the body of a patron, consisting of rubbing, stroking, kneading or tapping by any means.
- 2. MASSAGE ESTABLISHMENT. Any place where any person engages in conducts or carries on massage or permits massage to be engaged in, conducted, or carried on.
- 3. MASSAGE TECHNICIAN. Any person who gives or administers a massage.
- 4. SEXUAL OR GENITAL PARTS. The genitals, pubic area, buttocks, anus or perineum of any person and the vulva and breasts of any female.

5. PATRON. Any person who receives a massage for the payment of money or other consideration.
6. RECOGNIZED SCHOOL. Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage technicians, which school requires a resident course of study of not less than 200 hours to be given in not less than three (3) calendar months before the student shall be furnished with a diploma or certificate of graduation from such school following successful completion of such course of study or learning. Such school must show current membership in good standing in the American Massage and Therapy Association or other recognized professional massage organization. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a recognized school.

C. MESSAGE ESTABLISHMENT FACILITIES REQUIREMENTS. Every massage establishment shall maintain facilities meeting the following requirements:

1. Shall be equipped with lockers or other storage facilities to provide security and convenience for patrons.
2. Shall have a minimum of one toilet and one washbasin.
3. If male and female patrons are to be served simultaneously, such massage rooms, dressing facilities, toilet facilities, steam rooms and sauna rooms as are provided shall be separate facility or room shall be clearly marked as such.
4. Rooms in which massage is to be practiced or administered shall have at least 50 square feet of clear floor area and shall maintain a light level of no less than 40 candles as measured at 3' above the floor. Lighting in colors other than white shall be prohibited. Rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen.
5. No stuffed or upholstered furniture or beds and mattresses shall be permitted in rooms in which massage is to be practiced or administered. Rooms shall be equipped with massage tables having a hard surface impervious to liquids with a width of no more than 3' and a length of no more than 8'. The surface of tables shall be positioned at least 2' from the surface of the floor so as to allow free access to the floor beneath. Tables shall be equipped with either non-disposable pads or coverings or disposable coverings not more than 2 1/2" thick. Non-disposable pads or coverings shall be removable, impervious to liquids and cleanable.

D. MESSAGE ESTABLISHMENT OPERATIONAL REQUIREMENTS. Every massage establishment and every massage technician shall comply with the

following operating requirements. These requirements shall be prominently and publicly displayed in a conspicuous place upon every premises licensed under the provisions of this Section.

1. Massage establishments shall commence operations no earlier than 8:00 a.m. and the hours of operation shall extend no later than 10:00 p.m. Massage technicians shall not practice or administer massage at massage establishments at any time outside of the hours of operation.
2. Massage establishments and massage technicians therein shall prominently and publicly display on the premises their licenses during all hours of operation.
3. Massage establishments shall keep a record of the date and hour of each massage, the name and address of the patron receiving the massage, and the name of the technician practicing or administering the massage. Such record shall be open to inspection by officials charged with enforcement of this section. Information furnished or secured as a result of such inspection by authorized Village officials shall be confidential.
4. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Clean towels, coverings and linens shall be stored in cabinets. Towels and linens shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.
5. Instruments used in performing massage shall not be used on more than one person unless they have first been sterilized, using disinfecting agents or sterilizing equipment approved by the Health Officer. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.
6. Massages shall not be given unless patrons are wearing clothing fully covering their sexual and genital parts. Where such clothing is furnished patrons by the massage establishment, more than one person shall not use it unless it has first been laundered and disinfected. Massage technicians shall be fully clothed from the knee to the neck in clean opaque clothing.
7. Massages shall not be given to patrons who have open sores or other visual signs of contagion or communicable disease.
8. For purposes of ascertaining violations of this section and conducting routine inspections, police officers, health officers and building and fire

inspectors of the Village shall have the right of entry onto the premises of any massage establishment during the hours such establishment is open for business. If health officers observe that any massage technician has open sores or otherwise have reasonable grounds to believe that any massage technician is infected with a contagious or communicable disease, they shall have the right to suspend such massage technician from practicing or administering massage until such time as he furnishes a doctor's certificate showing him to be free of any contagious or communicable disease.

- E. EMPLOYMENT OF TECHNICIANS WITHOUT LICENSES. It shall be unlawful for any person who operates a massage establishment to allow or permit persons to act therein as massage technicians without first having a license as required by Chapter 460 of State Statutes.
- F. MASSAGES ON UNLICENSED PREMISES PROHIBITED. It shall be unlawful for any person to act as a massage technician within a massage establishment, which does not have a license as required by sub. (A)(1) listed above.
- G. PROHIBITED CONDUCT OF TECHNICIANS, OPERATORS AND PATRONS. It shall be unlawful for any massage technician to massage the sexual and genital parts of any patron, for any operator of a massage establishment to allow or permit such massage or offer to massage in such massage establishment, for any patron to permit such massage upon his body.
- H. EFFECTIVE DATE. The license requirements of this Chapter shall be effective upon adoption of the ordinance. Licenses shall be effective for one year commencing January 1 of each year unless sooner suspended, canceled or revoked.
- I. EXEMPTIONS. The provisions of this Section shall not apply to the following:
 - 1. Hospitals, nursing homes, sanitariums or other health care facilities licensed under the State, and physicians, surgeons, chiropractors, osteopaths or 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.
 - 2. Barbershops and beauty parlors, barbers and beauticians licensed under the laws of the State provided that such massage as is practiced are 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.

4. Trainers of any amateur, semi-professional or professional athlete or athletic team.

6.08 TATTOO AND PIERCING ESTABLISHMENTS & OPERATORS (#07-02)

A. LICENSES. (#08-01)

- (1) No person shall engage in tattooing or body piercing without licenses issued by the Village and the State of Wisconsin, per Section 252 Wisconsin State Statutes.
- (2) No business engaged in tattooing or body piercing may be operated in the Village without licenses issued by the Village and the State of Wisconsin, per Section 252 Wisconsin State Statutes.
- (3) In addition to any other requirements, a license may be issued upon payment of a fee established by resolution, renewable on or before July 1 of each year; and upon proof of state licensure.
- (4) The Village clerk/treasurer shall issue an establishment license only after the Chief of Police, after an investigation and inspection of the premises where tattooing or body piercing is proposed to be practiced, certifies that the sanitary conditions prevailing upon the premises comply with the provisions of this article.
- (5) There shall be no more than one tattooing and one body-piercing license issued per 10,000 population in the village.
- (6) Any license issued shall be posted at all times on the licensed premises in a conspicuous location.
- (7) Prior to issuance of a tattoo or body piercing establishment license, the licensee shall submit written procedures to the Chief of Police setting forth each step to be taken by an operator in sterilizing equipment that is not single-use.
- (8) Every act or omission by an employee or practitioner constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (9) Any act or omission of any employee constituting a violation of the provisions of this article shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

B. 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) “Approved” means acceptable to the Chief of Police based upon a determination of conformance to good public health practices.
- (2) “Body pierce” means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.
- (3) “Branding” means the burning of skin with a hot tool, cauterizing laser or dry ice so that a mark is imbedded in the deep tissue.
- (4) “Implantation” means the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.
- (5) “Operator” means the owner or person responsible to the owner for the operation of a tattoo or body-piercing establishment.
- (6) “Police Chief” means the Chief of Police or the chief’s designee.
- (7) “Practice of tattooing or body piercing” means the preparation, the actual act, and any after-care of tattooing or body piercing.
- (8) “Scarification” means the cutting of the skin so that when it heals, scar tissue remains.
- (9) “Sterilize” means submission to the steam pressure (autoclave) method with at least 15 pounds of pressure per square inch at 250 degrees Fahrenheit for at least 30 minutes.
- (10) “Tattooing” means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.
- (11) “Under the influence of alcohol” means having a blood alcohol concentration of .05% or more as determined by a state certified preliminary breath screening device.

C. HEALTH AND SANITARY REQUIREMENTS.

- (1) Premises

- (a) All tattooing and body piercing establishments shall be maintained in a clean and sanitary condition. Antiseptic procedures shall be followed to ensure physical cleanliness and sanitation.
- (b) The Chief of Police shall have the right to inspect any establishment licensed under the provisions of this article for the purpose of determining whether or not any of the terms of this article are being violated.
- (c) A hand-washing facility supplied with hot and cold water under pressure, soap and single-service towels shall be located in the room in which a tattoo or body piercing is administered.
- (d) Approved waste containers with nonabsorbent plastic liners shall be used for all tissues, towels, gauze pads and other similar items used on the customer.
- (e) No person shall be present in the immediate vicinity of the area in which tattoos or body piercings are administered unless authorized by the operator to be there.
- (f) Floors in the area where tattoo or body piercing procedures are performed shall be constructed of smooth, durable and nonporous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.
- (g) Walls and ceilings in the area where tattoo and body piercing procedures are performed shall be light colored, smooth and easily cleanable.
- (h) Tattoo and body piercing areas shall be completely separated from any living quarters by floor-to-ceiling partitioning and solid doors that are kept closed during business hours. A direct outside entrance to the establishment shall be provided.
- (i) All tattoo and body piercing establishments shall have a public toilet and hand washing facility, which is separated from any living area. Toilet room fixtures shall be kept clean and in good repair. An easily cleanable covered waste receptacle shall be provided in the toilet room.
- (j) Easily cleanable waste containers with nonabsorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron. Infectious waste, including sharps waste, shall be stored and disposed of in an approved manner consistent with Wis. Admin. Code Subch. II of NR 526.
- (k) No smoking or consumption of food or drink is permitted in the area where a tattoo or body piercing procedure is performed, except that patrons may consume nonalcoholic beverages during the procedure.

- (l) No animals, except for those that provide services to persons with disabilities, are permitted in a tattoo or body-piercing establishment.
 - (m) No one under the influence of alcohol or drugs is permitted to be inside an establishment licensed under this section.
- (2) Sterilization of Equipment Required
- (a) All tattoo and body piercing establishments shall be equipped with an autoclave in good working order and manufactured with the temperature and pressure gauges marked and visible on the outside of the unit.
 - (b) Needles shall be used on only one customer and then discarded after use.
 - (c) Needles and/or swabs may not be reused on the same person. All waste materials must be disposed of in accordance with ILHR regulations dealing with biohazards.
 - (d) All instruments shall be thoroughly cleaned before being sterilized. This may be done with an ultrasonic cleaner or with a probe; needles or brushes should be able to enter the smallest opening of the instrument. After cleaning, instruments shall be rinsed under fresh running tap water.
 - (e) After sterilization, all needles and other instruments not individually wrapped shall be stored in a sterilized and covered glass container or in a stainless steel tray and submerged in an approved sterilizing and disinfecting solution. The Chief of Police shall supply all establishments licensed under this article with a list of approved sterilizing and disinfecting solutions.
 - (f) Equipment or instruments requiring sterilization may be wrapped with an approved paper or plastic or placed in glass or plastic tubes. All such packages or containers shall be marked with temperature recording tape or labels and dated with the date of sterilization.
- (3) Stencils
- (a) Plastic stencils shall be thoroughly cleaned after each use and sanitized by immersion for ten minutes in a chlorine disinfectant solution prepared by mixing one tablespoon of household bleach containing five percent chlorine with one pint of water. A fresh solution of chlorine must be prepared for each stencil. After sanitizing, the stencils shall be rinsed in running tap water and air-dried or blotted dry with a clean, single-service towel. Prior to use, each precleaned stencil shall be rinsed in a 70 percent isopropyl alcohol solution.
 - (b) Paper stencils shall only be used once. New paper stencils shall be used for every individual.

(4) Dyes and Inks

- (a) All pigments, dyes and instruments used in the practice of tattooing shall be sterilized before use.
- (b) The licensee shall submit in writing to Chief of Police the source of all dyes and inks used in administering tattoos.
- (c) Dyes or inks shall be taken only from squeeze bottle containers in which the dyes or inks have been sterilized.
- (d) Immediately before applying a tattoo, the dye to be used for the tattoo shall be squeezed from the sterile dye bottles into sterile disposable cups. Upon the completion of the tattoo, the cups and unused dye shall be discarded. Any dye in which the needles were dipped shall not be used on another person.

(5) Skin Preparation

- (a) Each operator is required to scrub his hands thoroughly before commencing tattooing on the customer's skin. The operator shall wear nonabsorbent gloves, which shall be disposed of after completing the procedure.
- (b) If the customer's skin is to be shaved, the skin shall be washed with a cleansing, medicated soap before shaving. A safety razor shall be used. A new blade shall be used for each customer. The blade shall be discarded after each use. Reusable blade holders shall be sterilized after each use. If disposable blade holders are used, they may be used on one customer only and then must be discarded.
- (c) The skin area to be tattooed or pierced shall be prepared by thoroughly washing the area with 70 percent isopropyl alcohol or other method approved by the Chief of Police.
- (d) Single-use gauze pads, cloths and towels shall be used in the skin cleaning and preparation process.
- (e) Petroleum jelly used for applying stencils shall be dispensed from a single-use disposable container or with a sterile tongue blade or sterile applicator stick, which shall be discarded after each use.
- (f) After completing work on any person, the effected area shall be washed with 70 percent isopropyl alcohol. A dry sterile gauze dressing shall be used to cover the tattooed area. Use of medicated ointment on the area is permitted.

(6) General Supplies

- (a) All establishments shall have clean, laundered towels, washcloths and disposable paper towels in sufficient quantity for sanitary operations.
- (b) A clean towel and washcloth shall be used for each customer.
- (c) Clean towels and washcloths shall be stored in a closed, dustproof container.
- (d) Soiled towels and washcloths shall be stored in an approved covered container.
- (e) All operators shall wear clean, washable garments, over which they shall wear single-use aprons, which shall be disposed of after completing the procedure on a patron.
- (f) The operating table, chair and supply tables shall be constructed of a material capable of being easily and thoroughly cleaned.
- (g) Body piercing jewelry shall be cleaned, individually packaged and sterilized prior to use.
- (h) No tattooist shall use and no tattoo establishment shall permit the use of solder, which contains lead to be used to fasten needles.
- (i) Instruments, dyes, pigments, stencils and other tattoo and body piercing equipment shall be stored in closed cabinets exclusively used for that purpose.

(7) Operator Requirements

- (a) The operator shall be free of communicable diseases that may be transmitted by the practice of tattooing or body piercing.
- (b) Operators with open sores or skin infections on the hand or hands shall not be permitted to engage in the practice of tattooing or body piercing.
- (c) While on duty the operator shall not use tobacco in any form; consume or be under the influence of alcohol as defined in this section; or consume any prescription or non-prescription drug or controlled substance that would impair the operator's judgment and ability.
- (d) The operator shall wash his hands thoroughly with soap and water before any skin preparation, tattooing or body piercing. The hands shall be dried with individual single-service towels.
- (e) Physical examination of operators.

1. The Chief of Police shall have the power to require any operator to submit to a practicing physician for a physical examination whenever the operator is suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The operator shall pay the expense of the physical examination.
2. Any operator notified to appear for a physical examination shall immediately cease working as an operator and shall not be allowed to work thereafter as an operator until having first received a certificate in writing from a practicing physician that the operator is not afflicted with any infectious or contagious condition or disease that may be transmitted by the practice of tattooing or body piercing.

D. CUSTOMERS

- (1) It shall be unlawful for any person to administer a tattoo or body piercing to any person under the age of 18 years except as authorized by s. 948.70(3) Wisconsin Statutes.
- (2) Inquiry shall be made, and no tattooing or body piercing shall be performed on any person who is suspected of having jaundice or hepatitis or who has recovered from jaundice or hepatitis within the preceding six months.
- (3) Tattooing or body piercing shall not be performed on any person in an area with an evident skin infection or other skin disease or condition, including but not limited to rashes, pimples, boils or infections.
- (4) Tattooing or body piercing shall not be performed on any person under the influence of alcohol or drugs.

E. RECORD RETENTION; PENALTIES

- (1) Records shall be kept of all tattoos and body piercings administered, including the name of the customer, date, time, identification of tattoo or piercing, and the operator's name. Records shall be kept on the premises of the establishment. These records shall be available for inspection for a period of six months after the date the tattoo or body piercing is applied. Inspections of these records can be made by the Chief of Police in the act of investigating a complaint in reference to license violations.
- (2) In addition to the penalties in section 6.11, a license may be suspended or revoked for cause due to violations of this section.

F. INSPECTIONS; ENFORCEMENT

- (1) The Chief of Police may enter any establishment licensed under this article to inspect the premises for violations of the license, secure samples or specimens,

examine and copy any relevant document, or obtain photographs or other evidence needed to enforce the provisions of this article.

- (2) Whenever, upon inspection of a licensed establishment by the Chief of Police, it is found the establishment is not operating or equipped as required by this section, the Chief of Police shall notify in writing the person operating the premises and shall specify the requirements described by state law or code and local ordinance to make such place of business conform to the standards established, and shall specify the time limit within which compliance shall take place. If the time limit in the order is not met, or any extension of time granted for compliance, the permit to operate the establishment may be suspended by the Chief of Police.
- (3) Where, as a result of an inspection, the Chief of Police has reasonable cause to believe that any inspected construction, sanitary condition, method or operation of premises or equipment used on the premises creates a danger to health, the Chief of Police may issue a temporary order prohibiting the continued operation that creates the immediate danger to health. The Chief of Police may, in addition to the above, without written notice, suspend a tattoo or body-piercing license where such violations exist to such a degree as to constitute, in the opinion of the Chief of Police, an immediate health hazard. By so doing, the licensee must immediately cease all operations authorized by the license or permit.
- (4) Any person aggrieved by an order of the Chief of Police may appeal such order to the Village Board within 30 days after the issuance of such order. Village Board may reaffirm, summarily set aside or modify the order, or set a date for a hearing on the matter. The action taken by Village Board may either suspend the order or continue it in force pending determination of the issue. If the Village Board has summarily modified the order, the person aggrieved may appeal from the modified order. An order of the Village Board may be appealed to the circuit court of the county pursuant to state law.

6.11 PENALTY.

Any person who shall violate any provision of this chapter shall be subject to the penalty provided in 21.04 of this Code. (#95-04) Each violation and each day a violation continues or occurs shall constitute a separate offense. This Section shall not preclude the Village from maintaining any appropriate action to prevent or remove a violation of this Chapter.