

Chapter 23

CABARETS

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23.01 LICENSE REQUIRED AND SCOPE OF LICENSE.

(a) No holder of a Class "B" liquor or beer license within the Village shall provide for his patrons, unless he first shall have obtained a Cabaret License from the Village Clerk/Treasurer, any of the following:

(1) The music of one or more musicians and dancing privileges.

(2) Specifically feature or advertise dancing in his premises using mechanical devices to produce music.

(3) Furnish entertainment by, or performance of, any act, stunt or dance by performers under his auspices, whether such performers or dancers are paid or not.

(4) This section shall not apply to holders of temporary Class "B" retailer licenses to sell fermented malt beverages at picnics or gatherings.

(5) Nothing in this ordinance shall prohibit the use of coin-operated mechanical devices to produce music provided a license holder does not specifically feature or advertise dancing in his premises in conjunction with the use of such coin-operated mechanical devices for the production of music.

(b) A probationary or regular cabaret license, as defined in Section 23.02 and 23.03 of these ordinances, and upon approval of the Board of Trustees for the issuance thereof, shall be issued such license for one or more of the following specific uses, subject to compliance with further conditions set forth by the Village Board.

(1) A disc jockey utilizing mechanical devices to reproduce music.

(2) An unaccompanied individual musician.

(3) Two or more musicians.

(4) Non-musical entertainers, including, but not limited to dancers, actors, comedians and magicians.

23.02 PROBATIONARY CABARET LICENSE.

(a) The application for such cabaret license shall be filed with the Village Clerk/Treasurer and directed by the

Clerk/Treasurer to the Village Board and shall be accompanied by the application fee.

(b) The application shall contain the name of the applicant and the location of the place to be licensed.

(c) All such applications shall be accompanied by a fee of \$100.00. If such application for a license is denied, the \$100.00 application fee shall be returned on due demand less any costs of publication as is hereafter set forth.

(d) Whenever such application is received by the Village Clerk/Treasurer, the Clerk/Treasurer shall publish a Class 1 notice, as defined by Sec. 985.07, Wis. Stats., of such application in a newspaper circulated in the Village and forward such application to the Sheriff of Kenosha County along with a request that the Sheriff determine whether the place to be licensed will comply with applicable state and local law. Thereafter, the Village Board shall then hold a public hearing upon due notice on the cabaret application, such notice of hearing to be contained in the Village Clerk/Treasurer's published notice.

(e) After such public hearing and after due deliberation in open session, the Board shall vote on the application. Upon the favorable voting for granting of the license, it shall thereupon be issued by the Village Clerk/Treasurer. In the event the application is denied, such denial shall be based upon specific findings of fact.

(f) Each probationary license granted under this section shall be for a period of six (6) months and each probationary license shall be subject to revocation as hereinafter provided.

(g) Probationary license may be granted based upon the written agreement of the applicant to comply with conditions set forth by the Village Board. Conditions may only be imposed where findings of fact based upon evidence presented have been made and which address the safety, health and welfare of the general population, including noise, crowd disturbances and parking.

(h) The Village Clerk/Treasurer shall be responsible for drafting and issuing all probationary licenses. All such licenses shall specify the name of the holder of the license and the dates for which it is applicable as well as any conditions that may be imposed by the Village Board. All such licenses shall be posted at the licensed premises in plain view.

23.03 REGULAR LICENSE.

(a) After an applicant has held a probationary license for a period of six (6) months, the Village Board shall consider the issuance of a regular license. Whenever such an application for regular license is received by the Village Clerk/Treasurer, the

Clerk/Treasurer shall follow those notification procedures provided for in Section 23.02(d) of this Code. The Village Board shall request of the Kenosha County Sheriff to report on whether any complaints have been received by him concerning the holder of the probationary license during the term of said license. No application for a regular license shall be taken earlier than sixty (60) days prior to the expiration of the probationary license.

(b) The Village Board shall either adopt, modify, or reject the application for regular license. Upon the favorable voting for granting of the license, it shall thereupon be issued by the Village Clerk/Treasurer. If such application is denied, the Village Board shall specify what findings were made in support of the denial.

(c) Each regular license granted under this section shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.

(d) The Village Clerk/Treasurer shall be responsible for drafting and issuing all such regular licenses. All such licenses shall specify the name of the holder of the license and the dates for which it is applicable as well as any conditions that may be imposed by the Village Board. All such licenses shall be posted at the licensed premises in plain view.

23.04 RENEWALS.

(a) Any holder of a regular license granted under this Chapter who wishes to renew that license shall submit his application for renewal at least sixty (60) days before the present license expires. Such licenses may be renewed pursuant to the provision of Section 23.02(d) of the Code as it applies to notice being given by the Village Clerk/Treasurer and pursuant to the provisions of Section 23.03 of this Code as it applies to action by the Village Board.

(b) All such applications for renewal shall be accompanied by a fee of \$100.00. If such renewal is denied, the \$100.00 application fee shall be returned upon due demand less any costs of publication.

23.05 REGULATIONS.

Every licensee, either personally, through his agent, or employee, shall comply with the following regulations:

(a) No licensee shall permit any person upon the licensed premises to perform acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, oral copulation, flagellation or any sexual acts which

are prohibited by law;

(2) The touching, caressing or fondling of the breasts, buttocks, anus or genitals; or

(3) The displaying of the pubic hair, anus, vulva or genitals.

(b) No licensee shall show or permit the showing of films, still pictures, electronic reproductions (including television or cable television) or other visual reproductions depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals;

(3) Scenes wherein a person displays the pubic hair, anus, vulva or genitals; or

(4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

(c) No licensee shall furnish entertainment by, or permit the performance of, any acts, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are paid or not, unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing:

(1) That portion of every costume to be worn by female dancers, performers or entertainers by the provisions of this subsection, and which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be the non-transparent material.

(2) At a minimum, the top portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the breast or chest area. Across the breast or chest areas, such portion of the costume shall consist of a band of material at least two (2) inches in width, and shall be so conformed, fabricated and affixed to the body so as to keep the areola of the breast (or its counterpart of the female impersonator) completely covered at all times.

(3) At a minimum, the lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs and the mons pubis (or the counterpart of a female impersonator) and the cleavage of the buttocks at all times. Under no circumstances shall any animal fur piece or other device simulating the hair surrounding the mons pubis area that is worn in the area of the genitals and/or mons pubis constitute compliance with the costume requirements of this section.

(4) At a minimum, the lower portion of the costume worn by a male dancer, performer or entertainer, shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so as to completely cover the sex organ and the cleavage of the buttocks at all times.

(d) No licensee shall permit dancing within six (6) feet of a bar over which patrons are directly served.

(e) No licensee shall permit any patron to participate in any act, stunt or dance with performers who are under the auspices of the management.

(f) Pursuant to §944.36, Wis. Stats., no licensee shall permit the solicitation by any entertainer, employee or musician of customers on the premises of the licensed establishment in which he or she is currently performing.

(g) Good order shall be maintained at all times. A lack of "good order" shall include, but not be limited to, persistent loud noises to the annoyance or detriment of the surrounding property owners and patrons, urinating in public, using profane language or fighting.

(h) The license holder shall comply with all statutes and regulations and all county and Village ordinances.

(i) The licensee shall obey all reasonable orders or directions of any law enforcement officer.

23.06 REVOCATION OF LICENSE.

(a) A recorded hearing shall be held for the purpose of revoking a license under this Chapter. This hearing shall be preceded by written notice to the holder of such license at least

ten (10) days prior to said hearing. All hearings for revocation shall be heard before the Village Board, which hearings shall afford the holder of such license an opportunity to present evidence on his or her behalf, to cross-examine witnesses sworn under oath by the Village President and all such other due process rights to which the applicant may be entitled. The committee prior to revoking any such license shall make specific findings of act to support revocation of the license. In lieu of revoking said license, conditions set by the Committee to address specific nuisances, dangers or hazards may be imposed pursuant to Section 23.02(g) of this Chapter.

(b) Conviction for the violation of any provision of the Wisconsin liquor laws, local zoning and building and sanitary codes or the cabaret ordinances shall be sufficient for the Board to revoke such license. In the event such license is revoked, the fee paid for such license shall be forfeited and not returned to the holder.

(c) The revocation procedure outlined herein shall be exclusive not withstanding the provisions of Chapter 20 of this Code.

23.07 PENALTY.

In addition to any other action taken by the Village Board, any one who violates any of the provisions of this Chapter shall forfeit not less than \$250.00 nor more than \$500.00 for each offense, together with the costs of prosecution.