

**CHAPTER 6
LICENSING AND REGULATIONS**

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SECTION 6.01 **MOBILE HOMES REGULATED.**(a) **Definitions.**

- (1) **Mobile Home.** That which is or was, as originally constructed, designed to be transported by any motor vehicle upon a public highway and which is designed, equipped and used primarily for sleeping and/or eating and/or living quarters or which is intended to be so used and shall include any additions, attachments, annexes, foundations and appurtenances thereto or therefor.
- (2) **Mobile Home Park.** Any park, court, camp, site, plot, parcel or tract of land designed, maintained, intended or used for the purpose of supplying a location or accommodations for two or more than two mobile homes and shall include all buildings used or intended for use as a part thereof whether or not a charge is made for the use of the mobile home park or its facilities. The term "mobile home park" shall not include mobile home sales lots upon which unoccupied mobile homes are parked for purpose of inspection and/or sale.
- (3) **Space.** A plot of land within a mobile home park which is designated or used for or in connection with the accommodation of one mobile home.
- (4) **Person.** Any individual, firm, corporation, limited liability company, joint venture, partnership, association or organization.

(b) **Enforcement.**

The Town Board shall enforce all provisions of this Ordinance or any amendment hereto. For such purpose any Town Supervisor or any duly authorized representative thereof may enter upon any premises upon which a mobile home is located or upon which is contemplated or intended that a mobile home shall be located and inspect the same, including the mobile home or mobile homes thereon located and all other mobile home accommodations and facilities, at any reasonable time.

(c) **Location of Mobile Homes Restricted.**

- (1) **Parking and Location Governed by Ordinance.** It is unlawful for any persons to park or locate any mobile home at any place in the Town except as provided herein.
- (2) **Temporary or Emergency Stopping or Parking.** Emergency or temporary parking or stopping of mobile homes shall be permitted on any public highway not longer than one (1) hour, subject to any other laws, regulations or Ordinances limiting parking or stopping on any such public highway.
- (3) **Unoccupied Mobile Home.** The parking or storing of one unoccupied mobile home in an accessory private garage building or in the rear yard of any residential

premises is permitted provided that no living quarters shall be maintained or business conducted in said mobile home while so parked or stored.

- (4) To the end and purpose that the health and cleanliness of mobile home occupants and of the public generally may be preserved and not endangered, and further in the interest of the public welfare generally, the Town Board does hereby direct and provide that: No mobile home shall be used, located and/or maintained for the purpose of human occupancy within the Town unless it is located in a licensed mobile home park or unless license for use, location and/or maintenance for such purposes outside of a licensed mobile home park has been hereinafter provided.
- (5) 51% of income must be derived from the farming operation in order to qualify for the placement of a mobile home on a farm
- (6) Licensees of mobile home parks and owners of land on which are parked any occupied, non-exempt mobile homes shall furnish information to the Town Clerk-Treasurer and Town Assessor on such homes added to their park or land within five (5) days after arrival of such home, on forms furnished by the Town Clerk-Treasurer in accordance with Wis. Stats. § 66.0435(4).

(d) **Location Outside Licensed Mobile Home Parks Regulated.**

- (1) **Existing Mobile Homes May Remain.** Mobile homes which are located outside licensed mobile home parks in the Town on January 1, 1960 may continue to be used at such location only if a license is applied for and obtained by January 31, 1960. The Town Board, upon application being made to the Town Clerk-Treasurer for such license shall authorize the Town Clerk-Treasurer to issue the same to the applicant if the mobile home does not constitute a public nuisance and if the Town Board finds that the mobile home is furnished with or has available adequate toilet and sanitary facilities, that it has available a safe supply of water, that the mobile home site is adequately drained and clean and that the living facilities provided by the mobile home are adequate for the number of occupants thereof, and that all Town Ordinances and all other applicable Ordinances and regulations are complied with.
- (2) **Newly Located and Relocated Mobile Homes Regulated - License Required.** No mobile home shall be moved into or located, or relocated for the purpose of human occupancy, in the Town, outside of a licensed mobile home park unless a license therefore shall be first obtained as hereinafter provided. Any person desiring to locate or relocate such a mobile home outside of a licensed mobile home park in the Town shall file an application with the Town Clerk-Treasurer. The application shall state the applicant's name, place of last residence, reason for wishing to locate or relocate the mobile home in the Town, place and nature of employment of the applicant and any other proposed occupant of the mobile home, names of all intended occupants, size and age of the mobile home, the size of the proposed site where the mobile home is to be located or relocated (which

must be at least 1,500 square feet of space unoccupied by any other mobile home or dwelling unit), a brief statement as to the toilet, cooking, sleeping, heating and sanitary facilities provided or furnished to the mobile home. The applicant shall also submit with his application sufficient evidence that there is available at the proposed site where the mobile home is to be located an adequate and safe water supply and a written consent of the owner of the site, if other than the applicant, to the location of the mobile home thereon. After the application has been submitted, the Building Inspector shall inspect the mobile home site and determine:

- (A) Whether the mobile home site is properly drained and is of the required size;
 - (B) Whether the water supply is safe;
 - (C) Whether the mobile home is sufficiently large and equipped to provide adequate living space, facilities and sleeping quarters for the occupants;
 - (D) Whether adequate toilet, bathing and other necessary sanitary facilities are provided for the mobile home;
 - (E) Whether the requirements set forth in Wis. Admin. Code Chap. SPS 326 and incorporated herein by reference, have been fully and specifically complied with;
 - (F) Whether all other applicable Ordinances, rules and regulations are complied with: If all the answers of the above questions are in the affirmative, then the Town Board may authorize and direct that a mobile home license for the propose mobile home and site be issued to the applicant by the Town Clerk-Treasurer. If answers to any of the above questions are in the negative, the applicant shall be denied. In no event shall more than one mobile home licensed be issued under this sub-section for any premise or site which is in the possession or control or ownership of the same person or persons and outside of a licensed mobile home park.
- (3) License; Inspection Fee. All licenses issued for any mobile home located outside of a licensed mobile home park, pursuant to Section (d)(1) or (2) herein shall expire each December 31st following the date of issuance. Such licenses may be renewed for one year periods upon application and under the same conditions and terms of the initial license may be granted and issued under this Ordinance. All applicants for an initial mobile home license or any renewal thereof shall be accompanied by an inspection fee in the amount as established under Section 2.71 for each mobile home proposed to be located outside of a licensed mobile home park. Licenses issued for mobile homes located outside of a licensed mobile home park may not be transferred to another location in the Town without payment of a new permit fee. The possession or occupancy of any licensed

mobile home outside of a licensed mobile home park in the Town of Lodi shall not be transferred or changed unless and until a mobile home license has been issued hereunder to the proposed new occupant.

(e) **Mobile Home Parks.**

- (1) **License Required.** It shall be unlawful for any person to maintain or operate a mobile home park with in the limits of the Town unless such a person shall first obtain a license therefor from the Town Board. Such license shall expire on December 31 following the date of issuance, and may be renewed pursuant to the Ordinance for additional one year periods.
- (2) **Application for Mobile Home Park License.** The application for a mobile home park license shall be filed together with the license fee by the applicant with the Town Clerk-Treasurer. The applicant shall set forth all information required by Wis. Stats. § 66.0435(4) and Wis. Admin. Code Chap. HSS 177, and any other applicable statute or rule. The applicant shall also submit with his or her application a verified statement of the owner of the site, if other than the applicant, to the effect that the applicant is authorized by the owner to construct and maintain a mobile home park thereon. A legal description and complete plan showing all mobile home sites, utilities and laundry and toilet facilities shall also accompany the application.
- (3) **Renewals of Mobile Home Park Licenses.** License renewal applications shall be filed with the Town Clerk-Treasurer and shall be accompanied by plans and specifications of any proposed alterations and construction in the park.
- (4) **License Fees for Mobile Home Parks.** Applications for original licenses and for renewals shall be accompanied by an annual license fee of one hundred (100.00) dollars. Licenses may be transferred for a fee of ten (\$10.00) dollars.
- (5) **Issuance of license for Mobile Home Parks.** Original licenses and renewals of licenses shall be issued by the Town Clerk-Treasurer after inspection and approval by the Town Board. The application shall not be approved by the Town Board until it has been determined that all provisions of Wis. Stats. § 66.0435(4), and of the Wis. Admin. Code, Chap. SPS 326, have been fully complied with and that the mobile home park provides space of at least 1,500 square feet unoccupied by and other buildings or unit for each mobile home and that the provisions of this Ordinance and of any other applicable law or Ordinance have been complied with.
- (6) **Management of Mobile Home Parks.**
 - (A) In every mobile home park there shall be located the office of the person in charge of the park, and a copy of this Ordinance shall at all times remain posted in the office.

- (B) A park register shall be kept in the mobile home park office and shall show the names of all the mobile home occupants, number of children of school age, dates of entrance and departure, state of legal residence of each occupant, license numbers of all mobile homes and towing vehicles and states of issuance, purpose of stay thereat and place of employment of each occupant.
- (7) Mobile Homes and Improvements Permitted in Mobile Home Parks. No mobile home shall be permitted to locate or remain in any licensed mobile home park in the Town unless such mobile home in all respects complies with the provisions of the State of Wisconsin Electrical, Plumbing and Building Codes which Codes are adopted and incorporated herein by reference and made a part hereof as if set forth in full herein and any and all plumbing, electrical, building and other work or improvements on or at any mobile home park licensed or on any mobile home located in a licensed mobile home park shall be done in accordance with all requirements of the State Plumbing, Electrical and Building Codes, and regulations of the State Board of Health. The licensee of any licensed mobile home park shall have the specific duty and obligation to see to it that the provisions of this sub-section are fully and at all times complied with.
- (8) Limitation on Number of Mobile Homes per Park and on Number of Licenses for Mobile Home Parks. No more than twenty-five (25) mobile homes sites may be authorized in any mobile home park in the Town, and not more than three mobile home parks shall be authorized or licensed in the Town.
- (9) Building Permit Required. A mobile home may be installed as a dwelling in the Town only if a building permit is obtained. The fee for a building permit for installation of a mobile home shall be \$100.00.
- (10) Electrical Work. Any external connection of a mobile home to the mobile home park secondary electrical distribution system which involves connection of wires rather than plugging in shall be done only by or under the supervision of a State of Wisconsin certified Master Electrician.
- (f) Monthly Parking Permit Fee and Exemptions Therefrom.
- (1) There is hereby imposed on each licensee a monthly parking permit fee computed as set forth in Wis. Stats. § 66.0435(3)(c). It shall be the responsibility of the licensee to collect the proper amount from each mobile home and to pay to the Town Clerk-Treasurer such parking fees on or before the tenth of the month following the month for which the fees are due. The licensee shall submit with each monthly payment a statement of the persons from whom he or she collected the fees, the total number of months or fractions thereof such persons occupied mobile homes within the park, including month of payment. The monthly parking permit fee for any non-exempt mobile home located outside of a licensed mobile

home park shall be the same as the monthly parking permit fee in a licensed mobile home park and it shall be the responsibility of the owner of the land on which it stands to pay such fees to the Town Clerk-Treasurer on or before the tenth day of the month following the month for which the fees are due. Failure to pay the required monthly parking permit fee shall constitute grounds for termination of any mobile home or mobile home park license issued pursuant to this Ordinance, and shall also be treated like a default in payment of personal property taxes.

- (2) No mobile home shall be exempt from the monthly parking fee unless:
 - (A) The occupants thereof are nonresidential tourists or vacationists and no occupant is employed with in this State or,
 - (B) The mobile home is accompanied by an automobile and both the mobile home and automobile bear licenses issued by states other than Wisconsin, and the mobile home has not been used as a dwelling within the Town for more than sixty (60) days in any 12 month period and no occupant thereof is employed in this State.

(g) **Violation of the Ordinance - Termination of License - Enforcement Provisions.**

- (1) Any mobile home or mobile home park license hereunder issued may be revoked or suspended by the Town Board if any of the conditions upon which the license was originally granted or renewed are broken or for failure of the licensee to comply with all the requirements of this Ordinance and perform all required duties and obligations, or for any other condition effecting the public welfare, if the licensee has failed after a ten (10) day notice given by the Town Board to rectify the situation. Use of any mobile home for human occupancy after the license revocation shall be deemed a violation of this Ordinance. Any and all violations of the Ordinance are hereby deemed to constitute a public nuisance which may be abated and the provision of this Ordinance may be enforced by injunction proceedings or any other legal or equitable remedy.

(h) **Severability and Conflict.**

- (1) If any section, subsection, sentence phrase, clause or any portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision and the balance of the Ordinance shall remain in full force and effect the same as if such invalid or unconstitutional portion had not been inserted herein.
- (2) This Ordinance shall be interpreted so as not to conflict with or be less restrictive than any applicable State law or County Ordinance or any rule or order of any authorized State agency regulating mobile homes and mobile home parks and any provision in this Ordinance which shall be found to be in conflict with and/or less

restrictive than any other applicable law, Ordinance, rule, order, shall give way hereto. If any valid requirement of this Ordinance is more restrictive than any other applicable law, rule or order of the State of Wisconsin, or any of its agencies, conflict shall not be deemed to exist between this Ordinance and such other law, order, Ordinance or rule, but in such case the specific provisions of this Ordinance shall control.

History Note: Adopted effective January 1, 1960; amended December 30, 1980; amended through 1994 codification; amended by Ord. No. 2010-19, 11/30/10.

SECTION 6.11 **SOLID WASTE HAULERS REGULATED.**

- (a) All persons in the business of collecting, transporting and disposing of refuse, including all waste substances, garbage and recyclables for a fee shall obtain a license for the operation from the Town Board.
- (b) Application for the license shall be made to the Town Clerk-Treasurer. An annual fee of One hundred (\$100.00) Dollars shall be paid by the waste hauler.
- (c) An additional fee shall be paid monthly to the Town Clerk-Treasurer in the amount of \$1.50 per each uncompacted yard of refuse deposited at a Lodi Transfer site by a licensed waste hauler.
- (d) Refuse collected outside of the Town may not be deposited at a Lodi transfer site.
- (e) The license is nontransferable.
- (f) The Town Board may revoke a waste hauler's license for reasonable cause, following a due process hearing.
- (g) No person may use and traverse on any Town road with a motor vehicle for waste collection or waste transportation in the Town unless that roadway, pursuant to Wis. Stats. § 60.54, is established and authorized by the Town Board as a designated waste roadway for travel by motor vehicle to and from any licensed waste facility in the Town, or that highway is designated as a collection roadway for the collection of solid waste or hazardous waste with a motor vehicle from any residents of the Town. In both cases, the person must have an appropriate permit issued by the Town.
- (h) Any motor vehicle used for solid waste collection and transportation shall be constructed and maintained to prevent any portion of the waste from depositing, spilling, falling, escaping or discharging from the motor vehicle onto public or private lands in the Town. The Town Clerk-Treasurer shall approve every such vehicle waste containment device prior to its use on the vehicle for the collection and removal of waste in the Town and prior to the transportation of waste in the in the vehicle on Town roadways.
- (i) No person may transport solid waste or hazardous waste in the Town where the waste is intended to be ultimately disposed, stored, treated or recycled at a waste facility or recycling operation in the Town unless that person has a Town Waste Haulers Permit.
- (j) Prior to receiving a permit, each waste hauler shall deposit with the Town Clerk-Treasurer an insurance policy or certificate of liability insurance covering all waste transport vehicles of the waste hauler, with said policy to be issued by an insurance company licensed to do business in the State of Wisconsin and with the minimum amount of insurance coverage to be one million dollars (\$1,000,000) per occurrence.

History Note: Adopted 4/26/77; amended through 1994 codification.

SECTION 6.12 **HAZARDOUS MATERIALS HANDLING.**

- (a) Every person, firm or corporation using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of Wis. Administrative Code Chap. TRANS 326 as the same is now in force and may hereafter from time to time be amended.

- (b) Every person, firm or corporation using, storing, handling or transporting (whether by rail, or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable for any and all costs to the Town of Lodi for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine, neutralize, contain or clean up any such hazardous material which is involved in any fire or accident spill or in the treat of any fire or accidental spill or air-born pollutants and contaminants.

History Note: Adopted 7/30/96.

SECTION 6.21 **DOGS REGULATED.**

- (a) This Ordinance shall govern the licensing and registration of dogs as it applies to the health and safety of the residents of the Town.
- (b) **Authority.**
The Town Board has the specific statutory authority, powers and duties, pursuant to the specific statutory sections noted in this Ordinance and by its adoption of village powers under Wis. Stats. § 60.10, to regulate, control, license, register or permit persons engaged in certain uses, activities, businesses and operations at certain locations in the Town, to assess these persons with appropriate fees for the licenses, registrations or permits as noted herein and to enforce, by revocation or penalty, the provisions of these Ordinances and the provisions of the licenses, registrations and permits.
- (c) **License Required.**
Pursuant to Wis. Stats. § 174.05, every person residing in the Town who keeps a dog more than five months of age on January 1 of any year, or five months of age within the license year, shall annually as of January 1, seek and obtain a dog license or multiple dog licenses under Wis. Stats. § 174.053 for his or her dog from the Town. The fee for the license shall be as established under Section 2.71.
- (d) **Application.**
- (1) No person shall be issued or re-issued a dog license by the Town unless a properly completed application form and appropriate fee has been submitted to the Town Clerk-Treasurer.
 - (2) The application for the dog license shall include a current certificate of inoculation from a qualified veterinarian showing that the dog has been inoculated for rabies and distemper. The application shall include:
 - (A) The name of the owner;
 - (B) The address of the owner;
 - (C) The business and residential phone number of the owner, if any;
 - (D) The current records of the owners;
 - (E) The name of the dog;
 - (F) The sex of the dog;
 - (G) Whether the dog is spayed or neutered.

(e) **Exemptions.**

Every dog specially trained to lead blind or deaf persons or to provide support for mobility impaired persons is exempt from the dog license tax and every person owning such a dog shall receive annually a free dog license from the Town upon application.

(f) **Unlawful Conduct.**

- (1) It shall be unlawful for any person owning, keeping, or harboring any dog, to permit such a dog to run at large within the limits of the Town, unless being used for hunting or farming purposes. A dog shall be deemed to be at large when it is off the premises of the owner or keeper unless under the control of a person by means of a chain, rope, or cord of sufficient strength to control the action of the dog.
- (2) No person shall own or keep any dog in the Town that:
 - (A) Habitually pursues vehicles on highways, roads, streets and alleys in the Town;
 - (B) Assaults or attacks physically persons in the Town;
 - (C) Bites persons in the Town;
 - (D) Habitually barks or habitually howls to the disturbance and annoyance of at least two (2) persons residing in the Town;
 - (E) Is not wearing a Columbia County license tag attached to its collar.
- (3) Any dog running at large may be impounded by any Town Humane Officer, Town Official or Public Official.
- (4) Any dog biting a person in the Town, shall be reported by the Owner or any other person witnessing the dog bite. This report shall be made to the Town Constable, Town Clerk-Treasurer or other law enforcement agency. The dog will be immediately confined as per State Statute. The dog will not be released to the owner until the Town Constable approves the release.
- (5) Dogs that are apprehended and confined shall be kept by the Town for at least seven (7) days at the Town pound, unless released by the Town and claimed by the owner. After the time period noted herein, the dog will either be sold for inoculation, apprehension, confinement, boarding and care costs or it will be destroyed in a careful, proper and humane manner. The owner shall pay all animal transport mileage fees, boarding fees, veterinarian and inoculations fees, and license fees prior to release. Dog may not be released pending the disposition of citations. The owner shall pay the above noted costs incurred by the Town to the Town Clerk-Treasurer, regardless of the disposition of the dog.

- (6) For each day of impound, an impounding fee and boarding fee shall be paid by the owner, together with a per day boarding fee for each day or fraction thereof, that such dog is impounded, not to exceed seven days. Impounding and boarding fees shall be received or approved annually by the Town Board.

History Note: Adopted July 29, 1980; amended July 27, 1982; amended September 30, 1986; amended through 1994 codification; amended 10/20/03, ratified 3/29/05; amended by Ord. No. 2010-19, 11/30/10.

SECTION 6.22 **ANIMAL WASTE**

- (a) No owner or keeper of any animal shall permit any such animal to defecate upon any property within the Okee or Harmony Grove Sanitary District boundaries other than that of the animal's owner or keeper without immediately causing such defecation to be removed and properly disposed of. Proper disposal includes burial, flushing in the toilet, and disposal in a waste receptacle unless otherwise prohibited.
- (b) No owner or keeper of any animals shall appear with such animal on any sidewalk, street, park or other public area or on any private property neither owned nor occupied by said person without the means of removal of any feces left by the animal.
- (c) Any person violating any provision of this ordinance may be subject to a forfeiture of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200).
- (d) Exemptions. This section shall not apply to:
 - (1) Owners or keepers of animals that are working in their official police capacity where safety or professional duties would be compromised.
 - (2) Owners or keepers of animals that are engaged in hunting on any public hunting ground or upon undeveloped or agricultural property with permission of the property owner.
 - (3) Any animal kept in the normal course of agriculture.

History Note: created by Ord. No. 2012-05, 3/26/12.

SECTION 6.31 ALCOHOL BEVERAGES REGULATED.**(a) Purpose.**

The Town Board finds that it is in the best interest of the public to regulate the sale and use of alcohol beverages within the Town. Further, the adoption of this ordinance for such regulation will promote government and good order of the Town for its commercial benefit, and for the health, safety and welfare of the public.

(b) Statutory Authority.

This Ordinance is enacted pursuant to Wis. Stats. § 125.10 and the general police power of the Town Board.

(c) Definitions.

The definitions contained in Wis. Stats. § 125.02 are hereby adopted and made part of this Ordinance by reference.

(d) Licenses and Permits Required.

No person except as authorized by this Ordinance and Wis. Stats. Chap. 125 shall within the Town, serve, sell, distribute, vend, offer or keep for sale at retail or wholesale, deal or traffic in or engage in any other activity for which a license or permit is authorized under this Ordinance.

(e) License Classes and Fees.

There shall be the following classes of licenses, which when issued by the Town Clerk-Treasurer under authority of the Town Board after the payment of the appropriate fee as established under Section 2.71, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Wis. Stats. Chap. 125. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

- (1) Class "A" Fermented Malt Beverage License: The fee for a license for less than twelve months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (2) Class "B" Fermented Beverage License: The fee for a license for less than twelve months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (3) Temporary Class "B" Fermented Malt Beverage License for bona fide clubs, State, County or local fair associations, or agricultural societies, lodges or societies, etc. under Wis. Stats. § 125.26(6): no fee.
- (4) Class "B" Fermented Malt Beverage License for Six Month Period: A six month license shall not be renewable during the calendar year in which it is issued, pursuant to Wis. Stats. § 125.26(5).

- (5) Wholesaler's Fermented Malt Beverage License pursuant to Wis. Stats. § 125.28(1).
- (6) Special Wholesaler's Fermented Malt Beverage License pursuant to Wis. Stats. § 125.28(2).
- (7) Beverage Operator's License pursuant to Wis. Stats. § 125.17: (Town Board may authorize operators' license for up to one year periods to expire June 30, pursuant to Wis. Stats. § 125.17(3).)
- (7a) Temporary Operator's License: pursuant to Wis. Stats. § 125.17(4): (Town Board may authorize temporary operator's licenses to be valid for one to fourteen days and the period for which it is valid shall be stated on the license.)
- (8) Provisional Operator's License pursuant to Wis. Stats. § 125.17(5).
- (9) Manager's License pursuant to Wis. Stats. § 125.17(5).
- (10) "Class A" Intoxicating Liquor License: The fee for this type of license may be issued on a prorated basis according to the number of months or fractions thereof remaining until the following June 30, pursuant to Wis. Stats. § 125.51(9)(a). This license may be issued at any time for a six month period in any calendar year for which 50% of the applicable license fee shall be paid. Such a license shall not be renewable during the calendar year in which issued, pursuant to Wis. Stats. § 125.51(9)(b).
- (11) "Class B" Intoxicating Liquor License: The fee for this type of license may be issued on a prorated basis according to the number of months or fractions thereof remaining until the following June 30, pursuant to Wis. Stats. § 125.51(9)(a).
- (12) "Class B" Intoxicating Liquor License for Six Month Period: A six month license may not be renewed during the calendar year in which it is issued, pursuant to Wis. Stats. § 125.51(9)(b).
- (13) Reserve "Class B" License: A Reserve "Class B" license is defined in Wis. Stats. § 125.51(4)(a)(4). The fee for an initial issuance of a Reserve "Class B" license shall be \$10,000.00, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge situated and incorporated in the State for at least six years for a Class "B" Intoxicating Liquor License. The annual fee for renewal of a Reserve "Class B" license is the fee for a Class "B" Intoxicating Liquor License.
- (14) "Class B" License for Full-Service Restaurants and Hotels.
- (15) "Class C" Wine License: The fee for this type of license may be issued on a prorated basis according to the number of months or fractions thereof remaining until the following June 30.

(f) **Application Procedure.**

All applications for a license authorized under this Ordinance and Wis. Stats. Chap. 125 shall be in writing on forms prescribed and furnished by the Wisconsin Department of Revenue as supplemented and approved by the Town Board. All applications shall be verified under oath as provided by Wis. Stats. § 887.01, and shall contain at least the following information:

- (1) Address of the building for which a license is desired.
- (2) If the application is for a Class B fermented malt beverage, intoxicating liquor or "Class C" license, a description of the physical premises, including every room and storage space. This description shall include a diagram of the overall dimensions, seating arrangements, seating capacity and bar location and size. The diagram shall specifically identify all locations where fermented malt beverages, wine and/or intoxicating liquor are proposed to be sold.
- (3) A history of the applicant relevant to the applicant's fitness to hold a license, including applications for other alcohol beverage licenses at any other location in the State.
- (4) A statement showing compliance with Wis. Stats. § 125.04(5) or (6).
- (5) If the applicant is a corporation, the identity of the corporate officers and agent.
- (6) If the applicant is a limited liability company, the identity of the company members or managers and agent.
- (7) The applicant's trade name, if any.
- (8) For Class "A" or Class "B" fermented malt beverage license applications, whether the applicant has indebtedness for fermented malt beverages to any licensee which has been outstanding for more than fifteen days.
- (9) For "Class A" or "Class B" intoxicating liquor retail license applications, whether the applicant has any indebtedness for intoxicating liquor to any licensee which has been outstanding for more than 30 days.

(g) **Filing, Publication and Amendment Of Application.**

- (1) **Filing.** All applications shall be filed with the Town Clerk-Treasurer. At the time of filing, the applicant shall pay to the Town Clerk-Treasurer the cost of publication of the application and the annual fee for the license as established in Sec. (e) of this Ordinance, unless the application is filed more than 30 days prior to the date that the license is to be issued. All applications except Temporary Class "B" picnic license applications under Wis. Stats. § 125.26(6) must be on file with the Town Clerk-Treasurer at least 15 days before the Town Board may grant

or deny the application. All license fees shall be paid on the 30th day prior to the date that the license is to be issued, unless the application is filed less than 30 days prior to the date of issuance of the license.

- (2) **Publication.** Except for Temporary Class "B" licenses issued under Wis. Stats. § 125.26(6), the Town Clerk-Treasurer shall publish in the Town newspaper each application for a Class "A," Class "B," "Class A," or "Class B" license prior to its issuance. The cost of the publication shall be paid by the applicant at the time the application is filed as determined by Wis. Stats. § 985.08.
- (3) **Amendment.** Within ten days of any change in any fact set out in a license application to sell alcohol beverages, a licensee shall file with the Town Clerk-Treasurer a written description of the changed fact.

(h) **Qualifications of Applicants.**

- (1) All natural persons applying for licenses under this Ordinance must meet the following qualifications:
 - (A) Attainment of the legal drinking age;
 - (B) Continuous Wisconsin residence for at least 90 days prior to the date of filing the application;
 - (C) Lack of an arrest or conviction record, subject to Wis. Stats., §§ 111.321, 111.322, 111.335 and 125.12(1)(b);
 - (D) Submission of proof of a seller's sales tax permit as required under Wis. Stats. § 77.61(11);
 - (E) Successful completion within the two years prior to the date of application of a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the Wisconsin Department of Revenue or the educational approval board. This paragraph shall not apply to an applicant who held, or who was an agent appointed and approved under Wis. Stats. § 125.04(6) of a corporation or limited liability company that held, within the past two years, a Class "A," "Class A," Class "B," or "Class B" license or a manager's or operator's license.
- (2) The Town shall not issue any alcohol beverage license to any natural person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned, subject to Wis. Stats. §§ 111.321, 111.322 and 111.335.

- (3) The Town shall not issue any alcohol beverage license to any corporation or limited liability company unless that entity meets the qualifications under paragraphs (1)(C) and (D) and (2), unless the agent of the entity appointed under Wis. Stats. § 125.04(6) and the officers and directors, or managers or members of the entity, meet the qualifications of paragraphs (1)(A) and (C) and (2) above and unless the agent of the entity appointed under Wis. Stats. § 125.04(6) meets the qualifications under paragraphs (1)(B) and (E). The requirement that the entity meet the qualifications under paragraphs (1)(C) and (2) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to that conviction.
- (4) No Class "A" or Class "B" license may be issued to a person having indebtedness for fermented malt beverages outstanding for more than fifteen days. No "Class A" or "Class B" retail intoxicating liquor license may be issued to any person having an indebtedness for intoxicating liquor outstanding more than thirty days.
- (5) Operators' and Managers' Licenses.
 - (A) Paragraph (1)(B) does not apply to applicants for operators' licenses or managers' licenses, although applicants for managers' license must be Wisconsin residents at the time of license issuance. Paragraph (1)(C) does not apply to applicants for operators' licenses, unless the arrest or conviction relates substantially to the responsibilities of the position. Operators' licenses may be issued only to applicants who have attained the age of 18.
 - (B) Responsible Beverage Server Training Course. No operator's or manager's license shall be issued unless the applicant submits with his or her application proof of successful completion of a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course that is approved by the Wisconsin Department of Revenue or educational approval board, unless the applicant fulfills one of the following requirements:
 - (i) The person is renewing an operator's or manager's license;
 - (ii) Within the past two years, the person held a Class "A", "Class A," Class "B," or "Class B" license or a manager's or operator's license;
 - (iii) Within the past two years, the person has completed such a training course.
- (i) Inspection of Application and Premises.

The Town Clerk-Treasurer shall notify the Health Officer and Building Inspector of all license and permit applications. These officials shall inspect or cause to be inspected

each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, Ordinances and laws applicable thereto And the applicants fitness for the trust to be improved. These officials shall furnish to the Town Board in writing the information derived from such investigation. No license or renewal of license provided for in this Ordinance shall be issued without an inspection or re-inspection of the premises and report herein required.

(j) **Health and Sanitation Requirements.**

No license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Safety and Professional Services pertaining to the buildings and plumbing to the rules and regulations of the State Department of Health and Social Services applicable to the restaurants and to all such Ordinances and regulations adopted by the Town.

(k) **Location of Premises.**

(1) No alcohol beverage license shall hereafter be issued for premises less than 300 feet from any established public or parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the boundary of such school, church or hospital to the closest entrance to such premises. This paragraph shall not apply to any of the following:

(A) premises covered by a license on June 30, 1947;

(B) premises covered by a license prior to the occupation of real property within 300 feet thereof by any school, hospital, or church building;

(C) a restaurant located within 300 feet of a church or school in which the sale of alcohol beverages accounts for less than 50% of the gross receipts.

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

(l) **Review of Applications.**

The Town Board shall review all license applications filed in a timely manner. In reviewing any application for a alcohol beverage license, the Town Board may, in its discretion, grant the license only for a portion of the premises for which the applicant seeks the right to sell, deal, give away or traffic in alcohol beverages. If only a portion of the premises are licensed, the Town shall issue to the licensee with the license a written statement or diagram showing the portion of the premises licensed. If the Town Board decides not to issue a new license, the Town Clerk-Treasurer shall notify the applicant in writing of the reasons for the Town Board's decision not to issue the license.

(m) **Regulation of Licensed Premises and Licenses.**

- (1) **Posting Licenses.** Licenses issued under this Ordinance shall be posted and displayed as provided by Wis. Stats. § 125.04(10). Failure to post a license as required therein shall be a presumption of operating without a license.
- (2) **Gambling and Disorderly Conduct 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 or on any premises. However, a licensed premises may be designated an agent of the Wisconsin State Lottery.
- (3) **Employment of Minors.** No retail Class B licensee shall employ any person under 18 years of age to serve, sell, dispense, or give away any alcohol beverage.
- (4) **Safety and Sanitation Requirements.** Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for which used.
- (5) **Closing Hours.** No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:
 - (A) If a Class "A" license, between 12 midnight and 8:00 a.m. for the sale of fermented malt beverages;
 - (B) If a "Class A" license, between 9:00 p.m. and 8:00 a.m. for the sale of intoxicating liquor;
 - (C) If a "Class B" or Class "B" license, between 2:00 a.m. and 6:00 a.m., except as otherwise provided in this subsection. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m. On January 1, the premises are not required to close. Between 12 midnight and 8:00 a.m., no person may sell fermented malt beverages or intoxicating liquor on Class B licensed premises in an original package, container, or bottle or for consumption away from the premises.
 - (D) Hotels and restaurants whose principal business is furnishing food and lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business but may not sell intoxicating liquors or fermented malt beverages during prohibited hours specified above.
- (6) **Quotas.**
 - (A) The number of persons and places that may be granted as retail "Class B" intoxicating liquor licenses in the Town is limited as provided in Wis. Stats. § 125.51(4).

- (B) Class A Quotas. Pursuant to the authority granted by Wis. Stats. § 125.10, and as authorized in Odelberg v. Kenosha, 20 Wis. 2d 346, 122 N.W.2d 435 (1963), the quota of Class A alcohol beverage licenses in the Town is whichever of the following is the largest:
- (i) One license per 2,500 persons or fractions thereof. The Town's population may be adjusted on the basis of a special census or on the basis of the decennial federal census.
 - (ii) The number of licenses lawfully issued and in force on the effective date of this Ordinance.
- (7) Licensed Operator on Premises.
- (A) Except as provided by Wis. Stats. §§ 125.32(3)(b) and 125.07(3)(a)(10), no premises operating under a Class "A" or Class "B" license may be open for business unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers.
 - (B) For purposes of this subsection, any person holding a manager's license or any member of the licensee's immediate family who has attained the age of eighteen shall be considered the holder of an operator's license. No person, including a member of the licensee's immediate family, other than the licensee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license unless he or she has an operator's license or is at least eighteen years of age and is under the immediate supervision of the licensee, agent, or person holding an operator's license, who is on the premises at the time of the service.
- (8) Agents of Corporations or Limited Liability Companies. The cancellation of the appointment of an agent appointed pursuant to Wis. Stats. § 125.04(6) and the appointment of a successor agent shall be performed in accordance with Wis. Stats. § 125.04(6). The corporation or limited liability company holding the license shall immediately notify the Town Clerk-Treasurer in writing of the appointment of a successor agent and the reason for the cancellation and new appointment. The license holder shall, following the approval of each successor agent or another qualified agent, pay to the Town a fee of \$10.00. If an agent appointed under Wis. Stats. § 125.04(6) resigns, he or she shall provide written notice to the corporation or limited liability company and the Town Clerk-Treasurer within 48 hours of the resignation.
- (n) Violations by Agents and Employees.
A violation of this Ordinance by an authorized agent or employee of a licensee shall constitute a violation of the license.

(o) **Proximity to Water.**

No licensee shall sell, deal, give away or traffic in alcohol beverages, within 100 feet of any lake, river, or other body of water, unless the location licensed is within a fence or other enclosure preventing direct access to the body of water.

(p) **Form and Expiration of Licenses.**

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided.

(q) **Transfer of Licenses.**

(1) **From Place to Place.** Every alcohol beverage license may be transferred to another place or premises within the same municipality. Transfers shall be approved by the Town Board upon application on blanks provided by the State Department of Revenue and the payment of a fee of \$10.00. Proceedings considering such a transfer shall be conducted in the same manner and form as the original application. No retail licensee is entitled to more than one transfer during the license year. This paragraph does not apply to a license issued under Section 6.31(e)(14) or to a reserve "Class B" license as defined in Section 6.31(e)(13).

(2) **From Person to Person.** Licenses issued under this Ordinance may be transferred to another person only under the terms and conditions as provided by Wis. Stats. § 125.04(12).

(r) **Revocation and Suspension of Licenses.**

(1) **Grounds for Revocation and Suspension.** A license issued under this Ordinance may be suspended or revoked by the Town Board under the procedures described herein upon the finding of a violation of this Ordinance or Wis. Stats. Chap. 125.

(2) **Procedure.** A license may be revoked or suspended pursuant to Wis. Stats. § 125.12 (2).

(3) **Effect of Revocation of License.** When a license is revoked under this section, the revocation shall be recorded by the Town Clerk-Treasurer and no other license issued under this Ordinance may be granted within twelve months of the date of revocation to the person whose license is revoked. No part of the fee for any license so revoked may be refunded.

- (s) **Separability of Provisions.**
Should any section or provisions of this Ordinance be declared invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance.

History Note: Adopted 7/28/87; amended May 29, 1990, August 28, 1990, April 27, 1993, amended through 1994 codification; amended May 25, 1999; amended June 29, 1999; amended 10/28/03; amended by Ord. No. 2010-19, 11/30/10; amended through 2015 recodification.

SECTION 6.32 **ADMINISTRATIVE ISSUANCE OF CERTAIN
ALCOHOL BEVERAGE LICENSES.**

(a) **Purpose.**

To increase efficiency and flexibility, the Board hereby delegates limited power to the Clerk-Treasurer for issuance of Operator's Licenses and Picnic Licenses.

(b) **License Type.**

This delegation is limited to issuance of:

- (1) Temporary Class "B" Picnic Licenses, pursuant to Wis. Stats. §§ 125.26(6) or 125.68(3). Such licenses are by their nature temporary in duration and require no waiting period after application.
- (2) Beverage Operator Licenses (Renewal applications only), pursuant to Wis. Stats. § 125.17. This license is approved and issued by the Town Clerk-Treasurer subject to review by the Town Board at the following Town meeting.

(c) **Application Procedure.**

All applications for a permit for the use and consumption of alcohol in the Town's Buildings and parks shall be in writing on forms furnished by the Town Board. All applications shall contain the following information:

- (1) Park for which license is desired;
- (2) Name of family or organization requesting license;
- (3) Date of party, and time of start and finish of party;
- (4) Name of insurance carrier of person making application;
- (5) Agreement to restore and clean up area used, or to pay contractor hired by Town to clean area.

(d) **License Approval and Issuance.**

When a Temporary Class "B" Picnic License application is received within 24 hours of a scheduled Board meeting, or at a time following such a meeting when it requests a license for a time period prior to the next regularly scheduled Board meeting the Clerk-Treasurer is hereby authorized to approve and issue such a license without Town Board approval, provided the following standards are present:

- (1) The applicant has not held a suspended license or had a revocation of license within the year prior to the application;

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- (2) There is no history of criminal convictions, to the Clerk-Treasurer's knowledge (the Clerk-Treasurer shall verify this information);
 - (3) The application has been completed to the Clerk-Treasurer's satisfaction;
 - (4) The Town Board Chairperson is notified by the Clerk-Treasurer, either orally or in writing, and expresses no objection within 48 hours of notice mailing or transmission;
 - (5) The license fee established by the Town Board has been paid;
 - (6) In reviewing any application the Town Clerk-Treasurer may at his or her discretion grant the license or refer the matter to the Town Board.
- (e) **Clerk- Deputy.**
In this Ordinance, the term "Clerk-Treasurer" consistently includes the Deputy Clerk-Treasurer's office, if one exists, in the Clerk-Treasurer's absence, unavailability, or because the Deputy is so authorized by the Clerk-Treasurer.

History Note: Adopted 10/26/93; amended through 2015 Recodification.

SECTION 6.33 **SPECIAL EVENTS LICENSES WHERE**
OUTDOOR ENTERTAINMENT IS PRESENTED

The Town Board may grant a license for an applicant to hold a special event presenting outdoor entertainment on the terms and conditions specified herein:

- (a) At least forty-five (45) days prior to the special event, the applicant shall submit to the Town an application containing the following information:
 - (1) The location of the event, including a map depicting the location of any stages or other locations where amplified equipment will be placed;
 - (2) The precise location of any speakers or other amplified equipment on the site of the event;
 - (3) The locations within the site where any alcohol beverages are to be sold, as well as a security plan to assure that minors do not have access to sale of alcohol beverage;
 - (4) The proposed hours of operation for the special event.
 - (5) The minimum time for submission may be waived by the Town Board for good cause shown by the applicant.
- (b) No less than three (3) days prior to the proposed special event, the Town Board shall review the applicant's information in support of the special event license. If the Town Board is willing to grant the license, it may approve it as submitted, or may modify any of the particulars of the applicant's submission to assure the protection of the public interest.
- (c) All special event licenses presenting outdoor entertainment shall comply with the following requirements:
 - (1) No location may be utilized for a special event more than three [3] times in any calendar year.
 - (2) Any licensed special event shall close and have no further amplified sounds between 1:00 am and 10:00 am.
 - (3) Amplified sound shall not exceed one hundred (100) dB at any property line surrounding the location of the special event.

- (4) All amplification equipment and live music stages shall be located within 50 feet of the principal structure on the property where the special event is located and shall be a minimum of 50 feet from any property lines.

- (d) The Town may take action to summarily revoke any license granted under this procedure and close the special event if the license holder operates out of compliance with the license granted or any of the provisions of this Ordinance. A copy of the license granted, as well as this ordinance, shall be posted conspicuously at the site of the special event.

History Note: created by Ord. No. 2015-06, adopted 07/28/15

SECTION 6.41 **LIVE ADULT ENTERTAINMENT**(a) **Purpose.**

- (1) The Town Board of the Town of Lodi has explicit authority under Wis. Stats. § 125.10(1) to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Wis. Stats. Chap. 125.

- (2) It is a lawful purpose of the Town Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of AIDS and other communicable or sexually transmitted diseases in the Town of Lodi. It has been found by municipalities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Boston, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington; as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one area. Many of such establishments install movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This Ordinance is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Town of Lodi.

- (3) The Town Board finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding "Class B" and Class "B" alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an inducement to other persons to purchase alcohol beverages. The direct result of such exploitation is criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment in the Town of Lodi.

(b) **Definitions.**

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

- (1) **Adult Bath House.** An establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this Section.
- (2) **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Section, an adult body painting studio shall not be deemed to include a tattoo parlor.
- (3) **Adult Bookstore.** An establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein.
- (4) **Adult Cabaret.** A cabaret which features male or female impersonators or similar entertainers.
- (5) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has as a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.
- (6) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (50) people, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.

- (7) Adult Modeling Studio. An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.
- (8) Adult Motel. A hotel, motel, or similar commercial establishment which:
- (A) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
 - (B) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (C) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (9) Adult Motion Picture Theater. An enclosed building with a capacity of fifty (50) or more people at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by patrons therein.
- (10) Adult Motion Picture Theater (Outdoor). A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas, as defined herein, for observation by patrons.
- (11) Adult Novelty Shop. An establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined herein, or stimulating such activity.
- (12) Adult Oriented Establishment. An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a

member, regardless of whether such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

- (13) Booth, Room or Cubicle. Such enclosures as are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to anyone other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- (14) Church. A building whether situated within the Town or not, in which people regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.
- (15) Customer. Any individual who:
- (A) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - (B) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
 - (C) Is a member of and on the premises of an adult oriented establishment operating as a private club.
- (16) Community. The State of Wisconsin.
- (17) Day Care Center. A facility licensed by the State of Wisconsin pursuant to Wis. Stats. § 48.65, whether situated within the Town or not.
- (18) Door, Curtain or Portal Partition. A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.

- (19) Employee. Any and all individuals, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult oriented establishment.
- (20) Entertainer. Any person who provides entertainment within an adult oriented establishment as defined in this Ordinance, regardless of whether a fee is charged or accepted for entertainment and regardless of whether entertainment is provided as an employee or independent contractor.
- (21) Harmful to Minors. That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (22) Knowingly. Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
- (A) The character and content of any material described herein which is reasonably suspect under this Section; and
- (B) The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable *bona fide* attempt to ascertain the true age of such minor.
- (23) Knowledge of Minor's Age. Means:
- (A) Knowledge or information that the individual is a minor; and
- (B) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor
- (24) Manager. The operator or agent licensed under this Ordinance who shall not be licensed as a massage technician.
- (25) Minor. Any individual under the age of eighteen (18) years.
- (26) Nudity. The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less

than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.

- (27) Operator. Any person operating, conducting, maintaining or owning any adult-oriented establishment or massage establishment.
- (28) Patron. Any individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.
- (29) Person. Any individual, corporation, limited liability company, partnership, limited partnership, association or other entity recognized by the State of Wisconsin as being capable of owning property or engaging in business operations.
- (30) Residential. Pertaining to the use of land, whether situated within the Town or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- (31) Sadomasochistic Abuse. Flagellation or torture by an individual clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (32) School. A building, whether situated within the Town or not, where people regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:
- (A) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through twelve classes are taught; and
- (B) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through twelve.
- (33) Sexual Conduct. The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.

- (34) Sexual Intercourse. Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.
- (35) Specified Anatomical Areas. Less than completely and opaquely covered:
- (A) Human genitals, pubic region;
 - (B) Buttock;
 - (C) Female breast below a point immediately above the top of the areola; or
 - (D) Human male genitals in a discernible turgid state, even if completely and opaquely covered;
- (36) Specified Sexual Activities. Simulated or actual:
- (A) Showing of human genitals in a state of sexual stimulation or arousal;
 - (B) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
 - (C) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.
- (37) Substantial. As used in various definitions, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one month during the license year.
- (38) Waiting Area. An area adjacent to the main entrance that is separate from any area where massages are given.
- (c) **Prohibitions Applicable To Premises Holding Alcohol Beverage Licenses.**
- (1) It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," "Class B," Reserve "Class B" or "Class C" Alcohol Beverage license to permit any person to:
 - (A) expose to public view on the licensed premises any specified anatomical area as defined in this Ordinance;
 - (B) appear in a state of nudity;
 - (C) employ any device which is intended to give the appearance of or simulate such specified anatomical areas; or

- (D) publicly display or perform any specified sexual activities on the licensed premises.
- (2) Any licensee who permits a violation of (c)(1), above, shall be subject to revocation of all alcohol beverage licenses issued by the Town to the licensee.
- (3) Subsection 6.41(c)(1) shall not apply to live theatrical, musical or dance performances occurring or conducted at a theater, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such patrons and where the establishment is not distinguished by an emphasis on or the advertising or promotion of employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from alcohol or liquor sales do not exceed fifteen percent (15%).
- (d) **License Required.**
- (1) This Section applies only to premises and persons not licensed to sell alcohol beverages by the Town of Lodi that offer live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings.
- (2) No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, regardless of whether such persons are paid for such performance, unless the person opening the premises has obtained a license from the Town Clerk-Treasurer.
- (3) Subsections 6.41(d)(1) and (2) shall not apply to live theatrical, musical or dance performances occurring or conducted at a theater, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons 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 employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from food and beverage sales do not exceed fifteen percent (15%) of gross receipts.
- (e) **License Application, Review and Issuance.**
- (1) **Application.** Applications for an annual adult entertainment license shall be made to the Town Clerk-Treasurer. The Town Clerk-Treasurer shall notify the Columbia County Sheriff's Department, Building Inspector, Town Code Enforcement Officer and Fire Inspector of the license application, publish a Class II notice of such application and have the license application submitted to the Town Board within thirty (30) days of application. Investigating officials shall submit written reports

and recommendations to the Town Board prior to the Town Board's review of the application. A public hearing shall be held on the application, preceded by a Class II notice. The Town Board may take any testimony regarding the granting or denial of such license.

- (2) Action. The Town Board shall either approve, modify or reject the application within sixty (60) days of the application; the reasons for the action taken shall be specified in the written findings of fact of the Town Board.
 - (3) Denial of Application. Whenever an initial application is denied, the Town Clerk-Treasurer shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the Town Board within thirty (30) days of the denial of the application.
 - (4) Probationary Period. If license issuance is approved by a majority of the Town Board, an initial applicant shall be granted a probationary license by the Town Clerk-Treasurer. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Section occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Town Board, the Town Board shall specify the findings made that support that denial.
 - (5) License Term. The license granted under this Section shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.
 - (6) Form of License. The Town Clerk-Treasurer shall be responsible for drafting and issuing all licenses under this Subsection. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable, as well as any conditions that may be imposed by the Town. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.
 - (7) Fee. All such license applications shall be accompanied by a fee as established in Section 2.71. If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Town.
 - (8) Number of Licenses Limited. No more than three (3) annual licenses, issued under this Section, shall be issued to license holders within the Town of Lodi at one (1) time.
- (f) Renewals.
The holder of an annual license granted under this Section shall submit an application for renewal at least sixty (60) days before the expiration of the license. Such license may be renewed pursuant to the provisions of Section 6.41(e) as that Section applies to notice

being given by the Town Clerk-Treasurer and provisions for publication and action by the Town Board.

(g) **Regulations.**

Any license holder governed by this Section shall comply with the following regulations:

- (1) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six (6) feet from any location from which patrons are directly served, while so entertaining the patrons.
- (2) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron.
- (3) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe entry and exit from the premises.
- (4) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this Section shall be deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.
- (5) Hours of Operation. The premises shall close and all customers shall vacate the premises between 12:00 midnight and 10:00 a.m. Monday through Saturday, and 12:00 midnight and noon on Sunday.
- (6) The license holder shall comply at all times with building capacity limits as set by the Fire Department and/or Building Code.
- (7) The license holder shall comply with all applicable State Statutes and regulations and all County and Town Ordinances.
- (8) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
- (9) The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance.
- (10) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
- (11) The license holder shall not permit any person to touch any performer's specified anatomical areas during a public performance.
- (12) The use of simulated sexual organs during dances or performances is prohibited.

- (13) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Subsection or any applicable State or Federal laws.

(h) **Location.**

- (1) No establishment licensed under this Section shall permit any performance or entertainment governed by this Section to occur within five hundred (500) feet of any area zoned for residential, church, school, nursing home, public park, or day care center uses. No establishment licensed under this Section shall be located within one thousand (1,000) feet of any other establishment licensed under this Section, or within one thousand (1,000) feet of any business holding an alcohol beverage license.
- (2) For purposes of this Subsection, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment to the nearest property line of another adult-oriented establishment, school, place of worship, residential district or business holding an alcohol beverage license.
- (3) All establishments licensed under this Section shall provide adequate off-street parking for employees, entertainers and customers.

(i) **Penalty.**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation or nonrenewal, anyone who violates any of the provisions of this Section shall forfeit not less than \$150.00 nor more than \$2,000.00 for each and every offense, together with the costs of prosecution and any applicable assessments. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

(j) **License Suspension, Revocation Or Nonrenewal.**

- (1) **In General.** Any license granted herein may be revoked, suspended, or not be renewed by the Town Board as follows:
 - (A) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent.
 - (B) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year.
 - (C) After one (1) conviction of any establishment employee of an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a

patron or customer of the establishment or of an offense involving substances scheduled in Subchapter II of Wis. Stats. Chapter 961, where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant.

- (2) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Town Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
 - (3) **Hearing.** The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions of law as to what, if any, action the Town Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.
- (k) **License Transfer.**
Any license granted under the provisions of this Section shall be transferable in accordance with the procedure set forth in Sec. 6.42(j) of this Ordinance.
- (l) **Severability.**
If any provision of this Section is deemed invalid or unconstitutional, or if the application of this Section to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section which can be given effect without the invalid or unconstitutional provision or application.

History Note: repealed Section 8.11 and created Section 6.41 5/25/99; amended by Ord. No. 2010-19, 11/30/10; amended through 2015 recodification.

SECTION 6.42 **ADULT ORIENTED ESTABLISHMENTS**(a) **Purpose.**

It is the purpose of this Article to regulate adult oriented establishment businesses (hereinafter referred to as adult oriented establishments) to promote the health, safety, morals, and the general welfare of the citizens of the Town of Lodi, to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments, and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

(b) All definitions set forth in Section 6.41 shall apply throughout section 6.42.

(c) **License Required.**

(1) Except as provided in Subsection (4) below, no adult oriented establishment shall be operated or maintained within the Town of Lodi without first obtaining a license to operate issued by the Town of Lodi.

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

(3) No license or interest in a license may be transferred to any person, partnership, limited liability company or corporation except as set forth in Subsection 6.42(j) of this Ordinance.

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

(d) **Application For License.**

(1) **License Procedure.** Any person, partnership, limited liability company or corporation desiring to secure a license shall make application to the Town Clerk-Treasurer. The application shall be filed in triplicate with and dated by the Town Clerk-Treasurer. A copy of the application shall be distributed to the Columbia County Sheriff's Department, Fire Inspector, Building Inspector, and to the applicant. The procedures prescribed in Subsections 6.41(e)(1) through (4) shall be applicable to adult entertainment licenses under this Section.

(2) **Required Information.** The application for a license shall be upon a form provided by the Town Clerk-Treasurer. An applicant for a license, which shall include all

partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish the following information under oath:

- (A) Name, including all aliases, address and date of birth of applicant;
 - (B) Written proof that the individual is at least eighteen (18) years of age;
 - (C) All residential addresses of the applicant for the past ten (10) years;
 - (D) The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
 - (E) The exact nature of the activities to be conducted at the adult oriented establishment;
 - (F) Whether the applicant previously operated in this or any other State, County or municipality under an adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
 - (G) All criminal convictions, whether federal or State, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of *nolo contendere* on all charges, except traffic offenses;
 - (H) Fingerprints and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
 - (I) The address of the adult oriented establishment to be operated by the applicant;
 - (J) Proof of right to occupy under Section 6.42(c)(4) of this Ordinance; and
 - (K) If the applicant is a corporation, the application shall specify the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.
- (3) Failure or refusal of the applicant to provide any information for the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this Subsection, shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

(e) **Requirements.**

- (1) **In General.** To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:
 - (A) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age;
 - (ii) Subject to Wis. Stats. Chap. 111, the applicant shall not have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; an
 - (iii) The applicant shall not have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.
 - (B) If the applicant is a corporation
 - (i) All officers, directors, and others required to be named under Subsection 6.42(d)(2) shall be at least eighteen (18) years of age;
 - (ii) Subject to Wis. Stats. Chap. 111, no officer, director, or other person required to be named under Subsection 6.42(d)(2) shall have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
 - (iii) No officer, director or other person required to be named under Subsection 6.42(d)(2) shall have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.
 - (C) If the applicant is a partnership, joint venture, limited liability company or any other type of organization:
 - (i) All persons having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall be at least eighteen (18) years of age;
 - (ii) Subject to Wis. Stats. Chap. 111, no person having a financial interest in the partnership, joint venture, limited liability company or

other type of organization shall have been convicted of or pleaded *nolo contendere* to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and

- (iii) No person having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall have been found to have violated any provision of this Section within five (5) years immediately preceding the date of the application.
- (2) **Investigation.** No license shall be issued unless the Columbia County Sheriff's Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Town Clerk-Treasurer no later than fourteen (14) days after the application.
 - (3) **Inspection.** The Building Inspector, Fire Inspector, and Columbia County Sheriff's Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the Town Clerk-Treasurer within fourteen (14) days of the date of application.
 - (4) **Proof.** No license shall be issued unless the applicant provides proof of one (1) of the following:
 - (A) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status.
 - (B) A lease on a building which is properly zoned to house an adult oriented establishment. Proper zoning includes permissible non-conforming use status.
 - (C) An option to purchase property which is properly zoned for the adult oriented establishment.
 - (D) An option to lease property which is properly zoned for the adult oriented establishment. Proper zoning includes permissible non-conforming use status.
- (f) **License Fee.**
A non-refundable license application fee as established in Section 2.71 shall be submitted with the application for a license.

(g) **Display of License.**

The license shall be displayed in a conspicuous public place in the adult oriented establishment.

(h) **Renewal of License.**

- (1) Every license issued pursuant to this Section will terminate on June 30th of the year it is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the Town Clerk-Treasurer. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the Town Clerk-Treasurer. A copy of the application for renewal shall be distributed by the Town Clerk-Treasurer to the Columbia County Sheriff's Department, Building Inspector, Fire Inspector and the applicant. The application for renewal shall be upon a form provided by the Town Clerk-Treasurer and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.
- (2) A license renewal fee of \$1,000.00 shall be submitted with the application for renewal.
- (3) If the Columbia County Sheriff's Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Town Clerk-Treasurer.

(i) **Denial of Application.**

- (1) Whenever an initial application is denied, the Town Clerk-Treasurer shall, within fourteen (14) days of the denial, advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the Town Board within thirty (30) days of the denial of the application.
- (2) Failure or refusal of the applicant to give any information relevant to the investigation of the application or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation required by this Section shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof by the Town Clerk-Treasurer.

(j) **Transfer of License.**

- (1) A license is personal to the owner and operator designated in the application, provided it may be transferred pursuant to this Subsection. A transfer application must be filed no less than ten days before any change of the owner or operators designated on the application. In the event that a transfer application is not timely

filed, then the license shall be invalid for any purpose relating to the operation of the adult oriented business, and any transfer shall require the filing of an original application and be subject to the regulations applicable thereto.

- (2) The Town Clerk-Treasurer shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee of \$500.00. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications.
- (3) Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications, and they shall be issued for the remaining term of the license to be transferred.
- (4) Any transfer of an adult oriented establishment, other than as provided in this Subsection, from the licensed premises to any other premises shall cause such license to lapse and become void. A license which has lapsed and become void shall be subject to revocation under Subsection 6.42(p) of this Ordinance.

(k) **Physical Layouts of Adult Oriented Establishments.**

Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas must comply with the following requirements:

- (1) **Access.** Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- (2) **Construction.** Every booth, room or cubicle shall meet the following construction requirements:
 - (A) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall.
 - (B) Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

- (C) All walls shall be solid and without any openings, extended from the floor to a height of not less than eight (8) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.
 - (D) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - (E) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (3) Occupants. Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.

(1) **Responsibilities of Operators.**

- (1) An operator, licensed under this Section, shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three (3) years following termination.
- (2) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.
- (3) Every act or omission by an employee constituting a violation of the provisions of this Section 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.
- (4) 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.
- (5) 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-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined in Section 6.41.
- (6) The operator shall maintain the premises in a clean and sanitary manner at all times.

- (7) The operator shall ensure compliance of the establishment and its patrons with the provisions of this Section.
 - (8) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an unmutated and undefaced sign or poster supplied by the Town which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.
 - (9) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets supplied by the Town pertaining to sexually transmitted diseases.
 - (10) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.
 - (11) The Town shall charge its reasonable costs for supplying such posters, brochures, pamphlets and other information required under this Section.
- (m) **Registration of Employees.**
- (1) All operators and employees working in any adult oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Town Clerk-Treasurer. Such registration shall include the following:
 - (A) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
 - (B) Fingerprints and two (2) portrait photographs of the applicant of at least two (2) by two (2) inches.
 - (2) Upon registration, the Town will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult oriented establishment.
 - (3) All registrations hereunder are valid for a period of one(1) year.
 - (4) The registration fee of \$10.00 shall be paid per registration, which shall be paid to the Town to cover costs of the identification card.
- (n) **Exclusions.**
- All private schools and public schools, as defined in Wis. Stats. Chapter 115, located within the Town of Lodi are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(o) **Penalty.**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation, suspension or nonrenewal, anyone who violates any of the provisions of this Section shall forfeit not less than \$150.00 nor more than \$2,000.00 for each and every offense, together with the costs of prosecution and any applicable assessments. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law.

(p) **Suspension, Revocation or Nonrenewal of Licenses.**

(1) **In General.** Any license granted herein may be revoked, suspended, or not renewed by the Town Board as follows:

- (A) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent;
- (B) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year;
- (C) After one (1) conviction of any establishment employee of an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances in Subsection II of Wis. Stats. Chapter 961 where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant.
- (D) If the licensee, operator or employer becomes ineligible to obtain a license.
- (E) If an operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Town Clerk-Treasurer.
- (F) If any cost or fee required to be paid by this Section is not paid.
- (G) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult oriented establishment.
- (H) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.

- (2) **Notice of Hearing.** No license shall be revoked, suspended, or not renewed by the Town Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (3) **Hearing.** The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions as to what, if any, action the Town Board will take with respect to the license. The Board shall provide the complainant and licensee with a copy of the report.
- (q) **Severability.**
If any provision of this Section is deemed invalid or unconstitutional, or if the application of this Section to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Section which can be given effect without the invalid or unconstitutional provision or application.

History Note: Created 5/25/99, amended 6/29/99; amended by Ord. No. 2010-19, 11/30/10; amended through 2015 recodification.

SECTION 6.51 **PAYMENT OF TAXES AS CONDITION FOR
ISSUANCE OR RENEWAL OF LICENSE**

(a) **Delinquency.**

As a condition of obtaining, renewing or keeping any license issued by the Town, all local taxes, assessments, special assessments, special charges, or other fines, including but not limited to municipal forfeitures, shall be paid on a current basis. Any fees unpaid within a time limit set by the Town or a Court, as the case may be, place the licensee in a state of delinquency and subject to disciplinary action by the Town Board, including reprimand, suspension for a set time period (up to 90 days), or revocation.

(b) **Revocation.**

Any licensee revoked shall not be reinstated within the 12 months following date of revocation. There shall be no refund of any license fee paid to a party whose license is revoked.

(c) **Procedure.**

Upon complaint by any person, or at Town Board direction, and following Town Board review and approval, written notice shall be given to the licensee of the complaint basis, and the date and time the Town Board will hear the matter. For non-alcohol licenses where no statutory procedure is set, service may be first class mail to licensee's last known address, or personal service, at the Chairperson's option. For alcohol licenses, Wis. Stats. § 125.12, or its successor, will be followed. A record of service will be kept by the Clerk-Treasurer.

(d) **Hearing.**

Evidence and testimony at the hearing shall be done in open session. Pursuant to Wis. Stats. § 19.85(1)(a), the Town Board may go into closed session to deliberate with regard to its decision, where this has been listed on the hearing notice. The Clerk-Treasurer shall see that the hearing notice is posted or published, in format acceptable to the Chairperson or his/her designated representative.

(e) **Penalty.**

In lieu of a hearing, the Town Board may accept license surrender, and then determine the time period before another application for the same type of license will be accepted from the former licensee for review. In the event that complaint allegations(s) are proved at hearing, the Town Board shall decide which penalty for violation is appropriate. Multiple offenses may be considered at any hearing involving the same licensee.

(f) **Severability.**

In the event any portion of this Ordinance is or becomes invalid or illegal, the remaining portions shall remain in full force and effect.

History Note: Adopted through 1994 codification.
4826-8955-5974, v. 2