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Article VII. Shows, Circuses and Theaters

- Sec. 18.132. License.

ARTICLE I. IN GENERAL**Sec. 18.100. Licenses and fees.**

No person shall engage in any business, occupation or profession without first obtaining a license established and payment of the required fees set by the town board.

Sec. 18.101. Revocation of licenses.

All of the licenses provided for in this Code may be revoked by the town board for good cause and satisfactory proof being shown, with all of the operations at the licensed business being terminated and closed down upon revocation.

(Code 1982, § 5.06)

Sec. 18.102. Penalties.

Any person violating any of the provisions of this chapter shall, upon conviction, be subject to section 1.109.

(Code 1982, § 5.07)

ARTICLE II. ADULT-ORIENTED ESTABLISHMENTS***DIVISION 1. GENERALLY****Sec. 18.103. Purpose of article.**

It is a lawful purpose of the town board to enact regulatory ordinances protecting and promoting the general welfare, health and safety of its citizens. The town board deems it necessary to require licensing and regulation of adult-oriented establishments, namely, adult bookstores, because many such establishments install booths with doors in which patrons can view adult-oriented movies or video tapes or film, or view other forms of adult entertainment, and that it has been found in many localities that viewing booths in such establishments are used by patrons for engaging in sexual acts, particularly between males, which results in unsafe and unsanitary conditions in such booths. Pathogenic agents responsible for sexually transmitted diseases have all been isolated at one time or another from body fluids that have been found to be frequently present in viewing booths in adult-oriented bookstores. It is thereby necessary for the town board to regulate adult-oriented bookstores for the protection of the public health, safety and welfare.

(Ord. of 5-17-1993, § 1(1))

***Cross reference**—Adult entertainment in alcohol beverage establishments, § 6.107 et seq.

Sec. 18.104. 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:

Adult entertainment means any exhibition of any motion pictures, 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 specific sexual activities or specified anatomical areas, or the removal of articles of clothing to appear totally nude or to display a nude genital area or female nude breast.

Adult-oriented establishment means an adult bookstore having as its stock in trade, for sale, rent, lease, inspection or viewing, books, films, videocassettes, magazines, or other periodicals that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specific anatomical areas, and in conjunction therewith have facilities for the presentation of adult-oriented films, movies or live performances, for observation by patrons.

Health department means the county health department, health officers or his designee or authorized agent.

Operator means any person operating, conducting, maintaining or owning any adult-oriented establishment.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered human genitals, pubic region, anus or the areola of a female breast; or
- (2) Human male genitalia in a discernibly turgid state, even if opaquely covered.

Specified sexual activities means simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal;
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochist abuse, fellatio or cunnilingus;
- (3) Fondling or erotic touching of human genitals, pubic region, anus or female breasts.

(Ord. of 5-17-1993, § 1(2))

Cross reference—Definitions and rules of construction generally, § 1.101.

Sec. 18.105. Penalty.

Any person who shall violate any of the provisions of this article shall upon conviction be subject to section 1.109.

(Ord. of 5-17-1993, § 1(12))

Sec. 18.106. Physical layout of premises.

No adult-oriented establishment shall have available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment unless the following requirements are complied with:

- (1) Each booth, room or cubicle shall:
 - a. Be separated from adjacent booths, rooms, or cubicles and any nonpublic areas by a wall.
 - b. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.
 - c. Have solid, nonbreakable walls without any openings, extended from the floor to a height of not less than six feet and shall be light colored, with a nonabsorbent, smooth-textured and easily cleanable surface.
 - d. Have a light-colored, nonabsorbent, smooth-textured and easily cleanable floor.
 - e. Have at all times when not in use a minimum lighting level of ten-footcandles as measured three feet above the floor.
- (2) Only one individual shall occupy a booth, room or cubicle at any time.
- (3) The operator shall ensure there is conspicuously posted inside each booth, stall, partitioned portion of a room, or individual room an unmutilated and undefaced sign or poster supplied by the health department, which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
- (4) The operator shall ensure that there is conspicuously displayed at a place near the main entrance of the establishment any information, brochures or pamphlets supplied by the health department pertaining to sexually transmitted diseases.
- (5) The operator shall ensure there is posted regulations concerning booth occupancy on signs with lettering at least one inch high, which are placed in conspicuous areas of the establishment and in each of the viewing enclosures.

(Ord. of 5-17-1993, § 1(10))

Sec. 18.107. Prohibition.

(a) No person while occupying a booth, room or cubicle or any public area of an establishment licensed under this article shall engage in any type of specified sexual activity, nor shall any such person cause any bodily discharge or litter while in such a booth, room or cubicle. No person shall damage or deface any portion of the booth while occupying that booth.

(b) No operator of an adult-oriented establishment shall permit more than one person to occupy a booth, room or cubicle at any time.

(c) No operator shall permit a minor to be in and/or loiter around an establishment licensed under this article or allow a minor to view adult entertainment in such an establishment.

(d) The operator shall maintain the adult-oriented establishment in a clean and sanitary condition at all times. The operator shall submit a fixed cleaning and sanitizing schedule to the health department for approval and once approved, adhere to that schedule. All employees and operators shall be required to wear nonpermeable rubber gloves while engaged in the cleaning and sanitation of the booths.

(e) The operator shall maintain a current list of all employees who work in his premises. Such list shall contain the name, current address, date of birth, sex, telephone number, social security number, position of each employee, and date of employment and termination, and shall be furnished to any designated law enforcement officer immediately upon request.

(f) Every act or omission by an employee 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; and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(g) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for the purposes of determining whether the operator's license shall be revoked, suspended or renewed.

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

(i) The operator shall ensure compliance of the establishment and its patrons with the provisions of this article.

(Ord. of 5-17-1993, § 1(11))

DIVISION 2. LICENSE

Sec. 18.108. Required.

(a) No person shall operate, conduct, maintain or own an adult-oriented establishment without first obtaining an adult-oriented establishment license. Licenses may be issued only to adult-oriented establishments located at a fixed and certain place. Any person who desires to operate more than one adult-oriented establishment must have a license for each.

(b) No license issued under this section may be transferred to any other person, nor shall such a license be transferred to another location.

(Ord. of 5-17-1993, § 1(3))

Sec. 18.109. Application.

Application for a license required by this division shall be made to the town clerk/treasurer. A copy of the application shall be forwarded to the designated law enforcement officer and the

health department for review and recommendation, including review of arrest/conviction records and corporate ownership. The application shall be made upon a form provided by the town clerk/treasurer and shall contain the following information under oath:

- (1) The applicant's full name and address;
- (2) Written evidence that the applicant is at least 18 years of age;
- (3) The address and description of the location of the proposed adult-oriented establishment; and
- (4) If the applicant is a corporation or LLC:
 - a. Its name;
 - b. The date and state of incorporation;
 - c. The name and address of the registered agents;
 - d. The name and address of all persons owning stock in the corporation or LLC; and
 - e. The name, address, age and position of all officers and directors of the applicant corporation or LLC.

An amended application form shall be filed by any corporate or LLC licensee upon any change of officer, director or agent. Such amended application shall be reviewed in the same manner as a new application. A fee set by the town board shall be paid to the town upon submission of an amended application.

(Ord. of 5-17-1993, § 1(4))

Sec. 18.110. Standards for issuance.

(a) The town board shall review all applications received under this division within 30 days after its filing and shall consider the review and recommendations of the designated law enforcement officer and health department. In recommending action on issuance or nonissuance of such licenses, the town board shall consider the probable impact of the location of the proposed business in the area proposed to be licensed, the fitness of the applicant to operate such an establishment, and the history of the operation of the establishment. In addition, the following requirements must be met:

- (1) An individual applicant must be at least 18 years of age and must not have been found to have violated this article or a similar law or ordinance within five years immediately preceding the date of application.
- (2) All officers, directors and stockholders of a corporate, LLP or LLC applicant must be at least 18 years of age; and no officer, director, or shareholder must have been found to have violated this article or similar law or ordinance within five years preceding the date of application. An applicant that is a partnership, joint venture or other type of organization where two or more persons have a financial interest must demonstrate that no such person is less than 18 years of age; and no such person must have been found to have violated any provision of this article or a similar law or ordinance within five years immediately preceding the date of the application.

(b) Within 60 days of receiving an application for a license, the town clerk/treasurer shall notify the applicant in writing whether the applications have been granted or denied by the town board and if denied, the reason for the denial. Judicial review of denials of applications by the town board under this section shall be as provided in Wis. Stats. § 68.13.

(Ord. of 5-17-1993, § 1(5))

Sec. 18.111. Fee.

A license fee set by the town board shall be submitted with the application for a license required by this division. If the application is denied, half the fee shall be retained as a processing fee and the balance shall be returned to the applicant. No fees shall be prorated except upon such denial. No later than three months after the close of each fiscal year, the town clerk/treasurer shall reimburse the health department 20 percent of each permit fee charged under this section. If an application is denied, reimbursement shall not be made to the health department.

(Ord. of 5-17-1993, § 1(6))

Sec. 18.112. Display.

The licensee shall prominently display the license issued under this division in a conspicuous public place in the licensed premises.

(Ord. of 5-17-1993, § 1(7))

Sec. 18.113. Term.

All licenses issued under this division shall expire on June 30 each year unless sooner revoked. A new application shall be made each year, and renewal applications must be filed not later than April 30. A renewal application shall contain the same information and data, given under oath, as is required for an application for a new license. A late processing fee of \$100.00 shall be paid with any renewal application made following April 30 of any year. If the application is denied, no portion of the late processing fee shall be refunded.

(Ord. of 5-17-1993, § 1(8))

Sec. 18.114. Revocation or suspension.

(a) *Hearing.* The town board may hold a hearing to determine whether such license should be suspended or revoked:

- (1) If a licensee or a licensee's agent or any of a licensee's officers, directors or shareholders is convicted of an offense that reasonably relates to the licensed operation under this division;
- (2) The discovery that false or misleading information or data was provided on any application, or material facts were omitted from any application;
- (3) The licensee has failed to comply with an order issued under subsection (d) or (e) of this section;

- (4) Any cost or fee required to be paid by this article is not paid; or
- (5) Any intoxicating liquor or fermented malt beverage is served or consumed on the premises of the licensed establishment.

(b) *Notice.* Notice of such hearing and the grounds for the hearing shall be provided to any such person who shall be advised of the time and place of the hearing of the right to call, examine and cross examine witnesses, and to have the proceedings recorded at the person's own expense. Such license may be suspended for a period of 60 days or revoked if the town board determines that the public interest so requires. The licensee shall be given at least ten days' written notice of the charges prior to the public hearing. The transfer of a license or any interest in a license shall automatically and immediately revoke such license. Any person whose license is revoked shall not be eligible to receive another license for a period of one year from the date of the revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for 12 months from the date of the revocation of the license. Judicial review shall be as provided in Wis. Stats. § 68.13.

(c) *Access.* Authorized employes or agents of the police or health department, upon presenting proper identification, shall be permitted to enter any adult-oriented establishment at any reasonable time for the purpose of inspection to determine compliance with this article.

(d) *Enforcement.* If upon inspection of an adult-oriented establishment, an authorized employe or agent of the police or health department finds the establishment is not operated or maintained as required by this article, the employe or agent shall notify the operator in writing. The order shall specify the changes required to make the establishment conform to the standards established in this article and the time period compliance shall take place.

(e) *Immediate danger to health.* Where there is a reasonable cause to believe that any construction, sanitary condition, operation or method of operation of the premises of an establishment or equipment used on the premises creates an immediate danger to health, an authorized employe or agent of the health department may, without advance written notice, issue an order to remove the immediate danger to health. That order shall take effect on delivery to the operator or other person in charge of the establishment. The order shall be limited to prohibiting the continued operation, use or methods of operation, or a combination of these; except if a more limited order would not remove the immediate danger to health, the order may direct that all operations authorized by the permit cease.

(Ord. of 5-17-1993, § 1(9))

ARTICLE III. HAWKERS, PEDDLERS AND TRANSIENT MERCHANTS*

Sec. 18.115. Regulated.

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

Hawkers, peddlers, transient merchants means one who carries his merchandise with him, traveling from place to place or from house to house, exposing his own or his principal's, goods, wares or merchandise for sale and selling them.

(b) *License required.* No person, individual or salesman shall engage in or follow the business or occupation of a hawker, peddler or transient merchant within the town without having first obtained a separate and individual license for that purpose, which license must be displayed by the individual at each home upon request.

(c) *License fee.* Every person desiring to engage in or follow the business or occupation of a hawker, peddler or transient merchant shall first obtain written approval from the designated law enforcement department of the town before he shall be entitled to a license. The license fee shall be set by the town board.

(Code 1982, § 5.03)

Sec. 18.116. Popcorn, peanut, ice cream wagons, related business.

(a) *License required.* No person shall conduct the business of operating a popcorn wagon, ice cream wagon, refreshment stand or other related business, either stationary, animal drawn or motor driven, without having first obtained a license from the town clerk/treasurer for such purpose.

(b) *License fee.* Application for such license being so made to the town clerk/treasurer and the due payment to the town clerk/treasurer of a license fee shall entitle the applicant to the proper license, which shall expire one year from date of granting. The license fee shall be set by the town board.

(Code 1982, § 5.04)

ARTICLE IV. JUNK†

Sec. 18.117. 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:

Junkyard, automobile graveyard, automobile salvage or wrecking yard means any place where two or more motor vehicles not in running condition, or parts of such vehicles, are stored

*Cross reference—Streets, sidewalks and other public places, ch. 58.

†State law reference—Junkyards generally, Wis. Stats. § 84.31.

in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or farm machinery, or parts of such vehicles or machinery, including the commercial salvaging of any other goods, articles or merchandise. The term "junkyard" shall also mean an open or enclosed area or building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and glass. (Code 1982, § 5.02(4); Ord. of 8-10-1992, § 1)

Cross reference—Definitions and rules of construction generally, § 1.101.

Sec. 18.118. Stock, junk, salvage, auto grave, auto salvage and wrecking yards.

It shall be unlawful to establish, enlarge and extend the structure of any stock, junk, salvage, auto grave, auto salvage and auto wrecking yards within the town without first registering with the town clerk/treasurer and obtaining a permit, which permit shall only be issued pursuant to resolution of the town board and shall only be issued in the discretion of the town board.

(Code 1982, § 5.02(1))

Sec. 18.119. Junk automobiles.

(a) *Permit required.* It shall be unlawful to buy, sell or deal in junk automobiles or their parts without first registering with the town clerk/treasurer and obtaining a permit, which permit shall be issued only in the discretion of the town board.

(b) *Fee.* The permit fee shall be set by the town board.

(c) *Qualifications for permit.* Before any person shall qualify for a permit under the provisions of this article, he shall have proven to the town that the stock, salvage, auto grave, auto salvage and wrecking and junk yard has been or will be within a limited time to be set by the town board enclosed within a high fence enclosure screening off the contents from the public. It will then be in the discretion of the town board as to whether or not a permit will be issued.

(d) *Exception.* The covering of a maximum of three disabled and/or dismantled, nonoperating automobiles or their parts, and/or items of disabled farm, road or other machinery by a canvas, canopy or other covering which completely excludes same from the view of the public, by any person shall take such person out of the purview of this article.

(Code 1982, § 5.02(2), (3), (5), (6))

Cross reference—Traffic and vehicles, ch. 66.

Sec. 18.120. Penalty.

Any person violating any provision of this article shall, upon conviction, be subject to section 1.109.

(Code 1982, § 5.02(7))

ARTICLE V. MASSAGE

Sec. 18.121. 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:

Manager means the operator or an agent licensed under this article, who shall not be licensed as a massage technician.

Massage means, where a consideration passes, any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another; and for the purposes of this article shall include wrestling, dancing, body painting and/or removal of such paint from a body, and manicuring, where one or both of the participants expose one or more sexual or genital parts.

Massage establishment means a place of business wherein massage is practiced, used or made available, or where sex education, or sex counseling is carried on by any sex educators or counselors while one or more of the persons present at the counseling session are nude, or where wrestling, dancing, manicuring or similar activities are conducted or permitted while one or more persons expose one or more sexual or genital parts.

Massage room means the area where private massage, wrestling, dancing, sex education, manicuring, body painting or removal of body paint is performed.

Massage technician means a person who, for a consideration, practices, administers or engages in wrestling, dancing, manicuring, sex counseling, sex educating or massage, whether or not such persons hold a valid license under this article.

Operator means any person licensed by the town to operate a massage establishment.

Patron means any person who receives a massage or participates in sex counseling or education sessions, wrestles, manicures, dances, body paints or removes body paint under such circumstances that it is reasonably expected that money or other consideration will pass between the patron and the manager, operator, owner or massage technician.

Sexual or genital parts includes the genitals, pubic areas, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

Waiting area means an area adjacent to the main entrance that is separate from any area where massages are given.

(Code 1982, § 5.10(2))

Cross reference—Definitions and rules of construction generally, § 1.101.

Sec. 18.122. Exceptions.

This article shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

- (1) Physicians, surgeons, chiropractors, osteopaths, masseurs 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 is limited to the head and scalp.
 - (3) Accredited high schools and colleges and their coaches and trainers while acting within the scope of their employment.
 - (4) Employees of those organizations that are exempt from real estate taxation pursuant to Wis. Stats. § 70.11, who administer massages upon such exempt premises as a duty assigned such employee by the employer.
 - (5) A natural person who is the sole owner of an unincorporated massage establishment, and personally acts as the operator, manager, massage technician, receptionist, laundry and stock clerk, and who personally performs all janitorial services that are performed during the time a customer is upon the premises, shall be exempt from the specific foregoing clauses enumerated under sections 18.126(b), (d)(1) and (d)(4). Further, any such natural person shall, instead of the fee set out in section 18.126(d)(1), pay an annual fee as set by the town board.
- (Code 1982, § 5.10(8))

Sec. 18.123. Penalty.

Any person violating any provision of this article shall be subject to section 1.109.
(Code 1982, § 5.10(10))

Sec. 18.124. Operation without a license a public nuisance.

The operation of a massage establishment without a license or the activity of an individual as a massage technician without a license is deemed a public nuisance and may be enjoined by the town.
(Code 1982, § 5.10(9))

Sec. 18.125. Regulation.

It shall be unlawful for any person to suffer, cause or permit the operation of a massage establishment, or for a person to operate as a massage technician, agent, manager or employee, except in strict compliance with this article.
(Code 1982, § 5.10(1))

Sec. 18.126. License.

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

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

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

(d) All applications shall include:

- (1) A nonrefundable fee as set by the town board.
- (2) The location and mailing address of the proposed establishment.
- (3) For an individual or for each person of a partnership or joint venture or agent of a corporation, LLC, LLP:
 - a. Name and present address.
 - b. The two immediately previous addresses and dates of residence at each.
 - c. Height, weight, color of hair and eyes, social security number, written proof of age, full set of fingerprints and two photographs not more than 30 days old, and at least two inches by two inches.
 - d. The business or occupation for the two years immediately preceding the date of application.
 - e. Whether a similar license had been revoked or suspended and, if so, the reason and the location.
 - f. Whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the violation and the locations.
- (4) If the applicant is a corporation, LLC or LLP, the names and addresses of each officer and director and of the stockholders, together with the extent of the ownership of each, and a statement whether such officer, director or stockholder holds office or stock in any other corporation, LLC or LLP conducting a similar business in the state. Such application shall be made by an agent registered as such who shall have been a resident of the town for at least 90 days.
- (5) All phone numbers of the proposed establishment.
- (6) The names, addresses and phone numbers of all persons employed by the applicant at the time of application.
- (7) Certification of compliance of the proposed premises with the building code and fire code; or in the alternative, the applicant shall file a bond assuring that any work required to be done to bring the premises into compliance shall be accomplished prior to the opening of business. Compliance with such codes and standards for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business.
- (8) The application shall contain a statement signed by the applicant and each individual of all partnership or joint venture, corporation, LLP, LLC that all information contained in the application is true and correct.

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

(Code 1982, § 5.10(3))

Sec. 18.127. Massage technician's and manager's license.

(a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to do so.

(b) Applications for permits shall be in writing on forms supplied by the town clerk/treasurer and shall include:

- (1) A nonrefundable fee as set by the town board.
- (2) The applicant's full name and present address, social security number, written proof of age in excess of 18 years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not more than 30 days old and at least two inches by two inches.
- (3) The applicant's two previous addresses and dates of residence at each.
- (4) The applicant's business, occupation or employment during the two years immediately preceding the date of application.
- (5) Whether the applicant has had a similar permit revoked or suspended and, if so, the reason and the location.
- (6) Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the violation and the locations.
- (7) For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than 30 days prior to the date of application.
- (8) The name and address of the licensed massage establishment by which the applicant is employed.
- (9) A statement signed by the applicant that all information contained therein is true and correct.

(Code 1982, § 5.10(4))

Sec. 18.128. Regulations of operations and licenses.

(a) Each massage establishment shall at all times maintain and comply with the following regulations:

- (1) The establishment shall comply with all town ordinances.
- (2) Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services, written

or pictorial, shall be permitted on such sign, the square footage of which shall not exceed that permitted in the zoning district in which the establishment is located, or 18 feet, whichever is less.

- (3) No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.
- (4) Only massage technicians licensed pursuant to this article shall be employed as massage technicians by the establishment.
- (5) The practice of all massage technicians employed by the establishment shall be limited to the licensed premises.
- (6) No person under the age of 18 years shall be permitted on the premises.
- (7) No intoxicating beverages or substance included in Wis. Stats. ch. 961 shall be permitted in the licensed establishment. Food shall be permitted only when there is no charge and when a food preparation area, including sink with hot and cold running water, is a part of the establishment.
- (8) The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance.
- (9) The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment.
- (10) The establishment shall permit inspections of the premises at any time during business hours by designated building inspectors, fire inspectors, health inspectors or personnel of any law enforcement agency.
- (11) The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in subsection (a)(10).
- (12) The establishment shall report any change of fact required on the application form and all personnel changes to the town clerk/treasurer within ten days after such change.
- (13) The establishment shall maintain a system of giving paper receipts to all patrons. The receipt shall bear on its face the name, address and telephone number of the patron, and the time and date of issuance. The name of the massage technician who administers to the patron shall appear on the original of the receipt in the technician's own handwriting. Not less than once each month the county health officer shall inspect the original receipts. The information contained in the receipts shall be confidential. If the health officer believes one or more patrons should be advised of any fact arising out of the patron's patronage of the massage parlor, the contact shall be in a discreet and private manner in order to protect the privacy of the patron. No other public official shall have access to or be provided with any information on the patron receipt without a specific authorization by resolution adopted by the town board, or by order of a court of competent jurisdiction.

- (14) The establishment shall be equipped with security deposit facilities capable of being locked by the patron. Sufficient safety deposit facilities shall be furnished so that each patron will have a separate compartment available for storage of clothing and valuables.
 - (15) Every massage establishment shall have a minimum of one shower, one toilet and one washbasin.
 - (16) 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 separated for male and female patrons; and each such separate facility or room shall be clearly marked as such.
 - (17) 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 footcandles as measured at three feet above the floor. Lighting in colors other than white shall be prohibited. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such door shall contain a transparent window pane no less than 12 inches wide and 12 inches long, such that an unobstructed view of the room is provided from a hallway or other common access area that is immediately adjacent to the room.
 - (18) No stuffed or upholstered furniture or beds and mattresses shall be permitted in rooms in which massage is to be practiced or administered. Such rooms shall be equipped with massage tables having a hard surface impervious to liquids with a width of no more than three feet and a length of no more than eight feet. The surface of such tables shall be positioned at least two feet from the surface of the floor so as to allow for free access to the floor beneath. Such tables may be equipped with either nondisposable pads or coverings or disposable coverings not more than 2½ inches thick. Nondisposable pads or coverings shall be removable, impervious and cleanable.
 - (19) Massage establishments and massage technicians in such establishments shall prominently and publicly display on the premises their licenses and permits during all hours of operation.
 - (20) 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 unless they have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.
- (b) Each technician shall at all times comply with the following regulations:
- (1) The technician shall practice only on the premises of a licensed massage establishment.

- (2) The technician shall massage only patrons over the age of 18 years.
 - (3) No technician shall administer a massage if he believes, knows or should know that he is not free of any contagious or communicable disease or infection.
 - (4) The technician shall report any change of fact required in the application form to the clerk/treasurer within ten days after such change.
 - (5)
 - a. It shall be unlawful for any person in a massage parlor to expose his sexual or genital parts or any portion to any other person. It shall also be unlawful for any person in a massage parlor to expose the sexual or genital parts or any portion of any other person, or to offer to do any of the acts described in this subsection.
 - b. It shall be unlawful for any person, while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering, the sexual or genital parts of his body, or to offer to do any of the acts described in this subsection.
- (Code 1982, § 5.10(6))

Sec. 18.129. Granting of licenses.

- (a) Licenses for massage establishments may be granted by the town board after a hearing at which the applicant may be heard at applicant's option. At least ten days' notice of such hearing shall be given to the applicant.
- (b) The town board shall grant a license within 30 days of application unless it is shown, for a massage establishment license, that the operation as proposed by the applicant does not comply with all applicable laws and ordinances, and for all licenses that the applicant or any partner or any officer, director or stockholder of a corporate, LLC or LLP applicant has been convicted in a court of competent jurisdiction of an offense under Wis. Stats. ch. 944, or involving substances included in Wis. Stats. ch. 961, or of an offense against the person or property of another within the past three years, that the information required on the application is incomplete or that any applicant has knowingly or with the intent to deceive made any false, misleading or fraudulent statement of fact in the application of any other document required by the town in conjunction with the applicant or that the applicant has not resided in the town for at least 90 days prior to the date of application.
- (c) In the event of denial, the applicant shall receive written notification, setting forth the reasons for the denial within ten days after such denial.
- (d) Licenses granted by the town board shall expire one year from the date of granting. Reapplication for a license shall be not less than 60 days prior to such expiration date and shall be the sole responsibility of the applicant.
- (e) No license shall be transferred between locations or persons, and no massage establishment license shall be sold or be subject to transfer of corporate assets or change of corporate officers or directors.

(f) The massage technician's license does not entitle the holder to operate or manage a massage establishment.

(Code 1982, § 5.10(5))

Sec. 18.130. Revocation or suspension of license.

(a) *Grounds.* The license granted in this article may be revoked or suspended for up to six months by the town board:

- (1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive.
- (2) For the violation of any provision of this article, except for establishment license matters involving violations of town ordinances, in which case the license shall be revoked after the second conviction in any license year.
- (3) If a technician's or manager's license, after one conviction of any offense under Wis. Stats. ch. 944, or of any offense involving substances included in Wis. Stats. ch. 961, or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment.
- (4) If an establishment license, after one conviction of any establishment personnel of an offense under Wis. Stats. ch. 944, or of an offense against the person or property of a patron or of an offense involving substances in Wis. Stats. ch. 961, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

(b) *Notice and hearing.* No license shall be revoked or suspended by the town board except upon due notice and a hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing and shall state the time and place of the hearing. The licensee shall be entitled to be heard, to be represented, to cross examine opposing witnesses, and to present witnesses in his own behalf under the subpoena of the town board, if such is required. The hearing shall be stenographically recorded, and a copy of the transcript shall be available to the licensee at the expense of the licensee. The town board shall decide the matter and shall prepare a written decision, which shall be filed with the town clerk/treasurer, and a copy mailed to the licensee within 20 days after the hearing.

(Code 1982, § 5.10(7))

ARTICLE VI. PAWN AND SECONDHAND DEALERS*

Sec. 18.131. State law adopted.

(a) Except as otherwise provided in this article, all provisions of Wis. Stats. §§ 134.71 and 138.10, relating to pawnbrokers and secondhand goods dealers, describing and defining regulations with respect to pawnbrokers and secondhand dealers and providing for licensing

***State law references**—Pawnbrokers generally, Wis. Stats. § 138.10; secondhand goods, dealers generally, Wis. Stats. § 134.71.

regulations, including penalties to be imposed for the violation of such statutes, are adopted by reference and made a part of this section as if fully set forth in this article. Any act required to be performed or prohibited by any provisions of statutes incorporated in this section by reference is required or prohibited by this article.

(b) Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made a part of this section in order to secure uniform state regulation of pawnbrokers and secondhand dealers.

(Ord. of 7-30-1990, § 1)

ARTICLE VII. SHOWS, CIRCUSES AND THEATERS

Sec. 18.132. License.

(a) *Required.* No person shall exhibit to public view for gain within the limits of the town any circus, carnival, theatrical performance, sleight of hand performance or other show of any kind or theaters without fixed operations where admission is gained by the payment of money or other valuable thing (except lectures on scientific, moral or literary subjects or concerts of music), without first having been licensed as provided in this section.

(b) *Fee.* The sum to be paid for a carnival or circus license shall be set by the town board.

(c) *Requirements.* All licenses granted under this article shall be issued and signed by the town clerk/treasurer upon receipt of the license fee set by the board. Such license, when granted, shall particularly specify where such show or exhibition is to be held and the duration of the show and shall not be transferable or inure to the benefit of any person except the one to whom the license shall be issued.

(Code 1982, § 5.05)

Chapters 19—21

RESERVED