

CHAPTER 4

LICENSES, PERMITS, BUILDINGS AND STRUCTURES

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4.01 LICENSES

(1) Purpose. The purpose of this section is to create uniform standards for individuals applying for licenses in the Village of Boaz. The requirements of this section are in addition to and not in lieu of licensing requirements under other sections of this Code.

(2) Applicability. This section applies to all licenses issued by the Village of Boaz other than dog licenses.

(3) Qualifications. All applicants for licenses, in order to be eligible to receive a license, shall meet the following requirements:

- (a) Sales Tax Qualification. All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (b) No license shall be granted or renewed for operation on any premises or with any equipment for which Village utility bills, personal property taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (c) No license shall be granted or renewed unless the premises conform to the sanitary, safety, health or other requirements for the particular operation or business for which a license is sought that are established by state law, administrative regulation or Village ordinance.
- (d) No license shall be granted or renewed in the absence of a fully completed application for such license.

(4) Posting Licenses. Every person licensed in accordance with the provisions of this section shall immediately post such license and keep the same posted while in force in a conspicuous place. It shall be unlawful for any person to post such license or be permitted to post it upon premises other than those mentioned in the application or to knowingly deface or destroy such license. Any person who fails to post his or her license as required herein shall be presumed to be operating without a license.

(5) Penalty. Any person, firm or corporation violating any provision of this section shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00) and the cost of the prosecution, and in default of payment of such forfeiture and cost of prosecution shall be imprisoned in the county jail until payment of such forfeiture and cost of prosecution but not exceeding 30 days for each violation. Each day a violation shall constitute a separate offense. The bond for each violation of this section is set at \$50.00.

4.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

(1) State Statutes Adopted. Except as otherwise specifically provided in this section, the statutory provisions in Chapter 125 of the Wisconsin Statutes, describing and defining regulations with respect to alcohol beverages, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this section.

(2) Licenses Required. No person, firm or corporation shall vend, sell, deal, distribute, traffic, offer or keep for sale at retail or wholesale, or for the purpose of evading any law or ordinance, give away any alcohol beverages in any quantity whatever, or, cause the same to be done, without having procured a license as provided in this code and all applicable statutes, ordinances and regulations. A license shall be required for each stand, place, room or enclosure, or for each suite of rooms or enclosures where alcohol beverages are kept, sold or offered for sale, and no license shall be issued to any person, firm or corporation for the purpose of selling, or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

(3) License Fees. There shall be the following classes of licenses, which, when issued by the Village Clerk under the authority of the Village Board after payment of the specified fee, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the Wisconsin Statutes.

- (a) Class "A" Fermented Malt Beverages/Beer License (see Sec. 125.25(4) of Wis. Stats.) License fee shall be \$50.00 per year, which fee shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) "Class A" Intoxicating Liquor License (See Sec. 125.51(2) of Wis. Stats.)

License fee shall be \$250.00 per year or fraction thereof.

- (c) Class "B" Fermented Malt Beverages/Beer License (see Sec. 125.26(4) of Wis. Stats.) License fee shall be \$100.00 per year, which fee shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (d) "Class B" Intoxicating Liquor License (see Sec. 125.51(3) of Wis. Stats.) License fee shall be \$250.00 per year or fraction thereof. The license fee for a reserve "Class B" license as defined under Wis. Stat. sec. 125.51(4)(a)4. shall be \$10,000.00 per year.
- (e) Temporary Class "B" and Class "C" License. Temporary Class "B" and Class "C" licenses may be issued to qualified organizations and groups pursuant to Wis. Stat. sec. 125.26(6). The fee for a Class "B" license shall be \$-0- per year. Any organization or group applying for a temporary Class "B" and/or a temporary Class "C" license for the sale of fermented malt beverages or wine on Village premises must provide proof of insurance, including alcohol liability insurance, in the amount of not less than \$500,000 for the event for which the license is sought.
- (f) Temporary "Class B" Picnic Beer License (see Sec. 125.26(6) of Wis. Stats.) License fee shall be \$ -0-.
- (g) Temporary "Class C" Picnic Wine License (see Sec. 125.51(10) of Wis. Stats.) License fee shall be \$ -0- dollars.
- (h) "Class C" Wine License (see Sec. 125.51(3m) of Wis. Stats.) License fee shall be \$ -0-.
- (i) Proration of license fees: (see Sec. 125.25(4), 125.26(4) and 125.51(9)(a) of the Wis. Stats.) Class "A" beer, "Class A" liquor, Class "B" beer, "Class B" liquor and "Class C" wine--When a new license is issued, proration of the annual license fees shall be required on the basis of the number of months or fractions thereof remaining in the licensing year.
- (j) Refund of license fee. The Village will not refund a portion of the fees when a license is surrendered.

(4) Provisional Retail Licenses. The clerk-treasurer shall issue provisional retail licenses as follows:

- (a) A provisional retail license shall be issued only to a person who has applied for and meets the qualifications for holding a Class "A", Class

"B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes.

- (b) The Village Clerk shall not issue a provisional "Class B" license if the Village's quota under Wis. Stat. sec. 125.51(4) prohibits the issuance of a "Class B" license.
- (c) All provisional licenses issued under this section shall expire upon denial of the underlying license applied for, 60 days after its issuance, or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder, whichever is sooner. The clerk-treasurer may revoke the license if it is discovered that the holder of the provisional license made a false statement on the application.
- (d) No person may hold more than one provisional retail license for each type of license applied for by the holder per year.
- (e) The fee for a provisional retail license shall be \$15.00.

(5) Operator's Licenses.

- (a) Operator's licenses may be granted to individuals by the Village Board for the purpose of complying with Section 125.32(3) and 125.68(2), Wisconsin Statutes. Operator's licenses may be issued only on written application forms provided by the Village Clerk. Said licenses shall be valid for one year and shall expire on June 30 of each year. The application shall include the name of the business where the applicant proposes to work. The fee for an operator's license shall be \$10.00 and, for renewal of said licenses, \$10.00.
- (b) A provisional operator's license may be issued to a person who is enrolled in a beverage server training course as defined in Wis. Stat. sec. 125.17(6)(a) or who holds a valid operator's license from another municipality in the State of Wisconsin. Such licenses may be issued only on written application forms provided by the Village Clerk and upon application for a regular operator's license. With respect to applicants who hold licenses from another municipality, a certified copy of the license shall be filed with the application. Said licenses shall be valid only until the applicant successfully completes the course in which he or she is enrolled, at which time the person shall be eligible for a regular operator's license. The provisional operator's license shall lapse after 60 days or upon expiration of the operator's license issued by another municipality, whichever is sooner. Pursuant to Wis. Stat. sec. 125.17(5)(a), the Village Clerk is authorized to issue a provisional operator's license to any person meeting the qualifications of this section. There shall be no fee for the

provisional operator's license additional to the fee for a regular operator's license.

- (c) A temporary operator's license may be issued to persons employed by or donating services to nonprofit corporations and who meet the requirements for obtaining a regular operator's license. Such licenses shall be valid for a period of no less than one (1) day and no more than fourteen (14) days with the period for which the license is valid stated on the license. The fee for a temporary operator's license shall be \$ -0-.

(6) Qualifications of Applicants and Premises.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age except operators' licenses may be issued to persons who have attained 18 years of age.
- (c) **Corporate Restrictions.**
 - (i) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - (ii) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Village Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.

- (iii) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (iv) Sales Tax Qualification. All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (v) Investigation. The Village Clerk shall notify the Village's law enforcement official of each new application, and he or she shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Clerk in writing, who shall forward to the Village Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

(7) Approval of Application.

- (a) No license shall be granted for operation on any premises or with any equipment for which Village utility bills, personal property taxes, assessments, forfeitures or other financial claims of the Village are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements established by state law or administrative regulation.
- (c) Consideration for the granting or denial of a license will be based on:
 - (i) Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (ii) The financial responsibility of the applicant;

- (iii) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (iv) Generally, the applicant's fitness for the trust to be reposed.
- (d) An application may be denied based upon the applicant's arrest and conviction, record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years' immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license.
- (e) No license, except for an operator's license, shall be issued to any person who has had a license issued pursuant to this chapter revoked within twelve months prior to application.

(8) Search of Licensed Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer, his or her deputies or assistants of the Village of Boaz or the Village President or any member of the Village Board, without any search warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this section.

(9) Posting Licenses. Every person licensed in accordance with the provisions of this code shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where alcohol beverages are drawn or moved for service or sale. It shall be unlawful for any person to post such license or be permitted to post it upon premises other than those mentioned in the application or to knowingly deface or destroy such license. Any person who fails to post his or her license as required herein shall be presumed to be operating without a license.

(10) Revocations, Suspension, Refusals to Issue or Renew

- (a) Procedure. The provisions of Sec. 125.12 of the Wisconsin Statutes shall be applicable to proceedings for the revocation, suspension or refusal to issue or renew of all licenses granted under this code. Revocation or suspension proceedings may be instituted by the Village Board upon its own motion by adoption of a resolution.

- (b) Repossession of license. Whenever any license issued under this code is revoked, the Village Clerk shall notify the licensee of the revocation and notify the Village's law enforcement official, who may take physical possession of the license and file it with the office of the Village Clerk.

(11) Hours

- (a) Retail Class "A" Fermented Malt Beverages. No person operating under the authority of a Class "A" license shall sell any fermented malt beverages between the hours of 12:00 midnight and 6:00 a.m. of the following day.
- (b) Retail "Class A" Intoxicating Liquors. No person operating under the authority of a "Class A" license shall sell intoxicating liquor between the hours of 9:00 p.m. and 6:00 a.m. of the following day.
- (c) Class "B" licenses, Class "C" licenses and "Class B" licenses. No premises for which a Class "B" license or a "Class B" has been issued shall remain open and no business activities shall be conducted thereon during the hours designated as closing hours in Sections 125.32 and 125.68, Wisconsin Statutes.
- (d) The owner, licensee, or no more than two bona fide, paid tavern employees may remain on the premises after the closing hour for a period of not more than one hour, only for purposes of conducting the internal operations of the business such as counting cash, tallying receipts, bookkeeping or cleaning of the premises. During such one hour period, no alcoholic beverages shall be sold, given away, consumed, open or available for consumption. No customers or patrons shall be on the premises for any reason after the closing hour.

(12) Underage Persons; Presence in Places of Sale

- (a) Restrictions. Pursuant to §125.07(3), Wis. Stats., an underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except for the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises.
- (b) Exceptions. Paragraph (a) above shall not apply to:

- (i) An underage person who is a resident, employee, lodger or boarder on the licensed premises.
- (ii) An underage person who enters a "Class A" premises for the purpose of purchasing edibles and soft drinks and immediately thereafter leaves such premises.
- (iii) Hotels, drug stores, grocery stores, bowling alleys, athletic fields or stadiums owned by a county or municipality.
- (iv) Ski chalets, golf clubhouses, curling clubs and private tennis clubs.
- (v) Licensed restaurants where the principal business is that of a restaurant.
- (vi) A person who is at least 18 years of age and who is working under a contract with the licensee to provide entertainment for customers on the premises.
- (vii) An underage person who enters on Class "B" or "Class B" premises on dates specified by the licensee when no alcohol beverages will be consumed, sold or given away. The licensee shall notify the police Department of such specified dates; unless all alcohol beverages are stored in a locked portion of the premises, the licensee or a licensed operator must be on the premises at all times.

(13) Underage Persons; Consumption and Possession of Alcohol Beverages

- (a) Restrictions. Pursuant to Section 125.07(4)(b) and (bm), Wis. Stats., no underage person not accompanied by a parent, guardian or spouse who has attained the legal drinking age may knowingly possess or consume alcohol beverages.
- (b) Exceptions. An underage person may possess alcohol beverages if employed by any of the following:
 - (i) A brewer.
 - (ii) A fermented malt beverages wholesaler.
 - (iii) A permittee other than a Class "B" or "Class B" permittee.
 - (iv) A facility for the production of alcohol fuel.
 - (v) A retail licensee or permittee under the conditions specified in Sec.

125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.

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

(14) Sale or Provision of Alcohol Beverages to Intoxicated Persons.

(a) **Restrictions.**

- (i) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (ii) No person who holds a license or permit under Chapter 125 of the Wisconsin Statutes or an ordinance in conformity therewith may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

- (b) **Penalty.** Any person who violates sec. (a) shall forfeit not less than \$100 nor more than \$500.

(15) Violations By Agents And Employees. A violation of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(16) Business Continuity.

(a) **Commencement of Operations.** Within 60 days after the issuance of a “Class B” intoxicating liquor license, the licensee shall be open for business with adequate stock and equipment. Upon the licensee’s failure to do business within such time, the license shall be subject to revocation or refusal to renew the license by the Village Board after a public hearing. The Village Board may, for good cause shown, extend and re-extend the 60-day period. “Good cause” may include, but is not limited to, building or rebuilding, extensive remodeling, damage to the premises by fire or natural disaster, the death or disability of the licensee, or other, similar reasons deemed sufficient by the Village Board. Failure of a licensee to open for business within 60 days after the issuance of the license without an extension having been granted by the Village Board shall be sufficient ground for revocation of or refusal to renew the license.

(b) **Cessation of Operations.** The license of any licensee holding a “Class B” intoxicating liquor license who fails to operate the business for at least 75 days, whether consecutive or not, during the term of a license, shall be subject to revocation or refusal to

renew the license by the Village Board after a public hearing. The Village Board may, for good cause shown, extend and re-extend the 75-day period. "Good cause" may include, but is not limited to, building or rebuilding, extensive remodeling, damage to the premises by fire or natural disaster, the death or disability of the licensee, or other, similar reasons deemed sufficient by the Village Board. Failure to operate the business for at least 75 days, whether consecutive or not, during the term of a license without an extension having been granted by the Village Board shall be sufficient ground for revocation of or refusal to renew the license.

(c) For purpose of this section, "doing business" and "operating" mean the usual and customary operation of a business enterprise for profit and no licensee shall be deemed to be "doing business" or "operating" by reason of casual or periodic opening or operation that is inconsistent with such meaning.

(d) A licensee may be required to provide evidence of operation through payroll records, utility bills, records of alcohol purchases and sales or such other evidence as the Village Board determines is reasonably necessary to determine whether the requirements of this section have been met.

(17) Penalty. Any person, firm or corporation violating any provision of this section shall, upon conviction thereof, forfeit not more than Two Hundred Dollars (\$200.00) and the cost of the prosecution, and in default of payment of such forfeiture and cost of prosecution shall be imprisoned in the county jail until payment of such forfeiture and cost of prosecution but not exceeding 30 days for each violation. In the case of the violation involving the premises licensed to a corporation, the agent designated will be subject to the prosecution. Each day a violation shall constitute a separate offense. No penalty imposed shall exceed the maximum allowed by Sec. 125.07(1)(b) and 125.11(1), Wis. Stats.

4.03 CIGARETTE LICENSES

When authorized by the Village Board, the Clerk may issue licenses for the sale of cigarettes. The annual license fee shall be \$20.00.

4.04 JUNKED OR UNLICENSED MOTOR VEHICLES

(1) Definitions:

- (a) Motor Vehicle. Motor vehicle means a vehicle which is designed to be self propelled and includes a snowmobile, truck bodies, tractors or trailers.
- (b) Junked Motor Vehicle. Junked motor vehicle means any motor vehicle which is in such a state of physical or mechanical ruin so as to be incapable of propulsion or lawful operation on the public streets or highways.

- (c) Unlicensed motor vehicle, truck body, tractor or trailer means any motor vehicle, truck body, tractor or trailer which is not lawfully registered and bearing a current registration plate.

(2) Prohibition. No person, firm, partnership or corporation shall accumulate or store, or permit the accumulation or storage of, any junked motor vehicle, any unlicensed motor vehicle, or any motor vehicle parts outside of any building on any real estate located within the corporate limits of the Village, except upon a permit issued by the Village Board.

(3) Permit. The permit issued by the Village Board shall be signed by the Clerk and shall specify the quantity and manner of storing such junked motor vehicle, unlicensed motor vehicle, or motor vehicle parts, as determined by the Village Board. Such permit shall be revocable at any time by the Board after a hearing at which it has been found that the permit holder has failed or refused to comply with any ordinance or restriction providing regulation for the storage of such junked or unlicensed motor vehicle or motor vehicle parts or at which it has been found that the permit holder has failed or refused to comply with the conditions specified in the permit. Such a hearing may be held by the Board on its own motion, or upon a complaint in writing, duly signed by a complainant. The complaint shall state the nature of the alleged failure to comply with such ordinance, regulation or condition of the license. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than 10 days before the date of the hearing.

(4) Certain Vehicles Declared a Nuisance. Any junked or unlicensed motor vehicle kept in violation of this section, above, in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed is hereby declared to be a public health nuisance which may be abated pursuant to Chapter 5 of this Code. Any junked or unlicensed vehicle kept in violation of this Code, to which children may gain access, and in which the trunk lid has not been removed or provided with a device for opening from the inside are hereby declared to be a public nuisance affecting peace and safety which may be abated pursuant to section 5.05 of this Code.

(5) Forfeiture. Any person, firm, partnership or corporation violating any of the provisions hereof shall upon conviction forfeit not less than \$10 nor more than \$50 for each such offense. Each day a provision hereof has been violated shall constitute a separate and distinct offense.

4.05 ADULT-ORIENTED ESTABLISHMENT LICENSE AND REGULATIONS

(1) Findings Of Fact.

- (a) The Village Board finds that Adult-Oriented Establishments operating in the Village require special licensing by the Village in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the Village.

- (b) Based on a review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in **City of Renton v. Playtime Theaters, Inc.**, 475 U.S. 41 (1986), **Coleman A. Young v. American Min-Theaters, Inc.**, 427 U.S. 50 (1976), the Village finds that Adult-Oriented Establishments are frequently used for sexual liaisons of a casual nature and unlawful sexual activities including prostitution.
- (c) It has been documented that entertainers in Adult-Oriented Establishments offer to perform sexual acts for patrons, and that sexual contact occurs between patrons and other employees of Adult-Oriented Establishments.
- (d) There is convincing documented evidence that booths, rooms or cubicles in Adult-Oriented Establishments have been used by patrons for the purpose of engaging in Specified Sexual Activities or in high-risk sexual behavior and configuration of the interior of the premises is an important factor in combating such activities.
- (e) The State of Wisconsin Department of Health Services has published reports that have been considered by the Village relating to the subject of sexually-transmitted diseases and the concern over sexually-transmitted diseases is a legitimate concern of the Village in order to protect the health and well-being of its citizens.
- (f) The State of Wisconsin has seen a steady increase in several types of sexually-transmitted diseases since 1986.
- (g) Researchers have found that contracting sexually-transmitted diseases may increase a person's vulnerability to Human Immuno-Deficiency Virus (HIV), the virus that causes AIDS (Acquired Immune Deficiency Syndrome) and some types of cancer.
- (h) AIDS is a sexually-transmitted disease which destroys the body's immune system.
- (i) The State of Wisconsin Department of Health Services reports that as of December 31, 2004, 5,690 cases of AIDS were reported in the State, including 3,376 that resulted in death and new cases of HIV infection have been reported in Wisconsin each year.
- (j) The Village is concerned with the protection of its minors from exposure to age-inappropriate, sexually explicit materials and offenses.

- (k) Licensing is a legitimate and reasonable means of accountability to ensure that the operators and employees of Adult-Oriented Establishments comply with reasonable regulations and to ensure that operators and employees do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (l) Information relating to pending charges and convictions of the applicants is desired to further the Village's interest in controlling the secondary effects of Adult-Oriented Establishments.
- (m) There is convincing documented evidence that Adult-Oriented Establishments, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values.
- (n) The Village Board has reviewed studies of the secondary effects of Adult-Oriented Establishments and has concluded that if unregulated, they present an increased risk of prostitution, high-risk sexual behavior and crime, deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- (o) The Village Board desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods.
- (p) It is not the intent of this section to suppress any speech activities protected by the First Amendment, but to enact a content-neutral section which addresses the secondary effects of Adult-Oriented Establishments.
- (q) It is not the intent of the Village Board to condone or legitimize the promotion of obscene material, and the Village Board recognizes that the law prohibits the promotion of obscene materials. The Village Board expects and encourages law enforcement officials to enforce anti-obscenity laws against any such illegal activities in the Village.
- (r) Restricted hours of operation will allow law enforcement personnel to concentrate on crime prevention during high crime hours and/or low staffing hours by relieving them of enforcement duties relative to prostitution, loitering, and criminal activity associated with Adult-Oriented Establishments.
- (s) Prohibition of alcohol beverages on the premises will reduce the need for law enforcement resources to respond to alcohol related problems upon the

premises, will reduce high-risk sexual activity and will contribute to the reduction of secondary effects of Adult-Oriented Establishments.

(2) Purpose And Intent.

Based upon the findings stated above, it is the intended purpose of the Village to regulate Adult-Oriented Establishments to promote the health, safety, morals, and general welfare of the citizens of the Village and to establish reasonable and uniform regulations for the operation thereof so as to minimize secondary effects of these establishments on the community. The provisions of this section have neither the purpose nor intent of imposing a limitation or restriction on the content of any communicative materials, including Adult-Oriented materials protected by the First Amendment to the Constitution of the United States. Similarly, it is not the intent or effect of this section to restrict or deny access by adults to Adult-Oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of Adult-Oriented entertainment to their intended market. The promotion of obscene materials which is not protected by the First Amendment, is subject to criminal sanctions under the State's penal code.

(3) Definitions.

The following terms have the meanings indicated:

- (a) "Adult Cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which features:
 - (i) Live performances which are characterized or distinguished by the exposure of "Specified Anatomical Areas" or the removal of articles of clothing; or,
 - (ii) Films, motion pictures, video cassettes, video reproductions, slides or other visual representations which are distinguished or characterized by depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas."
- (b) "Adult Entertainment" means any exhibition of any motion picture, live performance, display or dance of any type, which has as its dominant theme, or is distinguished or characterized by anyone or more of the following:
 - (i) "Specified Sexual Activities";
 - (ii) "Specified Anatomical Areas";
 - (iii) removal of articles of clothing;

- (c) "Adult Massage Parlor" means a commercial establishment with or without sleeping accommodations which provides the service of massage or body manipulation, including exercise, heat and light treatment of the body, and any form or method of physiotherapy, which also provides its patrons with the opportunity to engage in "Specified Sexual Activities".
- (d) "Adult-Oriented Establishment" includes: Adult Cabaret, Adult Massage Parlor, Adult Theater, and any commercial establishment presenting Adult Entertainment, whether or not such establishment is operated or maintained for a profit.
- (e) "Adult Theater" means an enclosed building such as a theater, concert hall, auditorium or other similar commercial establishment which is used for presenting "Adult Entertainment."
- (f) "Applicant" means the individual or business entity that seeks to secure a license under this section of the Village municipal code.
- (g) "Employee" means any and all Persons, including but not limited to "Operators", "Entertainers", clerks, managers, janitors or other Persons who work in or at, or render any services directly related to the day-to-day operation of an Adult-Oriented Establishment. Employee, as used in this section, specifically excludes independent contractors who are responsible for the improvement or repair of the physical premises or who provide supplies to the establishment, provided that these Persons are not also in the position of providing any other day-to-day services for the Adult-Oriented Establishment.
- (h) "Entertainer" means any Person who provides entertainment within an Adult-Oriented Establishment whether or not a fee is charged or accepted for the entertainment and whether or not the entertainment is provided by the Person as an Employee of the Adult-Oriented Establishment or as an independent contractor.
- (i) "Operator" means the Person who is designated on the license application to be the Person in charge of the daily operation of the premises and who is to be the Adult-Oriented Establishment's contact Person for the municipality.
- (j) "Person" means an individual, proprietorship, corporation, association, partnership, limited liability entity, or other legal entity.
- (k) "Public Area" includes all areas of an Adult-Oriented Establishment except: a public restroom to the extent it is used for its proper purpose, individual

rooms rented in an Adult Motel, or areas to which patrons have no physical or visual access.

- (l) "Specified Anatomical Areas" means:
 - (i) Less than completely and opaquely covered human genitals, pubic region, buttock or female breasts below a point immediately above the top of the areola; or
 - (ii) Human male genitals in a discernibly turgid state, even if opaquely covered.

- (m) "Specified Sexual Activities" means and includes any of the following, simulated or actual:
 - (i) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts .
 - (ii) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.
 - (iii) Showing of human genitals in a state of sexual stimulation or arousal.
 - (iv) Excretory functions during a live performance, display or dance of any type.

- (n) "Transfer of Ownership or Control" of an Adult-Oriented Establishment means and includes any of the following:
 - (i) the sale, lease, or sublease of the business;
 - (ii) the transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or other means; or
 - (iii) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of the law upon the death of the Person possessing the ownership or control.

- (o) "Village Board" means the Village Board for the Village of Boaz, Richland County, Wisconsin.

- (p) "Youth-facility" means any facility where minors gather for educational or recreational activities including but not limited to playgrounds, swimming pools, libraries, licensed child-care facilities, or youth clubs.

(4) Licensing.

(a) Licenses Required.

- (i) License Required for All Adult-Oriented Establishments. From and after the effective date of this section, no Adult-Oriented Establishment shall be operated or maintained in the Village without first obtaining a license to operate issued by the Village. A license may be issued only for one Adult-Oriented Establishment located at a fixed and certain place. Any Person desiring to operate more than one Adult-Oriented Establishment must have a license for each.
- (ii) License Required for All Employees of Adult-Oriented Establishments. In addition to the license required by the establishment, all Employees of an Adult-Oriented Establishment must also be licensed.
- (iii) Change of Name Form. Any licensed Adult-Oriented Establishment which desires to change its name from that as listed on the original license application must file a change of name form with the Clerk and pay a \$10.00 fee at least 30 days prior to effectuating the name change.
- (iv) Effect of Other Licenses. The fact that a Person possesses any other valid license or permit required by law, does not exempt that Person from the requirement of obtaining an Adult-Oriented Establishment license under this Section.
- (v) Non-transferability of Licenses. No license or interest in a license may be transferred to any Person. Any change in location for an Adult-Oriented Establishment shall require a new license application for that location.

(b) License Application Procedure for Adult-Oriented Establishments.

- (i) Any Person desiring to secure an Adult-Oriented Establishment license shall file an application together with two additional copies of the application with the Clerk.
- (ii) The application shall be on a form provided by the Clerk.

(iii) The following information shall be required of each Applicant, and must be provided under oath or affirmation:

1. Name, including any aliases, date of birth, address, and phone number.
2. If the Applicant is a corporation, partnership, limited liability corporation or limited liability partnership, the application shall include the name of the business entity; the date of incorporation, registration or organization; the state in which the entity was incorporated, registered or organized; the name and address of the registered agent where applicable; the names and addresses of all officers and directors; operating or managing partners or general partners; members or managers, whichever is applicable for the particular form of business entity.
3. If the Applicant is an individual, written proof that the Applicant is at least 18 years of age and two copies of a recent photo.
4. If the applicant is a business entity, a statement that no officer, director, partner, general partner, owner or manager is less than 18 years of age.
5. Name, address and phone number of the Adult-Oriented Establishment for which a license is being secured.
6. Name and address of any other current or past Adult-Oriented Establishments operated by the Applicant whether in this State or any other State or District within the United States.
7. For any current Adult-Oriented Establishments operated by the Applicant, the Applicant shall describe the status of any required license for the establishment.
8. Nature and date of offense if the Applicant has charges pending or has been convicted of violating any of the terms of this section.
9. Nature and date of offense if the Applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:

Prostitution (§ 944.30, Stats.).
Patronizing Prostitutes (§ 944.31, Stats.).
Soliciting Prostitutes (§ 944.32, Stats.).
Pandering (§ 944.33, Stats.).
Keeping a Place of Prostitution (§ 944.34, Stats.)
Sexual Assault (§940.225, Stats.)
Sexual Gratification (§ 944.17, Stats.).
Lewd and Lascivious Behavior (§ 944.20, Stats.).
Obscene Material or Performance (§ 944.21, Stats.).
Sexual Assault of a Child (§ 948.02, Stats.).
Engaging in repeated acts of sexual assault of the same child.
(§ 948.025, Stats.)
Sexual Exploitation of a Child (§ 948.05, Stats.).
Causing a Child to view or listen to Sexual Activity. (§
948.055, Stats.).
Incest with a child. (§ 948.06, Stats.) .
Child Enticement (§ 948.07, Stats.)
Soliciting a Child for Prostitution (§ 948.08, Stats.)
Exposing a child to harmful material (§ 948.11, Stats.)
Possession of Child Pornography (§ 948.12, Stats.)
Child Sex Offender Working with Children (§ 948.13,
Stats.).

The statute numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or categorized differently by an act of the legislature, the Applicant shall list those crimes for which the Applicant has been convicted that are similar in nature to those listed above.

10. Nature and date of offense if the Applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in 9., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
11. Name, address and phone number of an individual who is responsible for the day-to-day operation of the establishment, who will be deemed the Operator for purposes of this section, and who will be the contact Person for the municipality.
12. A statement that the Applicant is familiar and in compliance with the provisions of this section of the Village's municipal code.

13. When the Applicant is a business entity the information requested of the Applicant shall include the information required in this section for each of the officers and directors, partners and general partners, or other owners, and managers of the business entity applying for the license. This provision shall not apply to any owner of any kind who hold an ownership interest of less than 10%.
- (iv) Each application shall be accompanied by:
 1. A building plan which meets all the requirements of this Section. Each application shall be accompanied by a sketch or diagram showing the floor plan of the interior of the premises, including a statement of total floor space occupied by the business.
 2. A written plan of operation which meets all the requirements of this Section.
 - (v) Each application shall be signed by the Applicant.
 - (vi) Each application shall be accompanied by payment of a nonrefundable application and license fee of \$300.00. Filing of the application does not occur until this fee has been paid.
 - (vii) The Clerk shall date the filing of the application on the face of the application.
 - (viii) Upon filing of the application, each Applicant shall place a sign at the proposed business location providing notification of the application. Each sign shall be at least 24 inches by 36 inches in size. The sign shall state "ADULT-ORIENTED ESTABLISHMENT LICENSE APPLICATION PENDING" AND "APPLICATION FILED ON (fill in the date)." The letters on the sign shall be no less than 1 and 1/2 inches high by 2 inches wide. The sign must be placed in a conspicuous location so that it is clearly visible to all passers by whether on the public road, highway, sidewalk or parking lot.
 - (ix) Upon receipt of the application, the Clerk shall immediately distribute a copy of the application to the Village Board and an agency of the Village Board's choosing that conducts background checks.

- (x) The agency conducting the background check shall notify the Village Board in writing of any information bearing on the Applicant's qualifications, within 30 business days of the filing of the application.
 - (xi) The Village Board shall within 60 days of the filing of the application with the Clerk, either grant the license or deny the application after reviewing the application for compliance with the licensing standards found in this section. If the Village Board fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.
 - (xii) If the license is granted by the Village Board, then the Clerk shall issue the license on the next business day.
 - (xiii) If the Village Board decides to deny the application for a license, the Village Board shall immediately notify the Applicant in writing of the reasons for denial. Such notice shall be sent to the Applicant within 5 days of the decision by certified mail, return receipt requested.
 - (xiv) Any Applicant aggrieved by such a decision of the Village Board, shall be entitled to immediately appeal the Village Board's decision in circuit court. Such an appeal must be made within 30 days of the date of the written decision by the Village Board. The Village explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.
 - (xv) Each license issued for an Adult-Oriented Establishment shall state on its face the name of the licensee, the name of the establishment, the street address of the establishment, the date of issue of the license and its expiration date.
- (c) License Procedures For Employees In Adult-Oriented Establishments.
- (i) Any individual desiring to secure an Employee license shall file an application together with two additional copies of the application with the Clerk.
 - (ii) The application shall be on a form provided by the Clerk.
 - (iii) The following information shall be required of each Applicant, and must be provided under oath or affirmation:

1. Name, including any aliases, date of birth and address. Pursuant to Sec. 19.35(1)(a)2.a., Wisconsin Statutes, the name and address of any entertainer shall be considered as exempt from disclosure under the public records law of the State of Wisconsin because of potential danger to the life and safety of such individuals from such disclosure.
2. Written proof that the individual is at least 18 years of age and two copies of a recent photo.
3. Nature and date of offense and date if the Applicant has charges pending or has been convicted of any violations of any of the terms of this section.
4. Nature and date of offense if the Applicant has charges pending or has been convicted of any of the following crimes in Wisconsin:

Prostitution (§ 944.30, Stats.).

Patronizing Prostitutes (§ 944.31, Stats.).

Soliciting Prostitutes (§ 944.32, Stats.).

Pandering (§ 944.33, Stats.).

Keeping a Place of Prostitution (§ 944.34, Stats.)

Sexual Assault (§940.225, Stats.)

Sexual Gratification (§ 944.17, Stats.).

Lewd and Lascivious Behavior (§ 944.20, Stats.).

Obscene Material or Performance (§ 944.21, Stats.).

Sexual Assault of a Child (§ 948.02, Stats.).

Engaging in repeated acts of sexual assault of the same child. (§ 948.025, Stats.)

Sexual Exploitation of a Child (§ 948.05, Stats.).

Child Enticement (§ 948.07, Stats.)

Soliciting a Child for Prostitution (§ 948.08, Stats.)

Causing a Child to view or listen to Sexual Activity. (§ 948.055, Stats.).

Incest with a child. (§ 948.06, Stats.)

Exposing a child to harmful material (§ 948.11, Stats.)

Possession of Child Pornography (§ 948.12, Stats.)

Child Sex Offender Working with Children (§ 948.13, Stats.)

The statute numbers listed above are for reference purposes only. In the event one or more of the crimes listed above are renumbered or categorized differently by an act of the legislature, the Applicant shall list those crimes for which

the Applicant has been convicted that are similar in nature to those listed above.

5. Nature and date of offense if the Applicant has charges pending or has been convicted of an offense under a statute analogous to those listed in 4., above, in a state other than Wisconsin, or under an analogous ordinance of another municipal entity.
 6. A statement that the Applicant is familiar with the provisions of this Section and is in compliance with them.
 7. A list of other similar or analogous Adult Entertainer or Employee licenses issued by any other municipalities, the name and state of the municipality and the status of the license.
- (iv) Each application shall be signed by the Applicant.
 - (v) Each application shall be accompanied by payment of the license fee of \$50.00. Filing of the application does not occur until this fee has been paid.
 - (vi) The Clerk shall date the filing of the application upon the face of the application.
 - (vii) Upon receipt of the application, the Clerk shall immediately distribute a copy of the application to an agency of the Village Board's choosing that conducts background checks and the Village Board.
 - (viii) The agency conducting the background check shall notify the Village Board in writing of any information bearing on the Applicant's qualifications as required herein, within 30 business days of the filing of the application.
 - (ix) The Village Board shall within 60 days of the filing of the application with the Clerk, either issue the license or deny the application after reviewing the application for compliance with the licensing standards found in this section. If the Village Board fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.
 - (x) If the license is granted by the Village Board, then the Clerk shall issue the license on the next business day.

(xi) If the Village Board decides to deny the application for a license, the Village Board shall notify the Applicant in writing of the reasons for denial. Such notice shall be sent to the Applicant within 5 days of the decision by certified mail, return receipt requested.

(xii) Any Applicant aggrieved by such a decision of the Village Board shall be entitled to immediately appeal the Village Board's decision in circuit court. Such an appeal must be made within 30 days of the receipt by the Applicant of the written decision of the Village Board. The Village explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.

(d) Procedures For Alterations Of Licensed Premises.

Following the granting of a license any licensee who wishes to alter any aspect of the licensed premises which was required to be described in the plan of operations required under this Section, shall be required to apply for a new license.

(e) Licensing Standards For Initial Licenses.

The Village Board shall grant an initial license to an Applicant unless it finds one or more of the following to be true:

(i) The Applicant is less than 18 years of age.

(ii) The Applicant has charges pending or has been convicted of violating a provision of this Section or an analogous ordinance of another municipality within the 5 years immediately preceding the date of application.

(iii) The Applicant has charges pending or has been convicted of a crime specified in Sections 4(b)(iii)9 or (4)(c)(iii)4; and if convicted, for which:

1. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense.

2. less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the

conviction, whichever is the later date, if the conviction is a felony offense;

3. less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are for two or more misdemeanor offenses, or combination of misdemeanor offenses, occurring within any 24-month period.

The fact that an appeal has been taken from any of the above-mentioned convictions shall have no effect.

- (iv) The Applicant provides false information on the application.
- (v) The Applicant fails to provide information, to post the required notice, or to pay any fee required by this Section.
- (vi) The Adult-Oriented Establishment does not submit plans which meet the requirements of Section (4)(b)(iv).

(f) License Expiration And Renewal.

- (i) Transfer of Ownership or Control of an Adult-Oriented Establishment shall result in automatic expiration of the existing license. Upon transfer of Ownership or Control, the procedures for a new license application must be followed. In order to ensure continuous operation, such procedures may also be commenced by a new Applicant prior to the expiration of the prior license.
- (ii) Every license issued pursuant to this Section will terminate upon the expiration of one year from the date of issuance unless sooner revoked. Any licensee desiring to renew an initial license shall make application to the Clerk. The application procedures governing new licenses shall be followed by an Applicant for a renewal license except for those found in Section (4)(b)(viii), (xii), (xiii), (xiv), and (xv) for Adult-Oriented Establishment licenses, and Section (4)(c)(ix), (x), (xi), and (xii) for Employee licenses. The application fee for a renewal license shall be \$300.00 for an Adult-Oriented Establishment license and \$50.00 for an Employee license.
- (iii) Any licensee desiring to renew an initial license shall file the application for renewal no later than 60 days before the license expires: Any licensee who fails to apply for a renewal license at least

60 days before the license expires shall pay the same fee as if the licensee were applying for an initial license.

- (iv) An existing license shall be allowed to continue until such time as the Village Board acts upon the renewal license application. If the Village Board fails to act upon the license application within 60 days of the filing of the application with the Clerk, then the license shall be deemed granted.
- (v) The Village Board will not expedite the renewal procedure to ensure that a license will not expire when the expiration of the license is due to the licensee's untimely filing of a renewal application. Upon expiration of a license under these circumstances, the licensee is prohibited from operating or serving as an employee until the new license is granted.
- (vi) A license may not be renewed if the Village Board, following the procedures found in this Section, finds that a violation of this Section has occurred or that the applicant is not qualified to hold the license.
- (vii) If the license is granted by the Village Board, then the Clerk shall issue the license on the next business day.

(5) Operation Of Adult-Oriented Establishments

- (a) No Adult-Oriented Establishment is permitted to operate between the hours of 2 a.m. and 8 a.m. Further, no Adult-Oriented Establishment is permitted to operate between the hours of 8 a.m. and midnight on any Sunday or legal holiday as defined in §995.20, Wis. Stats.
- (b) No Operator or Employee of an Adult-Oriented Establishment shall permit to be performed, offer to perform, perform or allow patrons to perform any Specified Sexual Activity in the establishment or on the site.
- (c) No Operator or Employee of an Adult-Oriented Establishment shall allow any minor to enter into, loiter around or to frequent an Adult-Oriented Establishment or to view Adult Entertainment.
- (d) The Operator shall maintain the premises in a clean and sanitary manner at all times.

- (e) The Operator shall maintain at least 10 foot candles of illumination in the Public Areas of the establishment with the following exceptions:
 - (i) in a booth, room, or cubicle, if a lesser level of illumination is necessary to enable a patron to view the Adult Entertainment but at no time shall there be less than .01 foot candle of illumination as measured 30" from the floor;
 - (ii) in an aisle adjacent to a booth, room, or cubicle, if a lesser amount of illumination is necessary to allow the occupant to view the Adult Entertainment, but at no time shall there be less than one and 1/2 foot candle of illumination as measured 30" from the floor.
 - (iii) Adult Theaters must maintain 5 foot candles of illumination in the auditorium during intermission and no less than .01 foot candles during a picture.
- (f) All Employees while engaged in the display or exposure of any Specified Anatomical Area, shall maintain a six-foot distance from any patron or other Employee.
- (g) No restroom shall be designed, operated or maintained so that a patron can view Adult Entertainment therein.
- (h) All performances in an Adult Cabaret shall be conducted upon a stage at least three feet (3') above the immediate floor level and removed at least six feet (6') from the nearest Employee or patron.
- (i) The selling, serving, possession, or consumption of alcohol beverages is strictly prohibited at all times in all Adult-Oriented Establishments.
- (j) No Employee or Operator shall knowingly work in or about, or knowingly perform any service directly related to the operation of any unlicensed Adult-Oriented Establishment, in the Village of Boaz.
- (k) All Employees shall carry their license upon their person at all times while working in the Adult-Oriented Establishment and shall produce said license upon demand for inspection by any law enforcement authority. Entertainers are exempt from carrying their license upon their person while providing entertainment, but shall be readily able to produce said license upon demand for inspection by any law enforcement authority.
- (l) The license for the Adult-Oriented Establishment shall be displayed in a conspicuous public place in the Adult-Oriented Establishment.

- (m) No Employee, Operator, or owner may refuse law enforcement officials entry in to an Adult-Oriented Establishment for purposes of inspecting the Adult-Oriented Establishment for compliance with these operational standards during business hours, or at other times at a reasonable hour, with reasonable notice.
- (n) The Operator shall be responsible for compliance with the provisions of this section by the Adult-Oriented Establishment, its Employees and patrons.
- (o) Every act or omission by any 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 accountable for such act or omission in the same manner as if Operator committed the act or caused the omission.

(6) Design And Layout.

- (a) External visibility. At no time should any Adult Entertainment inside the premises be visible to any persons who are outside the premises.
- (b) Booths. Any Adult-Oriented Establishment having available for patrons any booth, room or cubicle for the private viewing of Adult Entertainment must comply with the following requirements:
 - (i) 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.
 - (ii) Construction. Every booth, room or cubicle shall meet the following construction requirements:
 1. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-Public Areas by a wall.
 2. All walls shall be solid and without any openings, extended from the floor to a height of not less than 6' and be light colored.
 3. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.

4. Booths must be separated at least twelve (12) inches from the exterior walls of any other viewing booths by open space.
- (iii) Visibility. The interior of the booth, room or cubicle shall not be blocked or obscured by doors, curtains, partitions, drapes or any other obstruction whatsoever.
- (iv) Lighting. Lighting for booth, room or cubicle shall comply with the provisions of Section (5)(e) of this section.
- (v) Occupants. Only one individual shall be permitted to occupy a booth, room or cubicle at any time. No occupant of the booth, room or cubicle, shall be permitted to engage in any Specified Sexual Activity, cause any bodily discharge or litter while in the booth. No individual shall be permitted to damage or deface any portion of the booth.
- (vi) Exception. This subsection does not apply to the individual rooms located in Adult Motels.

(7) Exclusions.

All private and public schools as defined in Ch. 115, Wis. Stats., located within the Village are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

(8) Enforcement.

- (a) License Non-Renewal, Suspension, Or Revocation. The Village Board may refuse to renew, suspend or revoke a license for any violations of this Section or if the applicant is not qualified to hold the license.
- (b) License Non-Renewal, Suspension And Revocation Procedures.
 - (i) In order to commence the procedure for a license non-renewal, suspension or revocation, the Village shall notify the licensee in writing by certified mail, return receipt requested, of the alleged violation or cause and the intent of the Village to seek a non-renewal, suspension or revocation of the license.
 - (ii) The licensee shall be entitled to a public hearing before the Village Board regarding the license non-renewal, suspension or revocation,

upon written request to the Village Clerk within 10 days of receipt of the notification required in sub. (i).

- (iii) Any public hearing requested pursuant to sub. (ii), shall take place within 10 days of the filing of such written request, unless the time limits are waived by both parties.
- (iv) At the hearing both the Village and the aggrieved party may be represented by an attorney, present evidence, call and examine witnesses, cross-examine witnesses of the other party, and make opening and closing statements. Such witnesses shall be sworn. The Village President shall be the presiding officer at the hearing.
- (v) Attorneys may issue subpoenas to compel attendance of witnesses or the production of evidence. Subpoenas issued must be in substantially the same form as provide in §805.07(4), Wis. Stats., and must be served in the manner provided in §805.07(5), Wis. Stats. Copies of the subpoenas must be served on the opposing party.
- (vi) The Village Board shall cause the proceedings to be recorded by a stenographer, the expense thereof to be paid by the Village. Costs for copies of any transcripts or transcription of a recording shall be paid by the party requesting the transcript or transcription. All exhibits shall be marked and preserved.
- (vii) Within 10 days of the completion of any hearing the Village Board shall determine if cause for non-renewal, suspension or revocation exists. If no public hearing is requested, the Village Board shall make a determination within 20 days of the notification date.
- (viii) The Village Board shall issue its determination in writing and provide it within 5 days to the licensee by certified mail, return receipt requested.
- (ix) If a license period expires while a non-renewal, suspension or revocation procedure is pending, then the non-renewal, suspension or revocation of any license shall be stayed pending the issuance of a determination by the Village Board. The non-renewal, suspension or revocation of a license shall become effective thirty days following the issuance of a decision by the Village Board, if judicial review is not commenced as provided in this Section.

- (x) If judicial review of such determination by the Village Board is timely commenced, then license non-renewal, suspension or revocation shall not become effective until judgment is entered.
- (xi) Any Person aggrieved by such a decision of the Village Board shall be entitled to immediately appeal the Village Board's decision in circuit court. Such an appeal must be made within 30 days of the licensee's receipt of the written decision by the Village Board. The Village explicitly elects not to be governed by Chapter 68, Wisconsin Statutes, and to provide the review procedures described in this Section.
- (xii) Any Person whose license is non-renewed, suspended or revoked shall not be eligible to receive a license for a period of five years from the effective date of the suspension or revocation.

(9) Violations.

(a) Penalties.

Any Person who violates this Section will be subject to a monetary forfeiture in the amount of \$500.00 for each violation. Each day that a violation exists shall constitute a separate violation and be punishable as such.

(b) Injunction.

Compliance with the provisions of this Section may also be enforced by an injunction properly issued by a court of competent jurisdiction upon the request of the Village.

(c) Non-exclusivity.

The imposition of any penalty under this Section or the seeking of an injunction shall not impair the right of the Village to seek a non-renewal, suspension or revocation of a license as provided in this Section.

4.06 UNIFORM DWELLING CODE

(1) Authority. These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes.

(2) Purpose. The purpose of this section is to promote the general health, safety, and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

(3) Scope. The scope of this section includes the construction and inspection of one- and two-family dwellings built since June 1, 1980, and new camping units as defined in Wis. Admin. Code § 327.08(9). The scope of this section includes the construction and inspection of Manufactured Homes (HUD) and Manufactured Dwellings (UDC).

(a) Notwithstanding s. SPS 320.05 or any other exemptions of the Uniform Dwelling Code, the scope of this section also includes the construction and inspection of alterations and additions to one- and two-family dwellings built before June 1, 1980. Because such projects are not under state jurisdiction, petitions for variance and final appeals under ss. SPS 320.19 and 320.21, respectively, shall be decided by the municipal board of appeals. Petitions for variance shall be decided per s. SPS 320.19(Intro) so that equivalency is maintained to the intent of the rule being petitioned.

(b) Notwithstanding s. SPS 320.05 or any other exemptions of the Uniform Dwelling Code, the scope of this section also includes the construction and inspection of detached garages serving one and two family dwellings. The building structure and any heating, electrical or plumbing systems shall comply with the requirements of the Uniform Dwelling Code, other than for smoke alarms, carbon monoxide alarms and frost protection of footings, which shall be determined by the code official. Petitions for variance and appeals shall be handled by this municipality.

(4) Wisconsin Uniform Dwelling Code Adopted. The Wisconsin Uniform Dwelling Code, § SPS 320-325 and § SPS 327, and their successors, of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this section.

(5) Building Inspector. There is hereby created the position of Building Inspector, who shall administer and enforce this section and shall be certified by the Division of Industry Services, as specified by Wisconsin Statutes, Section 101.66(2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

(6) Building Permit Required. If a person alters a building in excess of \$2,500 value in any twelve-month period, adds onto a building in excess of \$2,500 in any twelve-month period, or builds or installs a new building, within the scope of this section, they shall first obtain a building permit for such work from the building inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits if over the forgoing thresholds. Restoration or repair of an installation to its previous code-compliant condition as determined by

the building inspector is exempted from permit requirements. Residing, re-roofing, finishing of interior surfaces and installation of cabinetry shall be exempted from permit requirements.

(7) Building Permit Fee. The building permit fees shall be determined by resolution and shall include the applicable fee per ch. SPS 302 to be forwarded to the Wisconsin Department of Safety and Professional Services for a UDC permit seal that shall be assigned to any new dwelling. Permit fees for a Wisconsin camping unit as outlined within Wis. Admin. Code § SPS 327.09 and inspection fees as outlined within Wis. Admin. Code § 327.10(3) will also be included in this resolution.

(8) Penalties. The enforcement of this section and all other laws and ordinances relating to building shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than \$25.00 nor more than \$1,000.00 for each day of noncompliance.

(9) Records. The building inspector(s) shall keep a log of all inspections completed.

4.07 FENCES

(1) Materials. Any fencing within the village must be made from wood, plastic, vinyl or metal chain link materials. No other materials are permitted except that barbed wire, electric, chicken wire and other fences described in Wis. Stat. sec. 90.02 may be constructed on property assessed as agricultural land.

(2) Function or purpose. Fences within the village existing or proposed for the purpose of masking or disguising the storage of illegal debris such as old building material, junk, inoperable or unlicensed vehicles or equipment or any parts or pieces of the same are prohibited.

(3) Maintenance. All fences must have a suitable finish. Wood and metal fences must be kept painted or stained to an even and consistent color. Pre-colored or pre-finished fences must be kept clean of dirt and or replaced once the fencing becomes unsightly.

(4) Size and placement.

- (a) Fences may not exceed 7 feet in height and what is typically called the bad or back side of the fence must face the fence owner's property and not the neighbor's.
- (b) Except for agricultural line fences under Section I, no fence may be placed within any street right of way or within one foot of any lot line.
- (c) A "clear vision triangle" is the triangle formed on corner lots between points on the front, side or rear lot lines 35 feet from the intersection of the right-of-way lines. Within that area no fence shall be permitted higher than two feet above the average finished grade of the lot.

(5) Inspections. Any fence within the village may be subject to an inspection by the Village Board or its designee to ensure that the fence is compliant with this section. This inspection may be initiated as a result of a complaint made by any Village resident.

(6) Exceptions. The provisions of this section shall not apply to the following:

- (a) Ornamental fences. “Ornamental fence” shall mean a fence designed in such a manner, and of such material, that the main purpose is to decorate or enhance the appearance of the front or side yard. Ornamental fences shall include hedges. Fences consisting of chain link mesh, welded or woven wire or sheet metal or that are 20 feet in length or longer are excluded under this definition.
- (b) Garden fences. A “garden fence” is any structure in the nature of a fence, which defines the boundary of a garden or planting bed, does not exceed 36 inches in height nor enclose more than 500 square feet, which is intended to impede access by wildlife to the planted area. A garden fence may be constructed of wire-type materials, except for razor or barbed wire or chain-link-type fence.

(7) Permit Required. No person may construct a fence except an ornamental or garden fence without a permit having been issued.

(8) Enforcement and Penalty. A fence that fails to comply with the requirements of this section is a public nuisance. Upon a determination being made by law enforcement that a violation exists, the property owner will be informed of the violation and given 30 days to bring the fence into compliance with this section. If the property owner fails to do so, the penalty for violation of this section shall be as follows:

- (a) After 30 days, the owner will be subject to a forfeiture of \$150.00.
- (b) After 60 days owner will be subject to a forfeiture of \$300.00.
- (c) In addition to or in lieu of the forfeitures provided here, the Village may seek an order abating the nuisance and requiring that any fence constructed in violation of this section be removed or, should the owner fail to do so within the time required by the court, permitting the Village to remove the fence and place the cost of doing so on the tax roll as a special tax or charge.

4.08 LICENSING OF COMMERCIAL SALVAGE YARDS AND RECYCLING CENTERS.

(1) Purpose. The Village of Boaz concludes that it is in the public interest to regulate, by ordinance, the commercial storage and disposal of automobiles, tires, junk, recyclables

and other waste products to control the existence of unlicensed junk yards, tire piles and dumps of similar miscellaneous materials within Village of Boaz. Unlicensed operation of salvage yards and similar operations presents a threat to the public health and safety of the citizens of Village of Boaz and to the natural environment and property values of Village of Boaz.

(2) Definitions. Unless specifically defined below, words or phrases used in this section shall be interpreted as having the same meaning as they have in common law, the Wisconsin Statutes or Wisconsin Administrative Code, to give this section its most reasonable application. Words used in the present tense include the future, and vice-versa. Words used in the singular include the plural, and vice-versa. The word "shall" is always mandatory, the word "may" is always permissive.

- (a) "Junk" means any of the following junk materials:
 - (i) Any junk or scrap metal.
 - (ii) Any junk or scrap wood.
 - (iii) Junk metal alloy.
 - (iv) Junk synthetic or organic material.
 - (v) Two or more junked, ruined dismantled or wrecked motor vehicles or machinery or parts thereof.
 - (vi) A collection of ten (10) or more used tires that are not being put to a use.
 - (vii) Unusable appliance(s).
 - (viii) All or parts of dismantled buildings or structures that were not originally parts of the land's principal or accessory buildings and have not been reconstructed within six months of their deposit on the land. (i.e. Dismantled buildings or parts thereof, that are or were imported or relocated to a site are junk on that site.)
 - (ix) All or parts of dismantled buildings or structures that were originally part of the land's principal or accessory use which have been destroyed by act of man or nature and have been dismantled or destroyed for more than 18 months.
 - (x) Cans, bottles and other postconsumer waste.
- (b) "Illegal Junk Yard" means any place other than a licensed junk yard, which is maintained, owned, operated or used for the commercial storage, keeping, processing, buying or selling of junk outside of buildings.
- (c) "Screened" means hidden from view in a manner that is compatible with the surrounding environment and in accordance with standards established by the Village Board.

(3) Prohibited Activities. No person, group of persons, company, firm, corporation or any other entity shall, without a license from the Village, within the Village of Boaz:

- (a) Operate an illegal junk yard; or
- (b) For gain or hire, store or dispose of any junk as defined by this section except in accordance with all applicable state and local regulations.
- (c) All illegal junk yards in violation of this section are public nuisances.

(4) Exceptions.

- (a) This section is not intended to regulate or place limitations on non-commercial storage of material, nor to any legally licensed junk yard, salvage dealer, sanitary landfill or other junk, waste disposal or storage activity for which a valid license from the State of Wisconsin and/or other necessary municipal issuing authority is required and has been issued and all such licenses are in full force and effect.
- (b) Nothing in this section is intended to prohibit the storage of idle but operable farm equipment.

(5) Licensed Operations.

- (a) The owner of every salvage yard in the Village shall annually apply for a license to operate the salvage yard. There shall be a \$75 fee for the license. The license shall be issued by the Village Clerk-Treasurer if there are no pending complaints against the owner.
- (b) A license, when issued, shall be valid for a calendar year. The license shall expire at midnight on December 31 of each year.
- (c) Every owner of a licensed salvage yard shall be responsible for picking up or removing any material, waste or debris which is found outside the salvage yard property as the result of the action of wind or spillage from transport vehicles.
- (d) Every salvage yard owner and operator shall use all necessary precautions to assure that gasoline, oil, solvents and other chemicals are removed from junk which is in storage or otherwise act to prevent contamination of the soil and/or groundwater.
- (e) The license issued hereunder does not authorize the salvage yard operator to accept solid waste or garbage or constitute approval of the salvage yard as a landfill.

- (f) Screening and hours of operation shall be established by the Village Board so that the salvage yard and its operations are compatible with the surrounding environment.

(6) Administration and Enforcement.

- (a) Code Enforcement. The Village of Boaz Board of Trustees hereby assigns the duties of administering this subsection of this section to the Village Board.
- (b) Persons shall allow access to the Village Board or Village staff to their property for the purposes of enforcing this section.
- (c) Any written complaints filed with the Village shall be referred to the Village Board for consideration at the next meeting of the Board. At that meeting, the Board shall determine whether or not the complaint warrants investigation, or requires immediate response to protect the public health or safety. If the Board determines that the complaint relates to conditions at the salvage yard which may be an immediate threat to public health or safety, the Board may order the salvage yard owner or operator to cease and desist the offensive activity pending further investigation. If the Board determines that a complaint should be investigated, the Board shall designate an individual or individuals, or the Village's building inspection firm, to investigate the complaint and report to the Village Board. Upon receipt of the results of the investigation, the Village Board may decide to issue a written order to the salvage yard owner or operator directing the owner or operator to correct any violations or unacceptable conditions identified in the inspection report. If the owner or operator fails to correct the violation or unacceptable condition, the Village Board may act under subsection (7) to enforce the section.

(7) Violations and Penalties.

- (a) Whenever a violation of this section is found, the Village Board may take one or more of the following actions:
 - (i) Order the violation corrected by the property owner by removal and proper disposal of the material within a specified period ranging from one (1) to thirty (30) days; or
 - (ii) Issue a citation for violation of this section pursuant to this section; or
 - (iii) When violations are initiated and pursued by the Village Board proper legal action shall be brought through the Village Attorney,

which may include injunctive relief, and additional forfeiture actions through the process of summons and complaint or other proper legal recourse.

- (b) The Village of Boaz may ask the Circuit Court, upon the petition of and at the request of the Village of Boaz, to order removal of the violating junk, vehicles, tires, etc., at Village of Boaz expense. The Village of Boaz shall then invoice the property owner for all such costs incurred. If that invoice is not paid within thirty (30) days, the Village of Boaz may place the amount of the invoice on the tax rolls as a special charge against the property in question.
- (c) Injunctive relief can also be requested requiring the property owner or other party in possession of the property to remove the violating junk, vehicles, tires, etc., and have those items properly stored or disposed of and any Village of Boaz cost incurred in the removal of such items be assessed against the violating possessor of that property and/or owners.
- (d) Any person, firm, corporation or other legal entity failing to comply with the provisions of this section shall, upon conviction, forfeit not less than \$75 nor more than \$500, plus costs of the prosecution for each violation. Each day a violation occurs or continues constitutes a separate offense. The bond amount for an initial violation shall be \$100 together with court costs and the bond amount for a second violation or subsequent violations within twelve months of an initial violation shall be \$250.00 together with court costs.

4.09 MOBILE AND MANUFACTURED HOME REQUIREMENTS

(1) Site.

- (a) All mobile and manufactured homes shall be placed on sites that are properly leveled and graded to avoid excess runoff and/or erosion.
- (b) Mobile and manufactured homes shall be spaced so that there is a minimum of twenty (20) feet of space between units.

(2) Installation.

- (a) Tie downs are required and shall be installed as shown in chart.

Mobile Home Size	Number of Over-The-Roof Ties Required	Number of Frame ties required		
		2' pier	3' pier	4' pier
44 x 12	2	4	5	5
52 x 12	2	5	5	6
54 x 12	2	5	6	7
60 x 12	2	5	6	7
65 x 12	2	6	7	8
70 x 12	2	6	7	9
74 x 12	2	6	8	9
54 x 14	2	4	5	6
60 x 14	2	5	5	6
65 x 14	2	5	6	7
70 x 14	2	6	7	8
76 x 14	2	6	7	8
80 x 14	2	7	7	8

- (b) All mobile home units must have skirts around the entire mobile home made of plastic, fiberglass, or other comparable noncombustible material and shall be of a permanent color or painted to match the appropriate mobile home so as to enhance the general appearance thereof.
 - (c) Tires must be removed from the home.
- (3) Utilities. The following minimum requirements for utilities shall be maintained:
- (a) The home must be connected to the Village sewer system.
 - (b) The home must be connected to metered electric service.