

CHAPTER 12

LICENSES AND PERMITS

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12.01 GENERAL PROVISIONS. (1) LICENSES OR PERMITS REQUIRED. No person shall engage in any trade, profession, business or privilege in the Town for which a license or permit is required by any provision of this chapter without first obtaining such license or permit from the Town in the manner provided in this chapter, unless otherwise specifically provided.

(2) **APPLICATION.** Unless otherwise provided, application for a license or permit shall be made in writing to the Clerk-Treasurer upon forms provided by the Clerk-Treasurer 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 license or permit.

(3) **PAYMENT OF FEE.** The fees for any license or permit shall be paid at the office of the Clerk-Treasurer with the application for such license or permit, except that alcohol beverage license fees shall be paid not less than 15 days prior to the issuance of the license.

(4) **FORM.** Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the Town by the Clerk-Treasurer. The Clerk-Treasurer shall keep a record of all licenses and permits issued.

(5) **LICENSE AND PERMIT TERM.** (a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.

(b) When the issuance of a license for a period of less than one 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.

(6) **EXHIBITION OF LICENSES OR PERMITS.** Every licensee or permittee shall carry his license or permit upon his 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 shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

(7) **TRANSFER.** Unless otherwise provided, no license or permit shall be transferable or assignable.

(8) **RENEWAL.** Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(9) **SUSPENSION AND REVOCATION OF LICENSES AND PERMITS.** Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Town Board for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

(a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.

(b) Conviction of any crime or misdemeanor, subject to §111.32(5)(a) and (h),
Wis. Stats.

(c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the Town upon recommendation of the appropriate Town official.

(d) Expiration or cancellation of any required bond or insurance.

(e) Actions unauthorized or beyond the scope of the license or permit granted.

(f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.

(g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

(h) Being delinquent in payment of any taxes, assessments or other claims owed to the Town, or being delinquent in payment of a forfeiture resulting from a violation of any section of this Code.

12.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) **STATE STATUTES ADOPTED.** The provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except §§125.03, 125.075, 125.14(4), 125.45, 125.15, 125.16, 125.19, 125.29, 125.30, 125.33, 125.52, 125.53, 125.54, 125.55, 125.56, 125.58, 125.59, 125.60, 125.61, 125.62, 125.63, 125.65, 125.67 and 125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, are hereby adopted and made a part of this section by reference. A violation of any such provision, or future amendments thereto, shall constitute a violation of this section.

(2) **DEFINITIONS.** As used in this section, the following definitions apply:

(a) *Legal Drinking Age.* Twenty one years of age.

(b) *Underage Person.* A person who has not attained the legal drinking age.

(3) **LICENSE APPLICATION.** Application for a license to sell or deal in alcohol beverages shall be made in writing on the form prescribed by §125.04(3), Wis. Stats., and shall be filed together with the cost of publication as provided by §125.04(3)(g)6., Wis. Stats., with the Clerk-Treasurer not less than 15 days prior to the granting of the license. However, applications for licenses to be issued under §§125.26(6) and 125.51(10), Wis. Stats., shall be filed with the Clerk-Treasurer not less than 3 days prior to the granting of the license. Further, as a condition of granting a liquor license or an operator's license, the applicant shall permit the Town to secure from the County Sheriff's Department and the Wisconsin Crime Information Bureau a record check of the applicant. No license shall be issued until the fee has been paid.

(4) **APPLICATION INVESTIGATION.** The Clerk-Treasurer shall notify the Town Board of each new license and permit application and the Board shall review such application and inspect, or cause to be inspected, the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. No license or permit provided for in this section shall be issued without the approval of a majority of the Town Board.

(5) **LICENSE FEES.** The fees for issuance of the following fermented malt beverage and intoxicating liquor licenses shall be established from time to time by the Town Board. See the Town Fee Schedule in the office of the Clerk-Treasurer:

(a) *Combined "Class B" Intoxicating Liquor and Fermented Malt Beverage License.* See §125.26(6) and §125.51(3), Wis. Stats.

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

2. Licenses valid for 6 months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(b) *Temporary Class "B" Beer and Wine License (Picnic).* 1. Issued to organizations enumerated in §125.51(10), Wis. Stats., to sell or serve beer or wine at a picnic, meeting or gathering.

2. Annual Quota. No more than 2 licenses may be issued to any one organization in any 12 month period.

(c) *Wholesalers Fermented Malt Beverage License.* See §125.28, Wis. Stats.

(d) *Operator's License.* No new operator's license shall be granted unless the applicant has successfully completed a Vocational, Technical and Adult Education responsible beverage server training course or is otherwise exempt from such requirement under §125.17(6)(a), Wis. Stats. The Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in said training course and shall revoke such license if the applicant fails to successfully complete the course.

(e) *Provisional Operator's License.* For up to 60 days. See §125.17(5), Wis. Stats.

(f) *Temporary Operator's License.* For up to 14 days, as provided in §125.17(4), Wis. Stats.

(g) *Provisional Retail Alcohol Beverage License.* See §125.185, Wis. Stats.

(h) *Transfer of License.* See §125.04(12), Wis. Stats.

(i) *Special Class "B" Outdoor Consumption Permit.* 1. Required. No Class "B" licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under permit granted by the Town Board. The permit is a privilege in which no rights vest and therefore may be revoked by the Town Board at its pleasure at any time, or shall otherwise expire on June 30 of each year. No person shall consume or have in his possession alcohol beverages on any unenclosed part of a licensed premises which is not described on the "original/renewal alcohol beverage license application-premises description" form.

2. Special Permits for Outdoor Consumption. Special permits for outdoor consumption may be granted by the Town Board only when the applicant has demonstrated, to the satisfaction of the Town Board, the successful mitigation of potential negative impacts of noise, parking, lights, trespassing, public safety, etc., on surrounding properties. To further safeguard the public good, the Town Board may impose specific conditions such as months of operation, hours of operation, hours of sale and/or any additional conditions that it deems necessary.

a. Each applicant for a special permit for outdoor consumption shall accurately describe the area of the licensed premises not enclosed within the building where outdoor consumption of alcohol shall be permitted on the site plan attached to the application which shall become a part of the liquor license.

b. Each applicant for a special permit for outdoor consumption shall install fencing or other barriers to physically define and control the operation of the outdoor consumption area. Every area for outdoor consumption shall be clearly designated for the safety of its patrons and for compliance with alcohol serving regulations.

c. Lighting for the outdoor entertainment areas and the outdoor consumption area shall be of the type designed to focus light downward and minimize impact on the neighboring property owners.

d. Parking areas shall be designated to allow safe passage of all types of vehicles on all roads.

e. There shall be a licensed operator with the outdoor consumption area at all times this specific area is in operation.

(f) No amplified sound or music is permitted outside the enclosed premises. Amplified sound or music is not permitted in the outdoor consumption area except where permitted by the Town Board.

3. Special Permits For Events With Amplified Sound or Music in the Outdoor Consumption Area. Special permits for events with amplified sound or music in the outdoor consumption area may be granted by the Town Board. The Board shall approve each event and/or events by permit and may impose specific conditions such as date of event, duration of event, hours of operation, hours of sale, notification requirements and/or any additional conditions it deems necessary.

4. Adjoining Property Owners to be Notified of Pendency of Applications. All property owners within 150 feet of the proposed outdoor consumption area shall be notified of the pendency of application for a special permit for outdoor consumption by first class mail.

5. State Statutes Enforced Within Outdoor Consumption Area. Every permittee under this paragraph shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable.

(6) OPERATOR'S LICENSE. All applications for an operator's license, together with the fee, shall be filed in the office of the Clerk-Treasurer on or before May 31 of the year the license expires, provided that nothing shall prevent the Town Board from granting any license which is applied for at least 5 working days before a Town Board meeting at any other time.

(7) LICENSE REQUIRED. No person shall vend, sell, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any liquor or fermented malt beverages, or cause the same to be done, without having procured a license as provided in this section nor without complying with all provisions of this section, and all Statutes, ordinances and regulations applicable thereto. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where liquor and fermented malt beverages are kept, sold or offered for sale.

(8) **QUALIFICATIONS FOR LICENSES AND PERMITS.** (a) *Natural Persons.* Licenses related to alcohol beverages, issued to natural person under this section, may be issued only to persons who:

1. Do not have an arrest or conviction record, subject to §111.321 111.322 and 111.335, Wis. Stats.
2. Have been residents of this State continuously for at least one year prior to the date of filing the application for license, except that Class B licenses may be issued to a person who has been a resident of the State continuously for 180 days prior to the date of the application.
3. Have attained the legal drinking age, except that operators' licenses may be issued to any person who has attained the age of 18.
4. Have submitted proof of having a seller's permit under §77.61(11), Wis. Stats.
5. Have successfully completed within the 2 years prior to the date of application a responsible beverage server training course as provided in §125.04(5)(a)5., Wis. Stats., unless the applicant held, within the past 2 years, a Class "A," "Class A" or "Class C" license or a Class "B" or "Class B" license or permit or a manager's or operator's license.

(b) *Criminal Offenders.* No license or permit related to alcohol beverages may, subject to §§111.321, 111.322 and 111.335, Wis. Stats., be issued under this section to any natural person who has been convicted of a felony unless the person has been duly pardoned.

(c) *Corporations.* No license or permit may be issued to any corporation unless the agent of the corporation appointed under §125.04(6), Wis. Stats., and the officers and directors of the corporation meet the qualifications of pars. (a)1. and 3. and (b) above, except that par. (a)2. does not apply to agents.

(9) **"CLASS B" LIQUOR LICENSE QUOTAS.** The number of "Class B" liquor licenses to be issued hereunder is limited to the number permitted under §125.51(4), Wis. Stats.

(10) **LICENSE CONDITIONS AND RESTRICTIONS.** In addition to the conditions and restrictions imposed by State law on the granting of Class B fermented malt beverage licenses and intoxicating liquor licenses hereunder, the following conditions and restrictions shall apply:

(a) *Consent to Inspection of Premises.* It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by the Town Board without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. If such inspection is denied, such denial shall be deemed a violation of this section.

(b) *Violation by Agents or Employees.* A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.

(c) *Sales to Underage Persons Restricted.* No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

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

(e) *Commencement of Operations.* Within 180 days after the issuance of a "Class B" intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. Upon his failure to do business within such time, his license shall be subject to revocation by the Town Board after a public hearing. The Town Board may, for a good cause shown, extend such 180 day period.

(f) *Cessation of Operations.* If any licensee shall suspend or cease doing business for 180 consecutive days or more, his Class B intoxicating liquor license and fermented malt beverage license shall be subject to revocation by the Town Board after a public hearing. The Town Board may, for a good cause shown, extend such 90 day period.

(g) *Transfer of License.* No license shall be transferable from person to person except as provided in §125.04(12)(b), Wis. Stats., or from place to place, except as provided in §125.04(12)(a), Wis. Stats.

(h) *Location of Premises Restricted.* No retail Class B license shall be issued for premises, the main entrance of which is less than 300 feet 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 such premises. This paragraph shall not apply to premises so licensed on June 30, 1947.

(i) *Safety and Health Requirements.* No retail Class B license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code and the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and also shall conform to all ordinances and regulations of the Town.

(j) *Operator on Duty Required.* The licensee, a member of his immediate family or a licensed operator must be present at all times in the immediate area open to the public where alcohol beverages are being served.

(k) *Disorderly Conduct and Gambling Prohibited.* Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.

(l) *Posting of Licenses Required.* Licenses or permits issued under this section shall be posted and displayed as provided in §125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(m) *Live Music and Dancing.* Dancing and live music shall be permitted in any premises holding a "Class B" liquor license, provided that such dancing and music is limited to the building only and does not constitute a nuisance in the neighborhood:

(11) **CLOSING HOURS.** No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, as follows:

(a) *Wholesale License.* Between 5:00 P.M. and 8:00 A.M., except Saturdays when the closing hour shall be 9:00 P.M.

(b) *Retail Class B License.* No premises shall be open for the sale of intoxicating liquor or fermented malt beverage between the hours of 2:00 A.M. to 6:00 A.M., except on Saturday and Sunday the closing hour shall be 2:30 A.M.; on January 1 there are no closing hours.

(c) *Hotels and Restaurants.* Hotels and restaurants, the principal business of which is the furnishing of food and/or lodging to patrons, shall be permitted to remain open after closing hours for the conduct of regular business, but shall not sell intoxicating liquors or malt beverages during the closing hours stated in par. (b) above.

(d) *Presence on Premises After Closing Hour Restricted.* 1. Any person who is not an employe of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter.

2. Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcohol beverages.

(12) NUDE DANCING IN LICENSED ESTABLISHMENTS (a) *Intent.* The Town Board recognizes it lacks authority to regulate obscenity in light of §66.0107(3), Wis. Stats., and does not intend by adopting this subsection to regulate obscenity; since nudity in and of itself is not obscene, it declares its intent to enact this subsection addressing the secondary effects of live, totally nude, non-obscene erotic dancing in bars and taverns.

(b) *Prohibited.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employe, entertainer or patron to perform or engage in, any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

1. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or

2. Shows any portion of the female breast below a point immediately above the top of the areola; or

3. Shows the covered male genitals in a discernibly turgid state.

(c) *Exemption.* The provisions of this subsection do not apply to theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employes engaging in nude erotic dancing.

(d) *Definitions.* For purposes of this subsection:

1. *Licensed Establishment.* Any establishment licensed by the Town to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

2. *Licensee.* The holder of a retail "Class A", "Class B", Class "B", Class "A" or "Class C" license granted by the Town pursuant to Ch. 125, Wis. Stats.

(e) *Penalties.* Any person who violates any of the provisions of this subsection shall be subject to a forfeiture as provided in sec. 20.04 of this Code. A separate offense and vio-

lation shall be deemed committed on each day of which a violation occurs or continues. In addition, violation of this subsection constitutes sufficient grounds for suspending, revoking or nonrenewing an alcohol beverage license under §125.12, Wis. Stats.

(13) SALE OF CLASS B PACKAGED GOODS. (a) *Sale Restrictions.* Pursuant to §125.51(3)(b), Wis. Stats., no person may sell intoxicating liquor in an original unopened package, container or bottle for consumption away from the premises in excess of 4 liters at any one time on any premises for which any "Class B" intoxicating liquor license or combination Class B beverages and wine from such premises may be made in any quantity.

(b) *Hours of Sale.* Between the hours of 12:00 midnight and 8:00 a.m., no person may sell any packaged goods from any Class B licensed premises.

(14) UNDERAGE PERSON; PRESENCE IN PLACE OF SALE. The Town of Ashippun adopts in its entirety the language contained in Wis. Stat. §125.07(3) PRESENCE IN PLACES OF SALE; PENALTY, and as this statute may from time to time be amended.

(15) UNDERAGE PERSON; CONSUMPTION AND POSSESSION OF ALCOHOL BEVERAGES. (a) *Restrictions.* Pursuant to §125.07(4)(b) and (bm), Wis. Stats., any underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may not knowingly possess or consume alcohol beverages.

(b) *Exceptions.* An underage person may possess alcohol beverages if employed by any of the following:

1. A brewer.
2. A fermented malt beverage wholesaler.
3. A permittee other than a Class "B" or "Class B" permittee.

4. A facility for the production of alcohol fuel.

5. A retail licensee or permittee under the conditions specified in §§125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

(c) *Selling or Serving Alcohol Beverages.* Pursuant to §§125.32(2) and 125.68(2), Wis. Stats., any underage person who is at least 18 years of age may sell or serve alcohol beverages on any Class B premises, provided that such underage person is a licensed operator or is under the immediate supervision of the licensee, agent or manager, or a licensed operator, who is on the premises at the time of such sale or service.

(16) **REVOCATION AND SUSPENSION OF LICENSES.** (a) *Procedure.* Except as hereinafter provided in subpars. 1. and 2. below, the provisions of §125.12(2) and (3), Wis. Stats., shall be applicable to proceedings for revocation or suspension of licenses or permits granted under this section. Revocation or suspension proceedings may be initiated upon written complaint by the Town Chairperson or by the Town Board upon its own motion.

1. No license shall be suspended, revoked or non-renewed for a single violation of serving an underage person in a one-year period and no more than one citation may be issued for a single violation.

2. Pursuant to §§945.03(2m), 945.04(2m) and 945.04(11), Wis. Stats., no Class "B" license or "Class B" license shall be suspended, revoked or nonrenewed for possession of up to 5 video gambling machines on such premises.

(b) *Repossession of License or Permit.* Whenever any license or permit shall be revoked or suspended pursuant to this subsection, the Clerk-Treasurer shall notify the licensee or permittee and a peace officer selected by the Town Board of such revocation or suspension and the peace officer shall take physical possession of the license or permit wherever it may be found and file it in the office of the Clerk-Treasurer.

(c) *Effect of Revocation of License.* No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this section revoked within 12 months prior to application.

12.03 CIGARETTE RETAILER LICENSE. (1) **REQUIRED.** No person shall sell cigarettes in the Town without first obtaining a license from the Clerk-Treasurer. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference.

(2) **LICENSE FEE.** See the Town Fee Schedule in the office of the Clerk-Treasurer.

12.04 JUNK DEALERS. (1) **LICENSE REQUIRED.** No person shall engage in the business of buying, selling, gathering, delivering or storing old iron, brass, copper or other base metals, paper, rags or glass, any recyclable material unless no value is given therefor, and all articles and things discarded as manufactured articles commonly referred to as "junk," without first obtaining a license from the Town Board. No Town license shall be issued until the applicant has obtained a State Salvage Dealers License under §218.205, Wis. Stats.

(2) **EXCEPTION.** No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site, as provided in sec. 10.06 of this Code.

(3) **APPLICATION.** Applications for such license shall be made on forms supplied by the Clerk-Treasurer and filed with the Clerk-Treasurer.

(4) **LICENSE FEE.** See the Town Fee Schedule in the office of the Clerk-Treasurer. The license year shall commence on July 1 of each year.

(5) **REFERRAL TO TOWN BOARD.** The application shall be referred to the Town Board which may grant, grant with conditions, or deny the license.

(6) **RESTRICTIONS APPLICABLE TO JUNK DEALERS.** (a) No junk shall be displayed or stored outside the fenced area of the premises.

(b) No licensee hereunder shall conduct his business or any operation pertaining to such occupation on Sundays.

(c) No licensee shall conduct his business in such manner as to disturb unduly the peace and quiet of the neighborhood. The premises shall at all times be kept in a clean and wholesome condition and in full compliance with this section and in accordance with the reasonable rules, regulations and directions of the Town Board.

(d) Effective means for the elimination of the rodents and vermin commonly infesting junk yards shall be administered by all licensees hereunder.

(e) Every license hereunder shall comply with all applicable provisions of this Code and all applicable State and Federal laws and regulations.

(f) Every junk dealer shall keep a record of all copper, brass, guns, watches and other valuable materials purchased with the name and address of the person from whom purchased, the kind and quantity purchased, the serial number of the item purchased, and the date of the transaction. Such record shall be entered in a book which shall be open to inspection by police officers at any time.

(g) No junk shall be purchased from any person under 18 years of age without the written consent of the parent or guardian of such person.

(7) **REVOCATION AND SUSPENSION OF LICENSE.** (a) Upon complaint being made in writing by any official of the Town to the Town Board that any licensee hereunder has violated any of the provisions of this section, the Town Board shall cause a summons and complaint to be served upon the licensee to appear before it at the time specified in the summons, which shall be not less than 10 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Town Board shall thereupon proceed to hear the matter and, if it finds that the allegations of such complaint are true, may revoke or suspend the license of such person. The provisions hereunder shall not be effective unless the licensee has received a copy of the complaint from the Building Inspector and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

(b) Whenever a license is revoked, the licensee shall have a period of 45 days from the date of such revocation to liquidate his business, during which time he shall be required to comply with all the terms and conditions of this section.

12.05 MOBILE HOMES AND MOBILE HOME PARKS. (1) **STATE STATUTES ADOPTED BY REFERENCE.** The provisions of §66.0435, Wis. Stats., and the definitions therein are hereby adopted by reference.

(2) **PARKING OUTSIDE LICENSED MOBILE HOME PARKS.** (a) *Restricted.* No occupied mobile home shall be permitted to be located in the Town unless the same is in a licensed mobile home park.

(b) *Exemptions.* Paragraph (a) above is not intended to restrict the location of one-family manufactured homes which meet the applicable one-family standards set forth in Ch. 101, Wis. Stats., and the Dodge County Zoning Ordinance.

(3) **PARK LICENSE REQUIRED.** No person shall establish or operate upon property owned or controlled by him within the Town a mobile home park without having first secured a license therefor from the Town Board. The application for such license shall be filed with the Clerk-Treasurer and shall be accompanied by a fee of \$2 for each space in the existing or proposed park, but not less than \$25. Such parks shall comply with Wis. Adm. Code H77, which is hereby adopted by reference. The license transfer fee is \$10.

(4) **ADDITIONS TO PARKS.** Licensees of mobile home parks shall furnish information to the Clerk-Treasurer and Assessor on such homes added to their parks within 5 days after their arrival on forms furnished by the Clerk-Treasurer.

(5) **PARKING PERMIT FEES.** There is imposed on each mobile home located in the Town a parking permit fee, such amount to be determined in accordance with §66.0435, Wis. Stats. The fees shall be paid to the Clerk-Treasurer, monthly, on or before the 10th day of the month for which they are due. It shall be the full and complete responsibility of the licensee of a mobile home park to collect such fees from each mobile home therein and to remit such fees to the Clerk-Treasurer. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Chs. 70 and 74, Wis. Stats.

12.06 REGULATION AND LICENSING OF DOGS. (1) **DOG LICENSE REQUIRED.** It shall be unlawful for any person in the Town to own, harbor or keep any dog more than 5 months of age without complying with the provisions of this section and §§174.05 through 174.10, Wis. Stats., relating to the listing, licensing and tagging of same.

(2) **LICENSE FEE.** The licenses fee for a dog shall be as follows:

- (a) *Unneutered Male Dog.* \$15
- (b) *Unspayed Female Dog.* \$15
- (c) *Neutered Male Dog.* \$10
- (d) *Spayed Female Dog.* \$10
- (e) *Replacement License.* No Charge

(3) **LATE FEES.** The Town Treasurer shall assess and collect a late fee of \$5 from every owner of a dog 5 months of age or older if the owner failed to obtain a license prior to April 1 of each year or within 30 days of acquiring ownership of a licensable dog, or if the owner failed to obtain a license before the dog reached licensable age.

(4) **CHANGE OF OWNERSHIP.** If there is a change in ownership of a licensed dog or kennel during the license year, the new owner may have the current license transferred to his name upon the payment of a transfer fee of \$2.

(5) **TRANSFER PROHIBITED.** No person shall use for any animal a license receipt or license tag issued for another animal.

(6) **KENNEL LICENSE OPTION.** The owners of kennels may opt to pay a kennel license fee of \$50 for a kennel of 12 dogs or less plus \$3 for each dog in excess of 12 in lieu of the fees provided in sub. (2) above and the Town Treasurer shall issue tags for each dog owned by the kennel owners. No kennel may be located in a residential area, except by conditional use permit.

(7) **RABIES VACCINATION REQUIRED.** It shall be unlawful for any person to keep a dog in the Town which is over 5 months of age and has not received a rabies vaccination as required by §95.12(2), Wis. Stats. No dog license shall be issued until a certificate of rabies vaccination issued by a veterinarian has been presented. A rabies vaccination tag shall be attached to the collar of all licensed dogs at all times, except as provided in §95.12(2)(f), Wis. Stats.

(8) **DEFINITIONS.** In this section, unless the context of subject matter otherwise require, the terms used shall be defined as follows:

(a) *Owner.* Any person owning, harboring or keeping a dog and the occupant of any premises on which the dog remains or to which it customarily returns daily for a period of 10 days is presumed to be harboring or keeping the dog within the meaning of this section.

(b) *At Large.* A dog which is off the premises of the owner and not under the control of some person either by leash or otherwise, but an animal within an automobile of any other person with the consent of the animal's owner shall be deemed to be upon the owner's premises.

(c) *Kennel.* Any establishment wherein dogs are kept for the purpose of breeding, sale or sporting purposes.

(9) **RESTRICTIONS ON KEEPING OF DOGS.** It shall be unlawful for any person within the Town to own, harbor or keep any dog which:

(a) Habitually pursues vehicles upon any street, alley or highway.

(b) Molests passersby or assaults or attacks any person without provocation.

(c) Is at large within the limits of the Town.

(d) Habitually barks or howls to the annoyance of any person or persons. This paragraph shall not apply to hospitals conducted for the treatment of small animals.

(e) Kills, wounds or worries any domestic animal.

(10) **DOGS RUNNING AT LARGE AND UNTAGGED DOGS.** (a) *Dogs Running at Large.* A dog is considered to be running at large if it is off the premises of its owner and not under control of the owner or some other person, as defined in sub. (8)(b) above.

(b) *Untagged Dogs.* A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.

(c) *Dogs Subject to Impoundment.* Peace officers or the Dodge County Animal Control Officer shall attempt to capture and restrain any dog running at large and any untagged dog.

(d) *Penalties.* If the owner of a dog, negligently or otherwise, permits the dog to run at large, or permits a dog to be untagged, the owner shall forfeit \$50 for the first offense and \$100 for subsequent offenses.

(11) **DUTY TO REPORT ANIMAL BITE.** Every person, including the owner or person harboring or keeping a dog or other animal, who knows that such animal has bitten any person shall immediately report such fact to the Sheriff.

(12) **QUARANTINE OR SACRIFICE OF ANIMALS SUSPECTED OF BITING A PERSON OR BEING INFECTED WITH RABIES.** (a) *Quarantine or Sacrifice of Animal.* The County Health Officer may order a dog or other animal quarantined if he has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the animal cannot be captured, a peace officer may kill the animal. The officer may kill an animal only as a last resort or if the owner agrees. The officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head.

(b) *Quarantine Order.* If a quarantine is ordered, the owner of the dog shall be subject to the provisions of §95.21(5), (6) and (8), Wis. Stats.

(13) **SETTING ANIMALS AT LARGE PROHIBITED.** No person shall open any door or gate of any private premises for the purpose of setting any dog or other animal at large, except the owner of such animal.

(14) **IMPOUNDING AND DISPOSITION OF DOGS.** (a) *Impounding of Dogs.* A peace officer or other person restraining a dog running at large shall notify the Town Animal Control Officer or take such animal to the Cherry Hill Veterinarian Clinic. The peace officer of the Animal Control Officer shall attempt to identify the dog and notify the owner and shall keep a public record of all such dogs impounded.

(b) *Release of Dog to Owner or Representative.* The pound may release the dog to the owner or his representative if the owner or representative:

1. Gives his name and address.
2. Presents evidence that the dog is licensed and vaccinated against rabies.
3. Pays the dog's boarding fee.

(c) *Release of Dog to Person Other Than Owner.* If the owner of the dog is unknown or does not reclaim the dog within 7 days, the pound may release the dog to a person other than the owner if such person:

1. Gives his name and address.
2. Signs a statement agreeing to license the dog and have the dog vaccinated against rabies.

(15) **PENALTIES** In addition to other penalties provided in this section, the following penalties are imposed:

(a) *Failure to obtain Rabies Vaccination.* A dog owner who fails to have a dog vaccinated against rabies, as provided in this section, shall, upon conviction, forfeit not less than \$50 nor more than \$100.

(b) *Refusal to Comply With Quarantine Order.* An owner of a dog or other animal who refuses to comply with an order issued under this section to deliver the animal to a police officer, the pound designated by the Town Board, or veterinarian, or who does not comply with the conditions of an order that the animal be quarantined, shall, upon conviction, forfeit not less than \$100 nor more than \$500.

12.07 KEEPING OF VICIOUS DOGS REGULATED. (1) **DEFINITIONS.** The terms used in this section are defined as follows:

(a) *Vicious Dog.* 1. Any dog with a propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.

2. Any dog which attacks a human being or another domestic animal without provocation.

3. Any dog owned or harbored primarily or in part for the purpose of dog-fighting, or any dog trained for dog-fighting.

4. Any pit bull dog.

(b) *Pit Bull Dog.*

1. The pit bull terrier breed of dog.

2. The Staffordshire bull terrier breed of dog.

3. The American pit bull terrier breed of dog.

4. The American Staffordshire terrier breed of dog.

5. Dogs of mixed breed or of other breeds than listed under subpars. 1. to 4. above whose breed or mixed breed is commonly known as pit bull, pit bull dog or pit bull terrier.

(2) **REQUIREMENTS AND PROHIBITIONS.** (a) *Leash and Muzzle.* No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior approval of the Town Board.

(b) *Confinement.* All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (a) above. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the Town. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) *Confinement Indoors.* No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) *Prohibited in Multiple Dwellings.* No vicious dog may be kept within any portion of any multiple dwelling.

(e) *Signs.* All owners, keepers or harborers of vicious dogs shall, within 15 days of the effective date of this section, display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." A similar sign is required to be posted on the kennel or pen of the dog.

(f) *Insurance.* All owners, keepers or harborers of vicious dogs shall, within 30 days of the effective date of this section, provide proof to the Town Board of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given to the Town Chairperson. The owner or custodian of the dog shall produce evidence of the required insurance upon request of a law enforcement officer. This paragraph does not apply to dogs kept by law enforcement agencies.

(3) **VICIOUS DOG DETERMINATION.** The Police Chief shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious," as defined in sub. (1) above. In the event the Board makes a determination that a dog is "vicious, he shall so inform the owner, keeper or harborer of such dog and provide such person with a copy of this section.

(4) **APPEAL OF VICIOUS DOG DETERMINATION.** Any person aggrieved by the determination of the Town Board, as provided in sub. (3) above, may appeal such determination with the Town Board.

(5) **DISPOSITION OF VICIOUS DOGS.** Any vicious dog which attacks a human being or domestic animal may be ordered destroyed by the Town Board or humane officer when, in the judgment of a court of competent jurisdiction, the dog represents a continuing threat of serious harm to human beings or domestic animals.

(6) **PENALTY.** Any person who violates any provision of this section shall, upon conviction, be subject to the payment of a forfeiture, as provided in sec. 20.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of this section occurs or continues.

12.08 ADULT-ORIENTED ESTABLISHMENTS. (1) PURPOSE AND INTENT. The purpose of this Section is to promote the health, safety, and general welfare of the Town of Ashippun through the establishment of regulations concerning the licensing and operation of adult oriented establishments. The Town Board intends that the enforcement of this section shall be used to combat and prevent the negative secondary effects associated with adult oriented establishments such as, for example, personal property, crimes, prostitution, lewd behavior, assaults, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restricting the content of any speech or communicative materials, including sexually oriented materials and the regulations set forth herein shall never be used for harassment or censorship purposes against materials or performances having serious artistic, literary, political, educational or scientific value. The Town Board further intends that this section shall be construed and enforced in a manner consistent with the First Amendment to the United States Constitution; Article I, Section 3 of the Wisconsin Constitution; and the compelling State interest in protection of the free flow of ideas.

(2) DEFINITIONS. The terms used herein shall be defined as follows:

(a) *Adult-Oriented Establishment.* This term includes, but is not limited to, adult entertainment stores, adult theaters, adult mini-theaters, adult cabarets, and any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult entertainment, whether or not such adult entertainment is held, conducted, operated or maintained for commercial gain.

(b) *Adult Entertainment Store.* An establishment, including in its stock in trade for sale, rent, lease, inspection or viewing, books films, video cassettes or recordings, novelties, magazines or other periodicals which have as their dominant theme or are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(c) *Adult Theater.* An enclosed building with a capacity of 50 or more persons used for presenting adult entertainment having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons.

(d) *Adult Mini-Theater.* An enclosed building with a capacity of less than 50 persons, used for presenting adult entertainment having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons.

(e) *Adult Cabaret.* An establishment which features topless dancers, strippers or similar entertainers.

(f) *Adult Entertainment.* Any exhibition of any motion picture, videocassette or recording, photographic reproduction, closed-circuit transmission, cable/satellite transmission, subscriber programming, or other physical medium that allows an image to be displayed or transmitted; and/or any live performance, display or dance of any type which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities", "specified anatomical areas", the removal of articles of clothing or partial or total nude appearance.

(g) *Operator.* Any person, partnership, corporation or other organization operating, conducting, maintaining or owning any adult-oriented establishment.

(h) *Specified Anatomical Areas.*

1. Showing of human genitals in a state of sexual stimulation or arousal or simulated to be in a state of sexual arousal, even if completely and opaquely covered; or
2. Any of the following, or any combination of the following, when less than completely and opaquely covered:
 - a. Any human genitals, pubic region, or pubic hair.
 - b. Any human buttocks; or
 - c. Any portion of the female breast or breasts that is situated below a point immediately above the top of the areola.

(i) *Specified Sexual Activities.* Simulated or actual:

1. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
2. Fondling or erotic touching of another's or one's own human genitals, pubic region, perineum, buttocks, anus, or female breasts; or
3. Excretory functions as part of, or in connection with, any of the activities set forth in sections (i) 1 through (i) 2 above.

(3) ADULT-ORIENTED ESTABLISHMENT LICENSE REQUIRED. (a) No person may engage in, conduct or carry on the operation or maintenance of an adult-oriented establishment without first obtaining a valid adult-oriented establishment license issued under this section.

(b) A license may be issued only for one adult-oriented establishment located at a fixed and certain place. Any person desiring to operate more than one adult-oriented establishment must have a license for each adult-oriented establishment.

(c) Any adult-oriented establishment existing at the time of the passage of this section must submit an application for a license within 60 days of the passage of this section.

(4) EXEMPTIONS. The provisions of this section relating to the licensing of adult oriented establishments shall not apply to:

(a) A business operated by or employing a licensed psychologist, licensed physical therapist, licensed masseuse, licensed vocational nurse, registered nurse, licensed athletic trainer, licensed cosmetologist, or licensed barber provided such business and the licensed individual are solely engaged in performing the normal and customary functions authorized under the license held;

(b) A business operated by, or employing a licensed physician or licensed chiropractor while engaged in practicing the healing arts;

(c) A retail establishment whose principal business is the offering of wearing apparel for sale to customers and that does not exhibit merchandise on live model(s); or

(d) An activity sponsored by:

1. A school licensed by the State of Wisconsin or a college, junior college or university supported entirely or partly by taxation; or
2. A private college or university that maintains or operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

Any activity conducted or sponsored by an entity identified in this subsection (d) must meet all of the following requirements:

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

(5) APPLICATION FOR ADULT ORIENTED ESTABLISHMENT LICENSE. (a) Any person desiring to obtain an adult-oriented establishment license shall pay the required fee of \$250 to defray the costs of administration and investigation of the application.

(b) Any person desiring an adult-oriented establishment license shall file a written application with the Clerk-Treasurer on a form provided in the Clerk-Treasurer's office. The information provided to the Clerk-Treasurer shall be given under oath.

1. Corporation. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation together with the date and state of incorporation and the names and residence addresses of each of its officers, directors and each stockholder holding 5% or more of the stock or beneficial ownership of the corporation. The application shall also be verified by an officer of the corporation.

2. Partnership. If the applicant is a partnership, the application shall set forth the name of the partnership and the name and residence address of each of the partners, including limited partners, and be verified by each partner. If one or more of the partners is a corporation or limited liability company, the provisions of this section pertaining to a corporate applicant shall apply to the corporate or limited liability company partner.

3. Limited Liability Company. If the applicant is a limited liability company, the application shall set forth the name of the company and the name and residence address of each of the members, and be verified by each member. If one or more of the members is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partner.

4. Others. If the applicant is neither a corporation nor a partnership, the application shall set forth the true full name and residence address of the applicant and be verified by the applicant. The application shall also include any other name by which the applicant has been known during the previous 5 years.

(c) The application also shall set forth the proposed place of business of the adult oriented establishment by business address, including suite number, and not by post office box and shall contain a description of the nature and scope of the proposed business operation. In addition, the following information shall be furnished concerning the applicant if an individual; each officer and director and all stockholders who own 5% or more of the stock or beneficial ownership if the applicant is a corporation; each member if the applicant is a limited liability company; and each partner, including limited partners, if the applicant is a partnership:

1. The previous residence address, if any, for a period of 3 years immediately prior to the date of application and the dates of such residence.

2. Written proof that the individual is at least 18 years of age.

3. A complete set of fingerprints.

4. The business, occupation or employment history for the 3 years immediately preceding the date of application, including, but not limited to, whether such person previously operated under any permit or license in another municipality in this or another state and whether any such permit or license had ever been suspended or revoked.

5. All convictions in any state or Federal court within the 5 years immediately preceding the date of application, including municipal ordinance violations, exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.

6. All pending criminal charges in any state or Federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending.

7. All pending actions or proceedings wherein a violation of an administrative regulation or municipal ordinance is asserted, the nature of the alleged violation, and the jurisdiction in which the proceedings are pending.

8. The names of persons who will have custody of the business records at the business location.

9. The name and address of the person who will be the agent for service of process.

10. Such other information relating to the application as may be required by the Plan Commission to determine compliance with this section.

(d) The application shall include the proposed hours of operation and a detailed floor plan.

(e) The Clerk-Treasurer shall notify the Chief of the Fire Department and the Building Inspector of any adult-oriented establishment license application and these officials shall inspect or cause to be inspected each such application and the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the Plan Commission, in writing, the information derived from such investigation and a statement as to whether the applicant and the premises meet the requirements of the department for whom the officer is certifying within 5 business days of receipt of notice from the Clerk-Treasurer. Upon receiving the information from said officials, the Plan Commission shall, within 10 days, file its written recommendation with the Town Board.

(f) Upon receiving a recommendation of the Plan Commission, within 30 days of receiving an application for license, the Town Board shall grant, with conditions, or deny a license to the applicant. The Clerk-Treasurer shall notify the applicant whether the application is granted or denied.

(g) Whenever an application is denied, the Clerk-Treasurer shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing within 10 days of receipt of notification of denial, a public hearing shall be held within 10 days thereafter before the Town Board.

(h) Failure or refusal of the applicant to give any information relevant to the application, failure or refusal to appear at any reasonable time and place for examination under oath regarding said application or refusal to submit to or cooperate with regard to any information required by this section shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial.

(6) STANDARDS FOR ISSUANCE OF AN ADULT-ORIENTED ESTABLISHMENT LICENSE. The Town Board shall issue an adult-oriented establishment license if, upon recommendation by the Plan Commission, it finds that:

(a) The required fee has been paid.

(b) The application conforms in all respects to this section.

(c) The location of the adult oriented establishment is not within 1,000 feet of any church or synagogue building, school building or park nor within 500 feet of any residential district.

(d) The applicant has not knowingly made a material misstatement in the application.

(e) The applicant has supplied all the information required under sub. (3) above and the information requested by the Plan Commission regarding the investigation of his application.

(f) The adult-oriented establishment, as proposed by the applicant, would comply with all applicable laws, including, but not limited to, ch. 14 and of this Code and the Dodge County Zoning Ordinance, as amended from time-to-time.

(g) The applicant has not had an adult oriented establishment license or permit or other similar license or permit revoked or suspended in this State or any other state within 3 years prior to the date of application.

(h) The applicant, if an individual; any of the stockholders holding 5% or more of the stock or beneficial ownership of the corporation, and any officers, agents or directors, if the applicant is a corporation; any of the members of the company, and any officers, agents or managers if the company is a limited liability company; or any of the partners, including limited partners, if the applicant is a partnership,

does not, at the time of application, have pending any criminal charge for or within 5 years at the time of application, have pending any criminal charge for or within 5 years prior to the date of application, has not been convicted of any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Chs. 944 or 948, Wis. Stats., as amended, or the laws of another state similar in nature to said Chs. 944 or 948, Wis. Stats., or other offense, subject to §111.335, Wis. Stats., as amended.

(i) The applicant, if a corporation or a limited liability company, is licensed to do business and is in good standing in the State.

(j) All individual applicants; all stockholders holding 5% or more of the stock or beneficial ownership, directors and officers if the applicant is a corporation; all members if the applicant is a limited liability company; and all partners, including limited partners, if the applicant is a partnership, are at least 18 years of age.

(7) DISPLAY OF ADULT-ORIENTED ESTABLISHMENT LICENSE. The adult-oriented establishment license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(8) RESTRICTIONS ON CORPORATE AND LIMITED LIABILITY COMPANY LICENSES. Any corporation or limited liability company holding an adult-oriented establishment license under this section shall report to the Clerk-Treasurer, in writing, within 15 days of the event described herein, any of the following:

(a) Any change of officers of the corporation or any change in the manager(s) or officers of the limited liability company.

(b) Any change in the membership of the board of directors of the corporation or any change in the membership of the limited liability company.

(9) SALE OR TRANSFER. Upon the sale or transfer of any interest in an adult-oriented establishment, the license shall be void. Any person desiring to continue to operate an adult oriented establishment following sale or transfer shall apply for a license.

(10) REPOSIBILITIES OF THE OPERATOR OF AN ADULT-ORIENTED ESTABLISHMENT. (a) Any act or omission of any employee constituting a violation of the provisions of this section shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(b) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or allow any minor to view adult entertainment.

(c) The operator shall maintain the adult-oriented establishment in a clean and sanitary manner at all times.

(d) The operator shall maintain at least 10 foot candles of light in the public portions of the adult-oriented establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one foot candle of illumination in said aisles as measured from the floor.

(e) No alcohol beverage may be served or permitted on the premises.

(f) No sexual activity of any kind shall be permitted on the premises.

(g) The operator shall insure compliance of the adult-oriented establishment and its patrons with the provisions of this section.

(h) No person licensed as an adult-oriented establishment may, in any manner, advertise its establishment as licensed by the Town.

(i) No operator or employee shall knowingly allow another to appear in a state of nudity, unless the person is an employee of the operator's establishment who, while in a state of partial or total nudity, is on a stage (on which no customer or patron is present) at least eighteen (18) inches above the floor, and such employee is either:

1. At least six (6) feet from any customer or patron; or
2. Physically separated from patrons by a wall or partition composed of solid glass or light-transmitting plastic or substantially equivalent material extending from the floor of the performance state, but such that there are not openings in the wall or partition that would permit physical contact between customers or patrons and such employee.

(j) No employee, while in a state of partial or total nudity on the premises of an adult oriented establishment shall receive directly any pay or gratuity from any patron or customer and no patron or customer shall pay or give any gratuity directly to any employee, while that employee is in a state of partial or complete nudity in an adult oriented establishment. Such gratuity or pay may be provided to such employee through a tip receptacle, located more than six (6) feet from the nearest point of the performance stage where such employee is in a state of partial or complete nudity, or may be paid to an employee that is not in a state of partial or complete nudity, as part of the customer's bill.

(k) No employee of an adult oriented establishment while on the premises shall, while in a state of partial or complete nudity, touch a customer or patron or the clothing of a customer or patron.

(l) No customer or patron of an adult oriented establishment shall touch an employee appearing in a state of partial or complete nudity or touch the clothing of the employee while such employee is on the premises.

(m) Employee shall maintain a minimum distance of five feet from areas on the adult oriented establishment's premises being occupied by customers for a minimum of one hour after such employee appears in a state of partial or complete nudity on the establishment's premises. This regulation is not intended to prohibit ingress or egress from the premises or the employee's use of a common restroom. It is, however, intended to control illicit sexual contact and reduce the incidents of prostitution occurring in any adult oriented establishment. Regulating a reasonable delay between the times entertainers appear in a state of partial or complete nudity and their commingling with customers is a narrowly tailored furtherance of this interest.

(n) No adult-oriented establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. to 12:00 noon on Sundays.

(o) All adult-oriented establishments shall be open to inspection at all reasonable times law enforcement personnel and the building inspector.

(11) PHYSICAL LAYOUT OF ADULT-ORIENTED ESTABLISHMENT. Any adult-oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

(a) Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.

(b) Every booth, room or cubicle shall meet the following construction requirements:

1. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any nonpublic areas by a wall.
2. Each booth shall have at least one side totally open to a lighted public aisle so that there is an unobstructed view at all times of anyone occupying the same.
3. All walls shall be solid and without any openings, extended from the floor to a height of not less than 6 feet and be light colored, nonabsorbent, smooth textured and easily cleanable.
4. The floor must be light colored, nonabsorbent, smooth texture and easily cleanable.

5. The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of 10 foot candles at all times, as measured from the floor.

(c) Only one individual shall occupy a booth, room or cubicle, at any time. No occupant shall engage in any type of sexual activity.

(d) A two-inch wide glow-in-the-dark line shall be prominently and continuously displayed on the floor marking a distance of six feet (6') from each unenclosed stage on which an employee in a state of partial or total nudity may appear. For purposes of this provision, an "unenclosed stage" is a stage physically separated from customers or patrons by a solid clear transparent unbreakable glass or Plexiglas wall with no openings that would permit physical contact with customers or patrons.

(e) A sign shall be continuously and conspicuously posted on the interior of the adult oriented establishments at each entrance where customers or patrons enter the premises and adjacent to each stage that states, in letters at least two inches high, "TOUCHING OT TIPPING AN EMPLOYEE WHO IS IN A STATE OF NUDITY IS A VIOLATION OF SECTION 12.08 OF THE TOWN OF ASHIPUN ORDINANCES, PUNISHABLE BY A FORFEITURE OF UP TO \$1,000.00. PATRONS SHALL REMAIN AT LEAST SIX FEET FROM ALL UNENCLOSED PERFORMANCE STAGES."

(12) RENEWAL. (a) Every license issued pursuant to this section will terminate at the expiration of one year from date of issuance unless sooner revoked and must be renewed before operation is allowed in the following year. All applications for the renewal of adult-oriented establishment licenses issued by the Town shall be filed with the Clerk-Treasurer's office on forms to be provided by the Clerk-Treasurer no later than 60 days prior to the expiration of the licenses. The renewal application shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. Applications to renew licenses shall be processed by the Town in the same fashion as new applications. No license shall be renewed without a re-inspection of the premises as required under sub. (3)(e) above.

(b) A license renewal fee of \$250 shall be submitted with the renewal application. In addition to the renewal fee, a late penalty of \$100 shall be assessed against any applicant who files for renewal less than 60 days before the license expires. If the application is denied, one-half of the total fees collected shall be returned.

(13) SUSPENSION OR REVOCATION. (a) Any adult-oriented establishment license may be suspended for not more than 90 days or revoked by the Town Board for any of the following reasons:

1. Any of the grounds that would warrant the denial of the original application for the license.

2. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

3. The operator or any employee of the operator violates any provision of this section or any rules or regulations adopted by the Town Board pursuant to this section, provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of 30 days if the Board shall find that the operator had no actual or constructive knowledge of such violation and could not, by the exercise of due diligence, have had such actual or constructive knowledge.

4. The operator becomes ineligible to obtain a license or permit.

5. Any cost or fee required to be paid by this section is not paid.

6. Any intoxicating liquor or fermented malt beverage is served or consumed on the premises of the adult-oriented establishment.

7. The establishment is operated outside of operation hours established by this ordinance.

8. There is any substantial change in the floor plan approved by the Town Board without the approval of the Board.

(b) An adult-oriented establishment license may be suspended or revoked after notice and a hearing before the Town Board to determine if grounds for such suspension or revocation exist. Notice of the hearing shall be in writing and may be served by certified mail addressed to the licensee at the current address of the licenses on file with the Clerk-Treasurer's office not less than ten (10) days before the date of the scheduled hearing. The notice shall state the grounds of the complaint against the licensee and shall designate the date, time and place where the hearing will be held.

(c) Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for 6 months from the date of revocation of the license.

(14) PENALTY. Any person violating any provision of this section 12.08 shall, upon conviction, be subject to a forfeiture of not less than \$100.00 nor more than \$1,000.00. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this section shall be deemed to prevent the State of Wisconsin to prevent, remove, or abate any violation of any provision of this Section 12.08.