

CHAPTER 12

LICENSES AND PERMITS

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12.01 LICENSING OF DOGS.

(A) **Definitions.**

- (1) **Dog.** All individual species of the canine family (Canidae).
- (2) **Cat.** All individual species of the feline family.
- (3) **Owner.** Any person, firm, association and corporation which owns, possesses, keeps, has, uses, harbors, holds or maintains any dog or cat.
- (4) **License.** The dog license provided by Chapter 174, Wis. Stats., and the permits issued by the Town.
- (5) **Kennel License.** A permit issued by the Town for the purpose of creating, keeping or maintaining a dog kennel.
- (6) **Sanitary.** The condition of good order and cleanliness which precludes the probability of disease transmission or becoming a public nuisance.
- (7) **Officer.** Health Officer, member of the Town Board, Constable, or authorized humane agent.

(B) **State Statutes Adopted.** The following sections of the Wisconsin Statutes are hereby adopted by reference as a part of this chapter:

- (1) 174.001 Definitions.
- (2) 174.01 Restraining actions against dog.
- (3) 174.042 Dogs running at large and untagged dogs subject to impoundment; penalties.
- (4) 174.05 Dog license tax.
- (5) 174.055 Exemption of dogs for blind and deaf.
- (6) 174.056 Dogs for blind and deaf admitted to public places.
- (7) 174.06 Listing.
- (8) 174.07 Dog licenses and collar tags. Subsections (1)(a)-(f).

(C) **License and Late Fees.** As provided in §174.05, Wis. Stats., an additional tax and late fees shall be determined annually by the Town Board by resolution. In the event that the Town Board shall fail to adjust such additional tax or late fees annually, the preceding annual rate for both the tax and late fees shall continue into the ensuing year and until such time as changed by resolution.

(D) **Collection Officer.**

(1) The collection officer for the dog license tax and fees shall be the Town Clerk/Treasurer.

(2) The listing official for the Town shall be the Town Clerk/Treasurer.

(E) **Dogs Running at Large.** Any dog running at large as set forth in §174.042, Wis. Stats., shall be impounded as herein set forth and in addition to fees, penalties or forfeitures any person who shall be convicted of a violation of permitting a dog to run at large two (2) times in any twelve (12) month period shall be deemed to have created a public nuisance by permitting a dog to run at large and such animal may be proceeded against as a public nuisance under Chapter 823, Wis. Stats.

(F) **Public Nuisance.** No person shall keep or harbor any dog which by loud or frequent or habitual barking, yelping or howling shall cause serious annoyance of the neighborhood or to persons using the sidewalks or streets as pedestrian or vehicle traffic. Such dog is deemed to be a public nuisance and may be proceeded against in the same manner as other public nuisances. In addition to such actions to abate a nuisance, the owner or keeper shall be subject to the penalties and forfeitures as set forth in §25.04 of this Municipal Code.

(G) **Sanitation.**

(1) No person, except the visually or physically handicapped, shall cause or permit a dog to be on the property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person or a container to transport excrement to a disposal container.

(2) No person in control of a dog shall cause or permit any dog to be on any property, public or private, not owned or possessed by such person and fail to scoop and remove excrement left by such dog to a property receptacle located on property owned or possessed by such person.

(H) **Recovery of Impounded Dogs.**

(1) Any dog that shall be impounded under this chapter or statutes of Wisconsin shall be recovered upon the payment to the impounding officer of boarding fees, cost of capturing and transporting, and cost of any immunization for rabies or distemper and any other costs as may be charged for veterinarian service for the care and protection of the dog. The impounding officer or designated person in charge of the impoundment shall be hereby authorized to collect from the owner or owner's representative, or other person obtaining release of such dog, all of the fees and charges as shall be set forth in a resolution adopted by the Town Board and amended from time to time to reflect changes in such costs and fees. All such funds or fees collected by the impounding officer or designee shall be delivered to the Town Clerk/Treasurer.

12.02 RABIES CONTROL (DOGS AND CATS).

The following sections of the Wisconsin Statutes relating to rabies control are hereby adopted by reference as a part of this chapter:

- (A) Section 95.21(1)(a) through (f), Wis. Stats.
- (B) Section 95.21(2)(a) through (g), Wis. Stats.
- (C) Section 95.21(3)(a) through (g), Wis. Stats.
- (D) Section 95.21(4), (5) and (6), Wis. Stats.

12.03 DOG KENNELS.

(A) **Definitions.**

(1) **Kennel.** Establishment or place within the Town in which three (3) or more dogs are kept.

(2) **License.** Any person, corporation, partnership, who owns, keeps or operates the kennel within the Town.

(B) **Kennel License Required.** No person shall keep, own or maintain or harbor more than three (3) dogs on the premises without first obtaining a kennel license therefor.

(C) **Application.**

(1) Any person desiring to procure a license as herein provided shall file with the Town Clerk/Treasurer, a written application. Such application shall contain the name, residence and age of the applicant, a full description of the premises, location of all entrances, the housing and facilities to be furnished the animals, the total number of animals to be accommodated, and the proposed plans of operation, including applicant's methods and plans for keeping kennels clean and sanitary.

(2) Upon filing of an initial application with the information as required herein, the Town Clerk/Treasurer shall transmit copies of the application to the Plan Commission and to the Health Officer. The Plan Commission shall take the application under advisement and make a recommendation to the Town Board as to whether the kennel license should be issued. The Plan Commission shall consider the location of the kennel in relation to adjoining property, the layout of kennels and runways and that the zoning is proper for the kennel location. The Plan Commission shall hold a public hearing on the application. The Health Officer shall make an investigation and recommendation to the Town Board as to

whether the kennel is equipped to provide humane and sanitary care for dogs. The Town Board shall act upon the recommendation of the Plan Commission and determine whether a license should be issued for the applicant's location. The Town Board may hold a public hearing and prior to issuing a license shall be satisfied that the kennel shall not constitute a nuisance to the community.

(D) **Annual Renewal; Inspections.**

(1) Kennel licenses shall be issued annually and shall expire on December 31st of each year in which the license shall be issued and licenses may be renewed from year to year upon application to the Town Clerk/Treasurer and with the necessary dog license fees paid as established by this chapter. The Humane Officer shall make inspections and shall submit a report at least semi-annually with a recommendation to the Board before a renewal application shall be granted by the Board.

(2) As a condition for the issue of any license or for any renewal thereof, the licensee shall agree that the Health Officer, Humane Officer, or any law enforcement officer of the Town, County or State shall be permitted to enter upon the premises without a warrant for the purpose of inspection of the kennels, dogs and premises to determine that such kennel is kept and maintained according to state statutes and ordinances of the Town.

(E) **Revocation of Kennel License.** Upon complaint, in writing, filed with the Town Clerk/Treasurer by any officer as defined in this chapter setting forth in detail a violation of the provisions of this chapter or Wisconsin Statutes relating to dogs and dog kennels or violation of any terms or conditions by which a kennel license was granted by the Town Board may be cause for revocation of a kennel license upon a hearing conducted by the Town Board. The licensee shall be provided with a notice of such a hearing which shall be not less than ten (10) days nor more than twenty (20) days after service of such notice to the licensee, his agent or other persons in charge of the kennel. The licensee shall have the right to be represented by counsel at such hearing and to cross-examine complainant's witnesses and present evidence on his own behalf. The Town Clerk/Treasurer shall keep a record of the proceedings and make a record of testimony which need not be verbatim. The Town Clerk/Treasurer may also use mechanical recording device for recording proceedings at such hearing. At the conclusion of the hearing, the Board shall issue its decision in writing and either dismiss the complaint or, if the evidence sustains the complaint, the Board may, in its discretion, revoke the license of the kennel and provide for disbanding of the kennel operations.

(F) **Dog License Tags for Kennels.** Sections 174.053(1), Wis. Stats., Kennel License Option and §174.053(2), Wis. Stats., Kennel License Tags, are hereby adopted by reference as a part of this chapter as if the same were set forth in full.

12.04 PENALTIES.

(A) Any person who shall be convicted of violation §12.02(B) and shall fail to have a dog vaccinated against rabies may be required to forfeit not less than Fifty (\$50.00) Dollars or more than

One Hundred (\$100.00) Dollars.

(B) Any person who shall refuse to comply with an order issued under §12.02(C) for delivery of an animal to an isolation facility or veterinarian who does not comply with the conditions that an animal be quarantined shall be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each day of violation shall constitute a separate offense.

(C) Any person who shall violate any other provision of §12.01 through §12.03 of these ordinances shall, upon conviction, forfeit not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars for the first offense and not less than Fifty (\$50.00) Dollars or more than Two Hundred (\$200.00) Dollars for each subsequent offense. Each day of violation shall constitute a separate offense.

12.05 LICENSING OF OUTDOOR THEATRES.

(A) **License Required.** No person shall maintain nor operate a theatre where motion pictures are exhibited to the public otherwise than in an enclosed building in the Town without a license. An application for such license shall be filed in writing with the Town Clerk/Treasurer and the application shall disclose the following:

- (1) The name and address of the applicant.
- (2) The citizenship and date of birth of applicant if a person; the citizenship and age of each partner if a partnership; or the citizenship and age of each officer and director if a corporation.
- (3) The state of incorporation, if a corporation; and if such state be other than Wisconsin, a statement that applicant is duly authorized to do business in Wisconsin.
- (4) The name under which such theatre will be maintained and operated; a detailed description of its location and a sketch showing area and all buildings and improvements; and an explanation of the method of operation that will be used if a license is issued.
- (5) The applicant shall be signed by the applicant if a natural person; by a general partner if a partnership; or by the principal officer if a corporation.

(B) **Terms and Fee.** All licenses under this chapter shall be issued by the Town Board and shall be effective from the date of issue to the next succeeding first day of April, unless sooner revoked. Application shall be filed for renewal of a license in the same manner as for an original license. The fee for each license or renewal of license shall be the sum of One Hundred Fifty (\$150.00) Dollars and shall accompany the application. No license shall be transferable either as to location or holder thereof.

(C) **License Conditions.** No license shall be issued unless the person, partners, or directors, such as the case may be, are adult citizens of the United States and of good moral character;

and, if the applicant is a corporation, must be authorized to do business in Wisconsin; and applicant agrees to maintain and operate such theatre under the conditions specified. The Town Board shall not issue such license unless it approves the location and impositions and proposed method of operation of such theatre as set forth in the application.

(D) **Operation**. Every such theatre, including all premises in connection therewith, shall be maintained and operated so as to meet the following conditions:

- (1) Such premises shall be closed to, and vacated by, the public between the hours of 1:00 a.m. and 9:00 a.m. of each day.
- (2) No intoxicating liquor or fermented malt beverage shall be sold or consumed on the premises.
- (3) No disorderly conduct shall be allowed on the premises.
- (4) No public address or loud speaker system shall be operated on the premises; all sound issued in connection with motion pictures shall be conveyed to the audience by individual listening devices.
- (5) Adequate toilet facilities, separate for each sex, and adequate drinking water shall be maintained on the premises in a sanitary manner at all times and with adequate and proper waste disposal facilities.
- (6) All vehicles leaving the premises shall be required to stop immediately before entering a public street or highway; and the licensee shall enforce such condition by signs at all exits from such premises and such traffic regulations as may be necessary.
- (7) The exhibiting of moving pictures shall be prohibited.

(E) **License Revocation**. In addition to penalties and forfeitures herein set forth, the Town Board may, at any time, suspend or revoke any license issued under this section. Such suspension or revocation shall be subject to administrative proceedings relating to hearings before the Town Board as set forth in this chapter.

(F) **Penalty**. Any person who shall violate any of the provisions of this section shall, upon adjudication thereof, be subject to a forfeiture of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars as determined by the court in the action for the collection thereof, together with the costs of such action, and in default of payment thereof; in the case of an individual, shall be imprisoned in the County Jail for such time not exceeding thirty (30) days, as the court shall determine, unless the judgment is paid sooner.

12.06 DIRECT SELLERS.

(A) **Registration Required**. No sales person shall engage in direct sales within the

Town without obtaining registration for that purpose.

(B) **Definitions.**

(1) **Direct Seller.** Any individual who for himself or for a partnership, association or corporation sells goods, or writes sales orders for the subsequent delivery of goods, at any location other than the permanent business place or residence of such individual, partnership, association or corporation, and shall including but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a donor or prospective customer.

(2) **Permanent Merchant.** A direct seller who, for at least one (1) year prior to the consideration of the application of this chapter to such merchant:

(a) Has continually operated an established place of business in the Town, or

(b) Has continuously resided within the Town and does business from his residence.

(3) **Goods.** Shall include personal property of any kind, and shall include goods provided incidental to services offered or sold.

(4) **Charitable Organization.** Shall include any benevolent, person, partnership, association or corporation.

(5) **Clerk/Treasurer.** The Town Clerk/Treasurer.

(C) **Exemptions.** The following shall be exempt from all provisions of this chapter:

(1) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

(2) Any person selling goods at wholesale to dealers in such goods.

(3) Any person selling agricultural products which he has grown.

(4) Any permanent merchant or employee who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in their regular course of business.

(5) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis, for which a contract exists and where a home visit has been specifically requested.

(6) Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.

(7) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(8) Any employee, officer or agent of a charitable organization who engages in direct sales on behalf of such organization, provided that there is submitted to the Clerk/Treasurer proof that such charitable organization is registered under §440.41, Wis. Stats. Any charitable organization not registered under §440.41, Wis. Stats., or which is exempt from that statute's registration requirement, shall be required to register under this chapter.

(9) Any person who claims to be a permanent merchant, but against whom a complaint has been made to the Clerk/Treasurer that such person is a transient merchant; provided that there is submitted to the Clerk/Treasurer, proof that such person has leased for at least one year, or purchased, the premises from which he is conducting business, or proof that such person has conducted such business in the Town for at least one (1) year prior to the date the complaint was made.

(D) **Registration.**

(1) Applicants for registration must complete and return to the Clerk/Treasurer a registration form furnished by the Clerk/Treasurer which shall require the following information:

(a) Name, permanent address and telephone number, and temporary address, if any.

(b) Date of birth, height, weight, color of hair and eyes.

(c) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold.

(d) Temporary address and telephone number from which business will be conducted, if any.

(e) Nature of business to be conducted and a brief description of the goods offered, and any services offered.

(f) Proposed method of delivery of goods, if applicable.

(g) Make, model and license number of any vehicle to be used by applicant in the conduct of applicant's business.

(h) Last cities, villages, towns, not to exceed three (3), where applicant conducted similar business.

(i) Place where applicant can be contacted for at least seven (7) days after leaving the Town.

(j) Statement as to whether applicant has been convicted of any crime or violation related to applicant's transient merchant business within the last five (5) years; the nature of the offense and the place of conviction.

(2) Applicants shall present to the Clerk/Treasurer for examination the following:

(a) A driver's license or some other proof of identity as may be reasonably required.

(b) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities.

(c) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application is for license is made.

(3) At the time the registration is returned, a fee of Twenty (\$20.00) Dollars shall be paid to the Clerk/Treasurer to cover the cost of processing such registration.

(4) The applicant shall sign a statement appointing the Town Clerk/Treasurer as applicant's agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in the event the applicant cannot, after reasonable effort, be served personally.

(5) Upon payment of the fee and the signing of the statement, the Clerk/Treasurer shall register the applicant as a direct seller and date the entry. Such registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in paragraph (E)(2).

(E) **Investigation.**

(1) Upon the registration of an applicant, the Clerk/Treasurer may make a complete investigation of the statements made in such registration by referring the application to the Kenosha County Sheriff's Department.

(2) The Clerk/Treasurer shall refuse to register the applicant if it is determined, pursuant to the investigation that: the application contains any material omission or materially inaccurate statement; or that complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; or that the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of paragraph (D)(2) of this chapter.

(F) **Appeal.** Any person denied registration may appeal the denial through the appeal procedure of the Town Board, or under the provisions of §68.07 and §68.16, Wis. Stats.

(G) **Regulation of Direct Sellers.**

(1) **Prohibited practices.**

(a) A direct seller shall be prohibited from calling at any dwelling or other place:

(i) Between the hours of 9:00 p.m. and 9:00 a.m. except by appointment.

(ii) Calling at any dwelling or other place where a sign is displayed indicating no sales people allowed.

(iii) Calling at the rear door of any dwelling place.

(iv) Remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.

(b) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning:

(i) The quality, quantity or character of any goods offered for sale.

(ii) The purpose of his visits or his identity or the identity of the organization he represents.

(c) A charitable organization direct seller shall specifically disclose what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Such portion shall be expressed as a percentage of the sale price of the goods.

(d) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

(e) No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100') foot radius of the source.

(f) No direct seller shall allow rubbish or litter to accumulate in or around the area in which seller's business is being conducted.

(2) **Disclosure requirements.**

(a) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the identity of goods or services he offers to sell.

(b) If any sale of goods is made by a direct seller, or order obtained for the subsequent delivery of goods, the buyer shall have the right to cancel such transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five (\$25.00) Dollars, in accordance with the procedure as set forth in §423.203, Wis. Stats. The seller shall give the buyer two (2) copies of a typed or printed notice of his right to cancel. Such notice shall conform to the requirements of §423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.

(c) If the direct seller takes a sales order for the subsequent delivery of goods, the seller shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, if any, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

(H) **Records.** Any conviction for violation of this chapter shall be reported to the Town Clerk/Treasurer, and the Clerk/Treasurer shall record any such violation on the record of the applicant.

(I) **Revocation of Registration.**

(1) Registration may be revoked by the Town Board after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration, or made any fraudulent, false, deceptive or misleading statement or representation in the course of conducting business, or violated any provision of this chapter or was convicted of any crime or statutory violation which is directly related to the registrant's fitness to engage in direct selling.

(2) Written notice of the hearing shall be served personally on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

(J) **Penalty.** Any person convicted of violating any provisions of this section shall forfeit not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars for each violation plus costs of prosecution. Each violation shall constitute a separate offense.

12.07 SOLID WASTE DISPOSAL.

(A) **Intent.** It is the intent of this Ordinance to regulate the disposal of solid and hazardous waste, garbage, refuse, sludge, and auto salvage yards in the interest of the health, safety and welfare of the residences of the Town of Somers.

(B) **Definitions.**

(1) **Disposal.** Disposal includes, but is not limited to, unloading, throwing away, discarding, emptying, abandoning, discharging, burning, or burying waste, garbage, refuse, or sludge, including an automobile salvage yard, which is defined as any place where two or more motor vehicles not in running condition, or any parts thereof, are stored in the open and are not being restored to a good operating condition, or any land or structure used for storing such motor vehicles, including the commercial salvaging of any other goods, articles or merchandise, or on any property whether publicly or privately owned within the Town of Somers.

(2) **Garbage.** Garbage is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.

(3) **Municipality.** Municipality is any city, village, town, or county, school district, utility or sanitary district, or other public entity.

(4) **Person.** Person shall mean any person, corporation, proprietorship, municipal entity, and any individual who shall be the owner, officer or principal agent of any partnership, corporation or municipal entity.

(5) **Refuse.** Refuse is combustible and noncombustible discarded material, including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils, and material and debris resulting from construction or demolition.

(6) **Septage/sludge.** Septage/sludge is sewage treatment residue in any form whatsoever, whether solid, semi-solid, or liquid, that has been processed or treated in any way, form, or manner.

(7) **Town.** Town shall mean the Town of Somers.

(8) **Waste.** Waste is garbage, refuse, and all other hazardous waste, as defined in Kenosha County Zoning Ordinance, as may, from time to time be amended, discarded or salvageable material, including materials resulting from industrial, commercial, and agricultural operations, and from domestic use and public service activities.

(C) **Permit Required.** Except as set forth herein in Section (D) hereof, no person, firm, corporation, or municipality as defined herein, shall dispose of waste, garbage, refused, or sludge as defined herein, within the Town, unless a permit to engage in such disposal is first obtained from the Town as hereinafter set forth.

(D) **Exceptions.** The following disposal activities are excepted herefrom, and are not within the scope or meaning of this Ordinance.

(1) Sites used for the disposal of waste, garbage, or refuse from a single family or household, a member of which is the owner, occupant, or lessee of the property, provided, however, that such waste, garbage, or refuse is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.

(2) The use of sanitary privies and areas commonly known as seepage beds or septic tanks, or any other private sewage system which conforms to Sanitary Code and Private Sewage System, Ordinances of Kenosha County, as same may be from time to time amended, or the discharge of human waste products into any public sewerage system located within the Town.

(3) A farm on which only waste resulting from the operation of the farm is disposed of on the premises.

(4) Any waste disposal operation under the direction and control of the Town.

(5) Septage sludge disposal, as set forth in relevant sections of the Wisconsin Statutes, and Chapter 15, Section V of the above referred to Sanitary Code of Kenosha County.

(E) **General Regulations and Conditions.** Disposal Operations, as set forth in this Ordinance, and within the Town, are subject to the following:

(1) The disposal operations must be conducted in such a way as not to constitute a public or private nuisance.

(2) The disposal operations are permitted only in those areas as set forth in Kenosha County General Zoning and Shoreland Floodplain Ordinance.

(3) Persons or Municipalities engaged in dumping or disposal operations

must conduct the operations in such a way that dust, dirt, debris, or other materials or substances will not be carried by wind or water across the boundary of the parcel of land being used for the operations.

(4) All disposal sites shall be covered under standards and conditions established by the Kenosha County Zoning Ordinance, Wisconsin Department of Natural Resources, and Environmental Protection Agency. Coverings must be done in such a manner that the area covered will be compatible with surrounding adjacent properties and shall not depreciate property value within the immediate area. All coverings shall be a continuing process, and shall conform to standards set forth in Wisconsin Administrative Code. If the owner of the land does not cover the disposal area in accordance with the disposal plan, the Town Board shall have the right to correct the violation and to charge the expense against the bond.

(F) **Application.** An Application for a permit issued under this Ordinance shall be filed with the Town Clerk/Treasurer and may be in the form and content as set forth under the above mentioned provisions of the Kenosha County Zoning Ordinance, and shall contain at least the following information:

(1) Name, address, and telephone number of the Applicant.

(2) Location, current owners and legal description of the site of the proposed facility, and the source of waste to be treated or disposed of on the premises.

(3) Names, addresses, and telephone numbers of any persons who will represent the Applicant.

(4) Copies of available site reports, feasibility reports, engineering plans, or other documents filed, or to be filed, with the Department of Natural Resources or the U.S. Department of Environmental Protection Agency, and Kenosha County, as same shall be related to the proposed facility.

(5) A plan for construction, operation, maintenance, closure, and long-term care of the proposed facility that describes the size, capacity and other features of the site and its proposed future.

(6) A plan for financial, legal, and environmental protection of the Town, its employees, agents and residents.

(7) Proposed traffic patterns to and from the proposed facility and for roadway usage for access to the site.

(8) Sworn copies of current financial statements or other financial information as shall be requested by the Town.

(9) The Applicant shall grant to the Town the right to go on the land for

necessary inspections at any time, and to carry out the disposal plan if the Owner or occupant of the land fails to do so after reasonable notice is given.

(G) **Public Hearing.** A public hearing shall be held within forty-five (45) days after receipt of Application, at which time, the Town Board shall hear all interested parties on any matter or issue relating to issuing a disposal permit.

Public hearing shall be open to all members of the public, their agents and counsel. Prior to the date of said hearing, the Town Board shall cause a Class 3 notice to be published in a newspaper likely to give notice to all persons within the Town. The cost of publication to be deposited in advance by the Applicant. The hearing shall be held on not less than thirty (30) days from the date of Application, and the Town Board may set such date and adjourn same as may be required to fully investigate the Application.

(H) **Application Fee and Costs.** An Application for a permit for a Solid Waste Facility shall be filed with the Town Clerk/Treasurer in writing. The initial Application fee of Five Thousand (\$5,000.00) Dollars shall accompany the Application unless waived or reduced by the Town Board. In addition, the Town Board may charge the Applicant an additional fee to reimburse the Town for appropriate and necessary costs and expenses incurred by the Town for Attorneys fees and Experts fees, related to the Application process. The total Application fees, both initial and subsequent, shall not exceed Twenty Thousand (\$20,000.00) Dollars for any Application.

(I) **Bond Required.** A permit under this Ordinance shall not be effective unless there is on file with the Town Clerk/Treasurer, a cash bond or a bond with a corporate surety duly licensed in the State of Wisconsin in the penal amount of One Hundred Thousand (\$100,000.00) Dollars. The bond is to assure that the Applicant will comply with all the provisions of this Ordinance and will save harmless, indemnify, and defend the Town, its Officers, Representatives and Agents from any expenses or costs incurred through action of the Applicant with regard to the facility.

(J) **Issuance.** The Town Board shall issue a permit under this Ordinance upon being satisfied that all terms and conditions of this Ordinance and subsection (L) herein will be complied with and the bond required in Section (I) has been filed with the Town Clerk/Treasurer.

(K) **Revocation.** The permit, once issued, may be revoked only for good cause and after a hearing on said revocation. Notice of hearing shall be served on the Applicant by personal service or certified mail and published as a Class 1 notice, not less than ten (10) days prior to said hearing.

(L) **Federal, State and County Law Applies.** This Ordinance is complementary to and in addition to, any conditions or requirements of any United States laws, State of Wisconsin laws, or administrative regulation and Ordinance of Kenosha County regulating disposal of waste.

(M) **Severability and Conflict.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions.

(N) **Forfeitures and Penalties.** Any person who shall violate this Ordinance upon

conviction shall pay a fine of not less than One Hundred (\$100.00) Dollars, nor more than Two Hundred (\$200.00) Dollars for each offense. Each day of violation shall constitute a separate offense under this Ordinance.

12.08 REGULATION OF MOBILE HOMES AND MOBILE HOME PARKS.

(A) Definitions.

- (1) **Dependent Mobile Home.** A mobile home which does not have complete bathroom facilities.
- (2) **Non-dependent Mobile Home.** A mobile home equipped with complete bath and toilet facilities, furniture, cooking, heating appliances and complete year round facilities.
- (3) **Mobile Home.** That which is, or was as originally constructed, designed to be transported by a motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used, and includes any additions, attachments, annexes, foundations and appurtenances.
- (4) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes upon which two (2) or more units may be located regardless of whether or not a charge is made for such accommodation.
- (5) **Unit.** Mobile home unit.
- (6) **Mobile Home Lot or Space.** A plot of ground within a mobile home park consisting or not less than five thousand (5,000) square feet for the placement of a single mobile home unit and the exclusive use of its occupants. The size of lot shall be increased as required by paragraph (G)(2) of this section.
- (7) **Person.** Includes an individual, partnership, firm, trust company, corporation, whether tenant, owner, licensee, lessee, or their agent, heir or assigns.
- (8) **Licensee or Operator.** Any person licensed to operate and maintain a mobile home park under the provisions of this section.
- (9) **Town Board.** The Town Board of the Town of Somers.
- (10) **Natural or Artificial Barrier.** Any river, pond, canal or railroad.
- (11) **Department of Health.** State Department of Health and Social Services.
- (12) **Department of Industry, Labor and Human Relations.** State

Department of Industry, Labor and Human Relations.

(B) **License and Temporary Permit.** No person shall maintain or operate a mobile home park within the limits of the Town unless such person first obtains a license for such mobile home park. A mobile home park which was granted a license under ordinances prior to the date of this section may continue to operate such park as a non-conforming mobile home park provided such non-conforming use or condition does not affect the health or welfare of the occupants of the mobile home park or the surrounding community. An existing non-conforming park may not be extended, enlarged, reconstructed or structurally altered except when required to do so by law or order of the Town or other governmental authority so as to comply with the provisions of this section. If the non-conforming use of the mobile home park or any part thereof is discontinued or terminated for a period of six (6) months, any future use of the park shall be brought into compliance with this section, and when a non-conforming use is damaged by fire, explosion, flood, wind or other calamity to the extent of fifty (50%) percent of its current assessed value, the mobile home park or portion thereof shall not be restored except as to fully comply with the provisions of this section.

(C) **License and Application Fees.**

(1) All licenses issued under this section shall be effective from the date of issue to the 30th day of June, unless sooner revoked as provided in this section.

(2) The fee for each license or renewal of license shall be at the rate of One Hundred (\$100.00) Dollars for each 50 spaces or fraction of 50 spaces within such park. The transfer fee shall be the sum of Ten (\$10.00) Dollars for transfer of a license. License fees shall not be subject to proration.

(3) If an application is received accompanied by the fee and a license is not granted, such fee shall be returned to the applicant.

(D) **Application for License.**

(1) Applications for licenses shall be filed with the Town Clerk/Treasurer, together with the applicable fee. The application forms provided by the State Department of Health and Social Services shall be the general form of application. Such application shall be filed in triplicate, together with proposed plans and specifications. The Town Clerk/Treasurer shall forward one (1) application, together with the plans and specifications, to the Department of Health & Social Services and one (1) complete copy of application and specifications to the Town Plan Commission for review and recommendation. If the proposed mobile home park, when constructed or altered in accordance with recommendations of the Plan Commission, the Town or Department of Health & Social Services be in full compliance with the provisions of this section and state statutes and Administrative code regulations, the Town Board may approve the application, and upon completion of the park according to such specification, issue the license.

(a) The Town Board may, in addition, and prior to the issuance of

any license or approval of any application for a license, conduct a public hearing on the question of any new license or extensions or expansion of an existing mobile home park.

(b) The Town Board shall not grant a license unless the applicant shall provide the Board with satisfactory evidence that plans and specifications for the mobile home park have been approved by the Department of Health and Social Services and the Department of Industry, Labor and Human Relations, if required.

(2) The application be in writing on forms provided by the Department of Health and Social Services and such other information as the Town Board or Plan Commission may request.

(3) **Application for renewal of license.** Upon application, in writing, by a licensee for renewal of a license, and upon payment of the annual license fee, the Town Board shall issue such renewing license for the ensuing year. However, no such license shall be issued until the Town Board has inspected each mobile home park and determined that such mobile home park is in compliance with all the terms and conditions of this section and relevant provisions of the Wisconsin Administrative Code. A copy of the required sanitary survey report shall be filed with the Department of Health and Social Services by the Town Board.

(4) **Application for transfer of license from one person to another.** Every person holding a license shall give notice in writing to the Town Board within twenty-four (24) hours after having sold, transferred or otherwise disposed of interest or control of any mobile home park. Such notice shall include the name and address of the transferee and, upon payment of the transfer fee of Ten (\$10.00) Dollars, the Town Board shall issue a transfer license if the transferee is eligible for a mobile home park license as an original applicant. However, under no circumstances shall a license be transferred from one location to another.

(E) **Limitation.**

(1) Mobile home parks shall be located only in those areas of the Town which have been specifically designated as Residential B or multiple family residence areas by applicable zoning ordinances of the County of Kenosha.

(2) After the 14th day of July, 1970, no license for a mobile home park shall be issued to any site for accommodation of less than fifty (50) mobile home park spaces. The Plan Commission and Town Board shall take into consideration and comprehensive plan to lessen congestion on streets and roadways to secure safety from fire, panic, or other dangers to the occupants of the park and to the community as a whole, to promote health, general welfare, to provide adequate light and air, to prevent overcrowding of the land to avoid undue congestion of population, and to facilitate adequate provision for transportation, water, sewage, drainage, floodplain and watershed conditions, schools and parks and other public

requirements.

(3) No license shall be issued for any mobile home park unless each boundary of the mobile home park is at least two hundred (200') feet from any permanent residential building located outside the mobile home park unless the same is separated therefrom by natural or artificial barrier or with the consent of a majority of the property owners according to area within seven hundred fifty (750') feet of the boundaries of the proposed mobile home park site, which consent must be in writing.

(F) **Temporary Travel or Transient Non-Dependent Mobile Units.**

(1) Temporary travel or transient non-dependent mobile units may be placed in specially designed mobile home park sites which are equipped to accommodate such travel units on an overnight or temporary basis, limited to an occupancy of not to exceed sixty (60) days in any one calendar year.

(2) Such temporary travel or transient non-dependent mobile units shall be equipped with complete bath-toilet facilities, furniture, cooking and heating appliances and complete and adequate facilities shall be available for sanitation so as not to create any health hazard or nuisance.

(3) The sites for such temporary travel or transient non-dependent mobile units shall be signed on the park plan and shall be established in one location in the mobile home park as may be approved by the Town Board.

(4) The Town Board may in its discretion or upon the recommendation of the Department of Health and Social Services impose other reasonable rules and regulations with respect to such units as may be deemed appropriate and necessary in consideration of the general health and welfare of the mobile home park and the community.

(G) **Mobile Home Park Plan.** The mobile home park shall conform to the following requirements set forth in the Wisconsin Administrative Code, except that where limitations, restrictions or conditions imposed by this section are more restrictive than those set forth in the Wisconsin Administrative Code, the most restrictive condition or limitation shall apply. Mobile home spaces that do not comply with minimum area requirements may continue to operate, always provided that expansion and modification of a mobile home park shall be in accord with this chapter and the Wisconsin Administrative Code.

(1) **Drainage.** The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

(2) **Mobile Home Lots.** Mobile home lots or spaces shall not be less than five thousand (5,000) square feet in area and shall be no less than fifty (50') feet in width and the lots or spaces shall be clearly set forth to scale on the mobile home park plan. However, such minimal space shall be enlarged by order of the Town Board to an area required to adequately accommodate sewage, health or

other community problems caused by the environmental characteristics created by the nature of mobile home parks. Mobile home parks in existence on the effective date of this section which provide mobile home spaces for a width or area less than that hereinabove prescribed, may continue to operate with spaces of the existing width and area. But no new spaces for additional trailer shall be created or trailers added which do not meet with the minimum spaces required thereon.

(a) The square foot lot area as herein set forth is designed for mobile homes having overall dimensions of not greater than fourteen (14') feet by sixty-eight (68') feet and mobile home lots or spaces for mobile homes of larger size will require a larger lot size and the larger lot size will be proportionate to the increased trailer size and shall be approved as a part of the mobile home park plan. Mobile home living area may not occupy more than twenty (20%) percent of lot area.

(b) This paragraph is to be construed as providing a minimum lot size of five thousand (5,000) square feet for mobile homes not larger than fourteen (14') feet by sixty-eight (68') feet outside dimensions and to require additional lot size proportionately for mobile home units of larger size.

(3) **Separation between units.** Mobile homes shall be so placed on each space that there shall be at least a twenty (20') foot clearance between mobile homes, provided, however, that with respect to mobile homes parked end to end, the end to end clearance shall not be less than fifteen (15') feet. No mobile home shall be located closer than twenty-five (25') feet from any building within the park or from any property line bounding the park or any highway right-of-way. Any accessory structure such as an awning, cabana, storage cabinet, carport, windbreak or porch, which has a floor area exceeding ten (10) square feet and has a top or roof, shall for the purposes of this section be considered a part of the mobile home.

(4) **Roadways.** All mobile home spaces shall abut upon a roadway of not less than thirty-two (32') feet in width exclusive of lot area and inclusive of ditch, curb and gutter, which roadway shall have unobstructed access to a public street or highway and provide for no on-street parking.

(a) Street parking one side only may be allowed where roadways are forty (40') feet in width. Roadways shall be hard surfaced or in the alternate of an approved surface with the maintenance of a proper dust control and grading program. Provision shall be made in the park plan for off-street parking where roadway parking is not provided and shall be on the ratio of no less than two (2) automobile parking spaces for each mobile home lot.

(b) Such off-street parking may be part of the mobile home lot area.

There shall be provided additional off-street parking for storage, service vehicles, guest parking, etc. in convenient locations.

(c) The roadway layout and parking spaces shall be laid out in such a manner as to accommodate and provide easy access for service and emergency vehicles. Roadways shall be plainly marked so to speed, traffic control, parking or not parking.

(5) **Mobile home stands**. The area of the mobile home shall be improved to provide adequate support for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation and overturning.

(a) The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the structure.

(b) The mobile home stand shall be provided with anchors and tie-downs such as cast-on-place concrete "dead men", eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.

(c) Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.

(6) **Illumination of park street systems**. All parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(a) All parts of the park street systems: 0.6' candle, with a minimum of 0.1' candle.

(b) Potentially hazardous locations, such as major street intersections and steps or stepped ramps: individually illuminated, with a minimum of 0.3' candle.

(7) **Service buildings**. Each mobile home park shall provide service buildings to house such toilet, bathing and other sanitation facilities and such laundry facilities as are hereinafter more particularly prescribed.

(8) **Electrical service**. Each mobile home space shall be provided with a minimum one hundred (100) amp service and installation; wire size, voltage, etc., shall be in compliance with applicable state and local electrical codes.

(9) **Fuel supply and storage; natural gas system**.

(a) Natural gas piping systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(b) Each mobile home lot provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.

(10) **Liquified petroleum gas systems.**

(a) Liquified petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(b) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(c) Systems shall have at least one (1) accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in effective operating condition.

(d) All LPG piping outside of mobile homes shall be well supported and protected against mechanical injury. Undiluted liquified petroleum gas in liquid form shall not be conveyed through piping equipment and systems in mobile homes.

(e) Liquified petroleum shall be stored in a central location with a distribution system to each mobile home space. The storage by private container on mobile home lots shall not be permitted. The central storage tank system shall be located in such an area as to provide minimum hazard, and location shall be approved by the Town Board and any other applicable regulating agency.

(11) **Fuel oil supply systems.**

(a) All fuel oil supply systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(b) Fuel oil shall be stored in a central location with a distribution system to each mobile home space. The storage by private container on mobile home lots shall not be permitted. The central storage tank system shall be located in such an area as to provide minimum hazard, and location shall be approved by the Town Board and any other applicable regulating agency.

(12) **Commercial use prohibited.** No person shall at any time use a mobile home for the purpose of advertising, commercial business or manufacture of any kind whatsoever.

(13) **Plantings.** Each mobile home park shall be completely surrounded, except for permitted entrances and exits, by a yard setback which shall be twenty-five (25') feet from the highway right-of-way, in addition to all other required yards and open spaces, which shall not be less than twenty-five (25') feet wide. Within such yard there shall be established, at the time of construction and prior to the park opening for business, the following plantings:

(a) A temporary planting of fast growing vegetation, capable of reaching a height of fifteen (15') feet or more.

(b) A permanent evergreen planting, the individual trees to be of such a number, so arranged that within ten (10) years they will have formed a screen. Such permanent planting shall be grown or maintained to height of not less than fifteen (15') feet.

(14) Each mobile home park plan shall provide for a recreation area for benefit of the park residents, or not less than ½ acre for each one hundred (100) mobile home lots or sites, or fraction thereof. Such recreation area shall be considered to be part of the mobile home park service area and shall be properly maintained so as not to be unsightly.

(H) **Water Supply.** An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park, which supply and distribution system must be approved by the Department of Natural Resources and the Department of Health and Social Services. An adequate supply of hot water shall be provided at all times in the service buildings for all bathing, washing, cleansing and laundry facilities.

(I) **Sanitation Facilities.** Each mobile home park accommodating dependent mobile homes shall be provided with toilets, baths or showers, slop sinks and other sanitation facilities which shall conform to the rules and regulations of the State Department of Natural Resources and the Department of Health and Social Services applicable to mobile home parks.

(J) **Laundry Facilities.**

(1) Laundry facilities shall be provided on either of the following ratios:

(a) Not less than one (1) double laundry tray and one (1) conventional wringer type washing machine for the first seven (7) mobile home spaces or any less number thereof, and for mobile home spaces in excess of seven (7), not less than one (1) additional double laundry tray and one (1) conventional wringer type washing machine for every seven (7) additional mobile home spaces or fraction thereof.

(b) Not less than one (1) single laundry tray and one (1) automatic or semi-automatic type washing machine for the first ten (10) mobile home spaces or any less number thereof, and for mobile home spaces in excess of ten (10), not less than one (1) additional single laundry tray and one (1) additional automatic or semi-automatic type washing machine for every ten (10) additional mobile home spaces or fractional number thereof.

(2) An ample number of electrical outlets shall be provided supplying current sufficient to separate each washing machine. Drying spaces shall be provided sufficient to accommodate the laundry of the mobile home occupants, if automatic drying equipment is not supplied.

(3) The laundry facilities shall be either in a separate building or, if in the same building where sanitation facilities are housed, shall be separated from the rooms housing the sanitation facilities by a masonry wall.

(K) **Service Buildings.**

(1) Service buildings housing sanitation and laundry facilities, or any of such facilities, shall be permanent structures complying with applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

(2) The service buildings shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least sixty-five (65°) degrees Fahrenheit during the period from October 1 to May 1. The floors of the service buildings shall be of water-impervious material.

(3) Service buildings housing sanitation facilities shall be located not closer than fifteen (15') feet nor farther than two hundred (200') feet from any mobile home space upon which a dependent mobile home is harbored.

(4) All service buildings and the grounds of the mobile home park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

(L) **Waiver.** The Town Board may, upon application by licensee, waive certain requirements set forth in subsections (J) and (K) after the Department of Health and Social Services has determined that such sections serve no useful purpose and other satisfactory arrangements have been complied with.

(M) **Waste Disposal.** Waste from showers, bath tubs, flush toilets, urinals, lavatories, slop sinks and laundries in service and other buildings within the mobile home park shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewage and disposal

plant of such construction and in such manner as may be approved by the Department of Natural Resources, Department of Health and Social Services and Town Board, and any other regulating agency. The installation of individual soil absorption systems for mobile home spaces will not be permitted.

(N) **Garbage Receptacles.** Leak proof garbage containers with tight fitting covers shall be provided in quantities to permit disposal of all garbage and rubbish, such cans to be emptied and cleaned no less than once per week and shall be located not more than one hundred (100') feet from any mobile home space. Refuse collection stands shall be provided for all garbage cans and containers from being tipped to minimize spillage. Collection of garbage and refuse shall be done in such a manner as to create no health hazard, rodent and insect breeding area, accidents, fire hazards or air pollution.

(O) **Fire Protection.** Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order, of such type, size and number and so located within the park as to satisfy applicable reasonable regulations of the fire department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time.

(P) **Animals and Pets.** No owner or person in charge of any dog, cat or other pet animal shall permit it to run at large or commit any nuisance within the limits of any mobile home park.

(Q) **Register or Occupants.**

(1) Each licensee and permittee shall keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:

- (a) The name and address of each mobile home occupant.
- (b) The name and address of the owner of each mobile home.
- (c) The make, model, year and license number of each mobile home.
- (d) The state, territory or country issuing such licenses.
- (e) The date of arrival and of departure of each mobile home.
- (f) Place of last location.
- (g) Whether each mobile home is a dependent or independent mobile home.

(2) The park shall keep the register available for inspection at all times by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register record for each occupant registered shall not be destroyed for a period of three (3) years following the date of departure of the registrant from the park.

(R) **Management.** The licensee shall make appropriate provisions for management

of the mobile home park by maintaining on the premises, or in close proximity thereof for immediate communication, an office which shall be kept and maintained by the licensee or a duly authorized agent of the licensee who shall have the authority to act on behalf of the licensee in all matters relating to the terms and conditions of this section. The licensee or duly appointed agent is charged with the responsibility of carrying out all of the conditions of this section and to keep and maintain the mobile home park in a clean, orderly and sanitary condition at all times and to report to the Kenosha County Health Officer and cooperate with such Health Officer in all cases of persons or animals affected or suspected of being affected with a communicable disease.

(S) **Revocation of License.** The Town Board may suspend or revoke for cause any license issued under this section upon complaint filed with the Town Clerk/Treasurer signed by any law enforcement officer, health officer, or building inspector after a public hearing upon such complaint. The licensee shall be given at least ten (10) days notice in writing of such hearing, and shall be served with a copy of the complaint and notice either personally or by certified mail, return receipt requested. The licenses shall be entitled to appear and be heard as to why such license should not be revoked. If the Board shall, after hearing testimony, determine to revoke or suspend the license of the licensee, such decision may be within twenty (20) days of the date of such revocation, appealed to the Circuit Court by filing written notice with the Town Clerk/Treasurer together with a bond executed to the Town in the sum of Five Hundred (\$500.00) Dollars, conditioned for faithful prosecution of such appeal and payment of costs. Parties shall be entitled to counsel and to cross-examination of witnesses.

(T) **Nonconforming Use Outside Mobile Home Parks.**

(1) The lawful use of a mobile home site outside of a mobile home park and existing on the 8th day of November, 1956, may be continued as a nonconforming use. If that such mobile home shall cease to be used as a dwelling for a period of six (6) months, it shall not thereafter again be used for dwelling purposes, and the owner of such mobile home or the property on which the same shall have been harbored shall not substitute any other mobile home for the one in use at the time of the adoption of this section, and when such dwelling use is discontinued, the mobile home shall be removed from the location where such dwelling use existed.

(2) The annual fee for a mobile home located outside of a mobile home park shall be Fifty (\$50.00) Dollars.

(3) In all other respects, mobile homes existing outside of licensed mobile home parks are subject to the provisions of this Municipal Code.

(U) **State Laws, Rules of Department of Natural Resources, Building Code, Etc.**

All provisions of the Wisconsin Statutes, rules and regulations of the Department of Natural Resources, State Department of Health and Social Services and the Department of Industry, Labor and Human Relations, and the Town, are hereby adopted and made a part of this section, by reference, with the same force and effect as though set forth in full. The provisions of the section, rule or regulation which is most restrictive shall be deemed to apply with respect to the establishment, operation or plan of any mobile home park.

(V) **Mobile Home Monthly Parking Permit Fee.**

(1) In addition to the annual license fee set forth herein, there shall be collected from each occupied mobile home, occupied space or lots in a mobile home park, and from each mobile home located outside of a mobile home park, a monthly parking permit fee, computed and payable in the following manner:

(a) **Computation.** Beginning on the 1st day of January, 1970, the Assessor shall determine the fair market value of each occupied mobile home in the Town which is subject to the provisions of this section and the provisions of §66.0435, Wis. Stats. The Assessor shall assess such mobile homes in the manner set forth in §66.0435(3), Wis. Stats.

(b) The licensee or operator of any mobile home park shall be required to furnish information relative to the making of assessments to the Town Clerk/Treasurer and Assessor as to any mobile home within five (5) days after the arrival of such mobile home in the licensed park. The information to be given shall be upon the form supplied by the Town and as prescribed by the State Department of Revenue.

(c) The determination of assessment as made by the Assessor, and the determination of the fee as prescribed in the statute herein referred to shall be given to each mobile home owner, which notice shall set forth the determination on a monthly basis and advise the mobile home owner of the amount of the monthly fee to be paid on or before the 10th day of each succeeding month, and thereafter so long as the mobile home remains within the Town subject to a redetermination of the fee each January for that calendar year.

(2) The monthly parking fee shall be paid by the mobile home owner to the Town Treasurer on or before the 10th day of the month following the month in which the fee is due. Each licensed mobile home park operator is hereby designated as the collection agent for the Town and shall collect and receive the monthly parking permit fees on behalf of the Town Treasurer and issue a receipt therefore, on approved forms supplied by the Town of Somers. The park operator shall settle monthly parking permit fees with the Town Treasurer no later than the 15th day of each succeeding month. The Mobile Home Park Operator may deduct two (2%) percent of the monthly rental fees collected as reimbursement for administration expenses. The Mobile Home Owner shall have the option to pay the monthly parking permit fee in advance for a period not to exceed one (1) calendar year for which the statement of monthly parking permit fees has been issued.

(3) No such fee shall be imposed for any space occupied by a mobile home accompanied by an automobile if the mobile home and automobile bear license plates issued by any state other than the State of Wisconsin, for an accumulated period of not to exceed sixty (60) days in any twelve (12) months, or if the occupants of the mobile home are nonresidents, tourists or vacationists in lieu of monthly mobile home permit fees. When one or more persons occupying a

mobile home is employed, there shall be no exemption from the monthly parking permit fee.

(4) The Town Clerk/Treasurer shall retain ten (10%) percent of the monthly parking permit fees collected in each month without reduction for any amounts deducted under subsection (2) above to cover cost of administration and shall pay to the school district in which the park is located, within twenty (20) days after the end of each month, such proportion of the remainder of the fees collected in the preceding month as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for a purposes in the municipality. The remainder of such fees collected shall be come a part of the general fund of the Town. Whenever monthly parking permit fees are paid in advance, the Town Clerk/Treasurer shall maintain a record thereof, account for the same on a monthly basis, and rebate upon proper application of the mobile home owner and order of the Town Board, the monthly parking permit fees not due and owing to the Town because of moving or other exemption.

(5) The licensee of a mobile home park shall be liable for the monthly parking permit fees for any mobile home occupying space therein, as well as the owner and occupant thereof, except as to fees collected and accounted for with the Town Clerk/Treasurer. No mobile home shall be removed from the space now occupied in a licensed mobile home park without the owner, occupant or park licensee first having obtained a certificate from the Town Clerk/Treasurer to the effect that all monthly parking permit fees are paid.

(6) A mobile home located outside of a mobile home park shall be subject to the monthly parking fee as set forth herein, and the owner of the land upon which it stands shall be responsible for the payment of the monthly parking fees and for reporting requirements as set forth in this section except that the owner of the land may collect the fee from the owner of the mobile home and on or before January 10 and on or before July 10th, transmit all fees owed for the six (6) month, ending on the last day of the month preceding the month when the transmission is required. The owner of the land may deduct two (2%) percent of the amount collected for reimbursement of administration expenses.

(7) Failure to timely pay the tax as set forth herein shall be created in all respects as a default in the payment of personal property taxes, and shall he subject to all procedures and penalties applicable under Chapters 70 and 74 Statutes.

(W) **Compliance with State Regulations.**

(1) In addition to the required notices, information and requirements set forth in this section to be approved by the regulatory agencies of the State, the Town Clerk/Treasurer shall submit the following to the Department of Health and Social Services:

- (a) During the month of April of each year a list of all mobile home parks within the Town.
- (b) Within thirty (30) days after completing sanitary survey required by subsection (D)(3), the Clerk/Treasurer shall forward the results of such survey to the Department of Health and Social Services on the forms to be provided by such Department.
- (c) A list of all persons charged with the administration and enforcement of this section.
- (d) A copy of this section and any amendments hereto as may be from time to time enacted together with any regulations or variances affecting a particular licensed mobile home court.

(X) **Penalties.** Any person who shall fail to report the presence of a mobile home as require in subsection (Q) shall be subject to a forfeiture of Twenty-five (\$25.00) Dollars for each failure to report a mobile home shall constitute a separate offense. Any person convicted of violating any other section of this chapter, shall, upon conviction thereof, pay a forfeiture of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars for each violation and upon conviction of the same offense within a twelve (12) month period, shall pay a forfeiture of not less than One Hundred (\$100.00) Dollars or more than Two Hundred (\$200.00) Dollars for such second violation, together with all costs and disbursements as provided by law and in the default of payment thereof, shall be confined in the County Jail for a period of not more than thirty (30) days, each day a violation of this chapter shall occur, shall be a separate offense.

Nothing in this penalty section for action by the Town or a forfeiture shall prohibit the Town Board from proceeding under subsection (S) for revocation of license.

12.09 AMUSEMENT PARKS

(A) **Defined.** Within the meaning of this section amusement park is defined to be any tract or parcel of land, privately owned, open to the public and operated for profit, which contains or is used in conjunction with the use and operation of any machine, vehicle, building, structure, equipment or athletic field for entertainment, pleasure, sport or recreation.

(B) **Exclusion.** This section does not apply to any outdoor theatre licensed by the Town.

(C) **License Required.**

(1) No person shall maintain or operate an amusement park as defined in this section within the Town without a license obtained as hereinafter provided.

(2) No license shall be issued unless the applicant, if a natural person, or if a firm, then all partners or members thereof, or if a corporation, then all officers and

directors thereof, is an adult citizen of the United States and of good moral character and agrees to maintain and operate such amusement park, under the conditions specified in subsection (F) which agreement shall be deemed made by the applicant by acceptance of such license. If the applicant is a corporation it must be authorized to do business in the State of Wisconsin.

(D) **Application for License**. An application for such license shall be filed in writing with the Town Clerk/Treasurer, which application shall disclose:

- (1) The name and address of applicant.
- (2) The citizenship and date of birth of applicant if a natural person; the citizenship and age of each partner or member if applicant is a partnership or firm; or the citizenship and age of each officer and director if applicant is a corporation.
- (3) The state of incorporation of a corporate applicant, and if other than Wisconsin, a statement that applicant is duly authorized to do business in Wisconsin.
- (4) The name under which such amusement park will be maintained and operated; a detailed description of its location and a sketch showing area and all buildings and improvements; and an explanation of the method of operation that will be used if a license is issued.
- (5) The application shall be subscribed and sworn to by the applicant if a natural person; by a general partner if the applicant is a partnership, or by the principal officer if the applicant be a corporation.

(E) **Issuance of License**.

- (1) All licenses issued under this section shall be issued by the Town Clerk/Treasurer upon approval of the Town Board and shall be effective from the date of issue to April 1 of the following year unless revoked sooner. The fee for such license shall be Twenty-five (\$25.00) Dollars per year and shall accompany each application. No license shall be transferable either as to location or as to licensee.
- (2) No license shall be issued unless the Town Board is fully satisfied that the applicant will at all times meet the regulations specified in subsection (F) and the Board has approved the location, improvements and proposed method of operation of the amusement park as set forth in the application.
- (3) Special permits for extension of hours, as provided in subsection (F) on recognized holidays, special occasions or for certain amusements (specified amusements within an amusement park) not requiring the use of machinery or vehicles, may be granted by the Town Board upon application being made to the Town Clerk/Treasurer at least fifteen (15) days prior to the date or dates for which

the permit is requested.

(F) **Operation.** Every such amusement park, including all premises in connection therewith, shall be maintained and operated so as to meet the following conditions:

(1) Premises licensed under the chapter shall not operate between the hours of 1:00 a.m. and 7:00 a.m. without obtaining a special permit as provided in paragraph (E)(3).

(2) No intoxicating liquor or fermented malt beverage shall be sold or consumed on the premises unless applicant has obtained a Class "B" Fermented Malt Beverage License or picnic license under this Municipal Code.

(3) No disorderly conduct of any manner shall be allowed on the premises.

(4) No public address or loud speaker system shall be permitted to be used on the premises unless the volume of such public address or loud speaker is controlled so as not to cause a disturbance or become a public or private nuisance, and in no event shall such system be used between the hours of 10:00 p.m. and 7:00 a.m.

(5) All licensed premises shall provide adequate off road parking. All vehicles leaving the premises shall be required to stop immediately before entering a public street or highway.

(6) The premises shall be subject to inspection by the Town Board, or any member thereof, at any time.

(G) **Revocation of License.** In addition to penalties and forfeitures provided herein, the Town Board may, at any time, revoke any license issued under this section after a hearing as provided in Chapter 24.

(H) **Penalty.** Any person who shall violate any of the provisions of paragraph (C)(1) or subparagraph (F) of this section, shall, upon adjudication to that effect, forfeit to the Town not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars, and upon conviction of a second offense within one (1) year the forfeiture shall be not less than One Hundred (\$100.00) Dollars or more than Two Hundred (\$200.00) Dollars, as determined by the Court in the action for the collection thereof, together with the costs of such action. In default of payment thereof, in the case of an individual, he shall be imprisoned in the County Jail for Kenosha County, Wisconsin, for such time, not exceeding thirty (30) days, as the Court shall determine, unless the judgment is paid sooner.

12.10 AMUSEMENT ESTABLISHMENTS.

(A) **Definitions.**

(1) **Amusement establishments.** Any place, location or premises within the

Town of Somers where amusement devices as herein defined are kept for the purpose of providing amusement, entertainment or recreation to person or frequenters whether or not for profit. This section shall apply to all such establishments except home type video devices, not designed for commercial use which are used within a private residence for home entertainment.

(2) **Amusement Device.** Includes pool tables of all types, pinball machines, mechanical, electronic, video games or dart games, games of chance or skill and related machines designed to provide entertainment or recreation.

(B) **License Required.**

(1) No person shall permit, keep or maintain an amusement device as herein defined without first obtaining a license to be issued by the Town Clerk/Treasurer upon approval of the Town Board. The annual fee for such license shall be Fifty (\$50.00) Dollars for the first device and Twenty (\$20.00) Dollars for each additional device located on the premises. In the event that the licensee shall add additional devices after obtaining the license, it shall be the licensee's responsibility to advise the Town Clerk/Treasurer of any increase in the number of such devices and pay the appropriate fee. All licenses shall expire on the thirtieth (30th) day of June each year and there shall be no proration or adjustment of a license fee for less than one (1) year.

(2) Applications for amusement device license shall be addressed to the Town Clerk/Treasurer and shall contain the same information as set forth in 12.09(D) of this chapter.

(3) The application shall be referred to the Building Inspector and Fire Chief who shall inspect the proposed license premises within fifteen (15) days after receiving copies of the application and shall report in writing to the Town Board as to whether or not the premises meets all building codes of the Town and State of Wisconsin. The Town Board, Building Inspector or Fire Chief may request such other information as may be pertinent and necessary to act on an application. The Town Board shall act on the application at its next regular meeting following the recommendation and information requested by the Board.

(C) **Premises Regulation.** Any premises or establishment maintaining five (5) or more amusement devices shall be subject to the following regulations:

(1) Be located in a district zoned Commercial by the Kenosha County Zoning Ordinance.

(2) Be located completely at a ground or street level and have windows which provide a view from the street.

(3) Shall have at least two (2) accessible marked exits to the outside located for easy access for patrons and frequenters, no entrances or exits shall be locked

during hours when the establishment is open to the public.

(4) Shall have separate washrooms and toilets for each sex which shall be immediately accessible and shall be maintained in a clean and healthful and adequate manner.

(5) The maximum number of persons permitted on the premises as determined by the Department of Industry, Labor and Human Relations Standards shall be posted in each room of the establishment and the licensee (or agent if a corporation) shall regulate ingress and egress of persons to comply with the maximum permitted number as posted.

(6) Provide sufficient off street parking so that at no time shall vehicles be required to park on the public highways.

(7) Provide and keep open access lanes for entrances and exits to the premises which access lanes shall be clearly marked and kept open for emergency vehicles.

(8) Any commercial or business premises in which the principal business or commercial activity is other than keeping and maintaining amusement devices and is licensed for less than five (5) devices shall not be required to comply with subsection (2) thru (7) however, such commercial or business premises shall be subjected to inspection as set forth in subsection (B)(3) above.

(D) **Supervision of Premises.** The licensee shall be responsible for supervision of the licensed premises and of all activities and conduct of persons on the premises at all times when open to the public. A licensee may appoint an agent over the age of eighteen (18) years to supervise the premises but such appointment shall not relieve the licensee of any obligation or compliance with the provisions of this ordinance. If the supervising agent is a person other than the licensee the licensee shall inform the Town Clerk/Treasurer of the name, address and age of such agent.

(E) **Operation Regulation.** No person, licensee or agent shall permit any person under the age of eighteen (18) years to remain on the premises:

(1) Between the hours of 10:30 p.m. and 8:00 a.m. Sunday thru Thursday and midnight and 8:00 a.m. on Friday and Saturday unless said minor is accompanied by a parent or legal guardian.

(2) To be present on the premises from 8:00 a.m. until 3:30 p.m. on school days classes are scheduled to be held in Kenosha Unified School District No. 1 or the Racine Unified School District No. 1 unless said person under the age of eighteen (18) years shall present written evidence of age and that said person has been legally excused from the compulsory school attendance laws of the State of Wisconsin.

(3) No gambling shall be permitted on the premises.

(4) No alcohol or fermented malt beverages or controlled substances or marijuana as defined in Chapter 161, Wisconsin Statutes, shall be permitted to be consumed, used, allowed or brought into the premises. This subsection shall not apply to a premises which is a holder of a Class "A" Intoxicating Liquor and Fermented Malt Beverage License where such products are purchased and removed from the premises in original containers for consumption off the premises.

(5) No amusement establishment shall have on the premises material harmful to minors as set forth in §944.25, Wisconsin Statutes.

(6) The licensee or supervisor shall not permit disorderly conduct by patrons or frequenters on the premises and shall take all reasonable steps, including requesting assistance from law enforcement officers, to prohibit such conduct.

(F) **Revocation of License.** The violation of this section and any regulations set forth herein for the violation by the licensee of any town, county, state or federal laws, rules and regulations, or permitting others to violate such ordinances, laws, rules and regulations on the premises shall be sufficient grounds for revocation of license under procedures set forth in Chapter 24 of this Code.

(G) **Penalties.** In addition to the revocation of license any person violating the provisions of this section shall, upon conviction thereof, pay a forfeiture of not less than One Hundred (\$100.00) Dollars nor more than Two Hundred (\$200.00) Dollars for the first offense and not less than Two Hundred (\$200.00) Dollars or more than Five Hundred (\$500.00) Dollars for the second conviction within one (1) year, and penalties and costs of prosecution. If such forfeiture and costs are not paid as directed by the court, the court may direct imprisonment in the Kenosha County Jail for a period of not more than sixty (60) days.

12.11 LANDFILL AND EXCAVATION PERMITS.

(A) **Intent.** Whereas the Town Board of the Town of Somers has received an increasing number of complaints from residents of the Town of Somers that indiscriminate landfill and excavation projects throughout the Town are causing hardships on adjoining land owners due to diversion of surface water drains, and the Town Board has observed indiscriminate deposits of concrete, asphalt, dirt and organic materials in the ditches and lowlands of the Town of Somers and whereas, the Town Board finds that such indiscriminate and unrestricted landfill operations is detrimental to the land being filled and adjacent land owners as well as being a source of pollution to surface waters caused by the runoff from filled and excavated lands.

(B) **Permit Required.** No person shall place any fill in their yards or in any low lying lands ditches, waterways, or drainways, marshes or other lands upon either private or public property within the Town of Somers without first obtaining a permit. No person shall excavate or fill or by a combination of excavating or filling, more than 400 cubic yards or more of dirt, soils, sand or other excavation or fill material without first obtaining a permit therefore. In addition, the permittee must comply with the provisions of Chapter 17 of these ordinances.

Application for such permit shall be made to the Building Inspector upon forms to be provided by the Building Inspector and such application shall contain the following information, to allow for review by the Town Building Inspector and Public Works Superintendent.

- (1) The owner of the land to be filled or excavation.
- (2) A description of the land area to be filled or excavated with a sketch or plat showing the area to be filled and the adjacent areas as well as the name and addresses of any owners of property adjoining or affected by the proposed landfill.
- (3) In the event that the proposed fill or excavation shall affect any marsh, lowland, ditches, waterways, or runoff of surface water and application and sketch shall show the method by which such waters shall be drained.
- (4) The type of materials to be used in the proposed fill or excavation and the place or location from which the fill is to be obtained.
- (5) The quantities of fill and/or excavated material which are anticipated in the project.
- (6) The name and address of the person responsible for transporting and depositing the fill or excavation material together with streets and highways by which the fill or excavation material will be transported. The Town Board shall set the weight limits and periods of time during the calendar year in which said fill or excavation material may be transported over the streets and town roads.
- (7) The dates in which the fill or excavation operation will be carried on and a statement as to the proposed leveling of top soil and seeding of filled land.
- (8) Such other information as the Building Inspector may require to make a determination as to granting a land filling permit.

(C) **Permit Limitations.** No permit issued under this ordinance shall be valid for more than six (6) months from the date of issue except that said permit may be extended for good cause shown to the Building Inspector. Any permit(s) issued hereunder shall be prominently displayed at the fill site to be valid.

(D) **Wisconsin Statutes Adopted.** Section 88.90(1)(2), Wis. Stats., relating to natural water courses is hereby adopted by reference as if set forth in full.

(E) **Fill Content.** All fill materials for any land filling operation shall be confined and restricted to clean earth fill. The use of concrete, bituminous asphalt or petroleum based products or organic debris is prohibited. All fill material shall comply with the State of Wisconsin residual soils standards.

(F) **Surface Water.** No permit shall be granted by the Building Inspector until said Building Inspector is satisfied that the filled area will not adversely affect the properties of others or change

the grade of land and flow of surface waters to adversely affect adjoining areas of be a source of pollution to surface water.

(G) **Consultant's Fees.** No permit shall be granted until any consultant's fees incurred or anticipated to be incurred by the Town for engineering, legal or the like have been paid in full. The amount of fees shall be determined by the Town Administrator.

(H) **Exceptions.** This ordinance shall not apply to any lands within the Shoreland and Floodplain Ordinance of Kenosha County or to the spreading of top soil on residential property for lawn and garden purposes provided said top soil does not exceed six (6") inches in depth.

(I) **Fee.** The fee for a landfilling/excavation permit shall be Fifty (\$50.00) Dollars and shall be paid to the Building Inspector at the time an application is filed.

(J) **Compliance with Chapter 17.** To the extent applicable, any permittee shall also comply with conditions of Chapter 17 of these ordinances.

(K) **Penalties.** Any person who shall violate this section shall upon conviction be subject to the penalties in Section 25.04 of the Municipal Code of the Town of Somers and for the actual expenses incurred by the Town in bringing the subject premises into conformance with these ordinances.

12. 12 TAXICAB AND SPECIALIZED MEDICAL VEHICLE OPERATIONS.

(A) **Initial Site Plan Fee and Annual Permits.** Pursuant to §349.24, Wis. Stats., every person, corporation or other entity which shall engage in taxicab or specialized medical vehicle operations shall pay an initial site plan review fee of Two Hundred Fifty (\$250.00) Dollars prior to the first motor vehicle being operated in such business and an additional permit fee of Fifty (\$50.00) Dollars per calendar year for each motor vehicle so operated.

(B) **Definitions.** For purposes of this ordinance, Section 12.12, the following definitions shall be applicable:

(1) **Taxicab.** Taxicab, as used in this ordinance, shall include all vehicles carrying passengers for consideration except:

(a) Vehicles which operate on established routes which are regulated by the Public Service Commission of the State of Wisconsin;

(b) Vehicles which are rented to be driven by the person renting the vehicle;

(c) Vehicles operated solely as funeral cars or in conjunction with funeral processions;

(d) Ambulance services licensed by the State of Wisconsin;

- (e) Limousine services which charge on the basis of an hourly rate for the use of such vehicle and which require reservation of the car and driver at least twenty-four (24) hours in advance of such use; or
- (f) Specialized medical vehicle, as defined herein.

(2) **Specialized medical vehicle.** For purposes of this ordinance, specialized medical vehicle means a vehicle for hire, other than a public mass transportation vehicle regulated by the Public Service Commission of the State of Wisconsin, which is especially suited for the transportation of disabled or elderly persons who by reason of physical or mental infirmity or age cannot be transported on public mass transportation vehicles. Specialized medical vehicle shall not mean human services vehicles as defined in §340.01(23g) of the Wisconsin Statutes and which are registered under and regulated by Chapter TRANS 301 of the Wisconsin Administrative Code.

(3) **Insurance.** For purposes of this ordinance, insurer shall refer to a policy of insurance, issued by an insurance company licensed to do business in the State of Wisconsin, providing coverage for liability of a minimum of Twenty-five Thousand (\$25,000.00) Dollars for injury or death to any one person, and subject to the same limit per person, a maximum liability of Fifty Thousand (\$50,000.00) Dollars for the injury or death of any number of persons in any one accident and a maximum liability of Ten Thousand (\$10,000.00) Dollars for property damage in any one accident, containing the provision for a deductible of not more than Fifty (\$50.00) Dollars an property damage only, or such other policy of insurance with substantially similar or equivalent limits as may be approved by the Town Board. The policy or certificate of insurance shall provide that the same cannot be canceled until thirty (30) days notice of such cancellation shall be given to the Town Clerk/Treasurer. The cancellation or other termination of any policy of insurance shall automatically revoke or terminate all permits issued for the taxicab or specialized medical vehicle operations covered by such insurance policy(s).

(4) **License plates.** License plates, for purposes of this ordinance, shall mean license plates issued for a particular vehicle by the State of Wisconsin upon payment of fee therefore and approval of the application for registration of such vehicle.

(5) **Qualified driver.** Qualified driver, for purposes of this ordinance shall mean every person driving a taxicab or specialized medical vehicle, as may be applicable, who shall be a minimum of eighteen (18) years of age, have a valid Wisconsin driver's license in good standing, valid in the State of Wisconsin and who shall be able to read and write the English language.

(6) **Licensed premises.** For purposes of this ordinance, a licensed premises shall meet such criteria as shall be established by the Town Plan Commission and approved by the Town Board.

(7) **Roadworthy vehicle.** Roadworthy vehicle, as defined in this ordinance, shall mean vehicles which are in conformance with Chapters 347 and 348 of the Wisconsin Statutes, the provisions of which are incorporated herein by reference.

(C) **Licensing Procedure.** Before any permit referred to under subsection (A) of this ordinance is issued, the Town Clerk/Treasurer shall first require the applicant therefore to complete a written application stating the name and address of the applicant and the number and type of vehicles proposed to be operated. Such application shall specify in detail information required by §12.12(B)(6) above. The applicant shall provide names, addresses and Wisconsin driver's license identification number for each and every driver of a taxicab or specialized medical vehicle subject to the permit issued hereunder and shall advise the Town Clerk/Treasurer in advance of the operation of any such vehicle by a new driver. It shall be the obligation of the applicant to regularly update the information required hereunder pertaining to its drivers and vehicles, including deletion of any drivers who are no longer employed by the applicant. Before any such permit shall be issued hereunder, the applicant shall pay to the Town Clerk/Treasurer the amount of money fixed by this ordinance for such permit and shall have on file the insurance required by §12.12(B)(3), above. Upon completion of all such requirements, the Town Clerk/Treasurer shall present the application to the Town Board, together with all necessary reports or other documents, who shall either grant or deny the applicant's request. Upon complying with all of the provisions of this ordinance and upon approval by the Town Board, the applicant shall be entitled to and shall receive from the Town Clerk/Treasurer a written letter signed by the Town Clerk/Treasurer authorizing such applicant to carrying on the business of conveying passengers for hire from the location so licensed and upon such special terms and conditions as may be imposed by the Town Board for such premises.

12.13 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR TOBACCO PRODUCTS.

(A) **Definitions.**

(1) **Cigarette.** "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

(2) **Distributor.** "Distributor" means any of the following:

(a) Any person who acquires unstamped cigarettes from the manufacturer thereof, affixes stamps to the packages or other containers, stores them and sells them to other permittees or to retailers for resale. He may also acquire stamped cigarettes from another permittee for such sales;

(b) Any person engaged in the business of selling tobacco products in this State who brings, or causes to be brought into this State from outside the state any tobacco products for sale;

(c) Any person who makes, manufactures or fabricates tobacco products in this state for sale in this state; or,

(d) Any person engaged in the business of selling tobacco products outside this State who ships or transports tobacco products to retailers in this State to be sold by those retailers.

(3) **Identification Card.** "Identification Card" means any of the following:

(a) A license containing a photograph issued under Chapter 343, Wisconsin Statutes; or,

(b) An identification card issued under §343.50, Wisconsin Statutes.

(4) **Jobber.** "Jobber" means any person who acquires stamped cigarettes from manufacturers or distributors, stores them and sells them to retailers for resale.

(5) **Manufacturer.** "Manufacturer" means any of the following:

(a) Any person who manufactures cigarettes for the purpose of sale; or,

(b) Any person who manufactures and sells tobacco products.

(6) **Retailer.** "Retailer" means any person licensed under §134.65(1), Wisconsin Statutes.

(7) **School.** "School"- "School" has the meaning given in §118.257(1)(d), Wisconsin Statutes.

(8) **Subjobber.** "Subjobber" means any person other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to a person other than the ultimate consumers.

(9) **Tobacco products.** "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarette as defined under "cigarette".

(10) **Vending machine.** "Vending machine" is any mechanical device which automatically dispenses cigarettes upon the deposit therein of specified coins in payment for such cigarettes.

(11) **Vending machine operator.** "Vending machine operator" means a person who acquires stamped cigarettes from manufacturers or permittees, stores

them and sells them through the medium of vending machines which he or she owns, operates or services and which are located on premises which are owned or under the control of other persons.

(B) **Restrictions.**

(1) No retailer may sell or give cigarettes or tobacco products to any person under the age of eighteen (18). A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of eighteen (18) if the vending machine operator was unaware of the purchase.

(2) A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of eighteen (18) is unlawful under this section and §134.66, Wisconsin Statutes.

(3) A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machine stating that the purchase of any cigarette or tobacco product by a person under the age of eighteen (18) is unlawful under §134.66, Wisconsin Statutes, and that the purchaser is subject to a forfeiture of not to exceed Twenty-five (\$25.00) Dollars.

(4) No retailer may place a vending machine within five hundred (500) feet of a school.

(5) No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of eighteen (18).

(6) The person who ultimately controls, governs or directs the activities within the premises where any vending machine is located shall ensure that an employee of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open. Except as provided in subsection (3), no retailer may keep a vending machine in any public place that is open to persons under the age of eighteen (18) unless all of the following apply:

(a) The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employee.

(b) The vending machine is in a place where it is inaccessible to the public when the premises are closed.

(C) **Defense of Retailer.** Proof of all of the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of eighteen (18) is a defense to any prosecution for a violation of subsection (B):

(1) That the purchaser falsely represented that he or she had attained the age of eighteen (18) and presented an identification card.

(2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of eighteen (18).

(3) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of eighteen (18).

(D) **License Required.**

(1) Pursuant to §134.65, Wis. Stats., which section is incorporated herein by reference in its entirety, no retailer shall sell, expose for sale, possess with intent to sell, exchange, barter, dispose or give away any cigarettes or tobacco products to any person until they have first obtained a license from the Town which shall be issued on July 1 of each year upon completion and filing of a proper written application and payment of the fee of Twenty-five (\$25.00) Dollars to the Town Clerk/Treasurer before the license is issued. Each such license shall name the licensee and specifically described the premises where such business is to be conducted. Tobacco licenses shall not be transferable from one person to another nor from one premises to another and every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for two (2) years in such a manner so as to insure permanency and accessibility for inspection and shall be subject to inspection at all visible hours by authorized state and local law enforcement officials.

(2) Any person violating this section shall be fined not more than One Hundred (\$100.00) Dollars nor less than Twenty-five (\$25.00) Dollars for the first offense and not more than Two Hundred (\$200.00) Dollars nor less Twenty-five (\$25.00) Dollars for the second or subsequent offense.

12.14 COMMERCIAL SALE OF NON-FARM ANIMALS.

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

(1) "Non-Farm Animal" means any living vertebrate, domestic or wild, which is not used in or associated with agricultural uses or agricultural businesses except a human being.

(2) "Animal shelter" means any facility operated, owned or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit

organization for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

(3) "Disinfectant" means an agent, usually a chemical, that kills growing forms, but not necessarily resistant spore forms, of the disease-producing microorganisms.

(4) "Disinfecting" means the act of destroying infectious agents.

(5) "Health department" means the County of Kenosha health department, the health officer or his duly designated representative.

(6) "Humane officer" means any person appointed by the Town as a humane enforcement officer who is qualified to perform duties of animal control as provided by the laws of the state and the Town.

(7) "Pet" means any animal kept for pleasure rather than utility.

(8) "Pet shop" means any person, partnership, limited liability company or corporation, whether operated separately or in connection with another business enterprise.

(9) "Pet shop operator" means any person who sells, offers to sell, exchanges, or offers for adoption with or without charge or donation dogs, cats, birds, fish, reptiles, or other animals customarily obtained as pets. However, a person who sells only such animals that he has produced and raised shall not be considered a pet shop operator under this article and a veterinary hospital or clinic operated by a licensed veterinarian or veterinarians shall not be considered a pet shop operator under this article.

(B) **Sale or Release of Certain Animals Restricted.**

(1) **Animal unfit for sale or release.** The following shall deem an animal unfit for sale or release:

(a) Obvious signs of infectious disease such as distemper, hepatitis, leptospirosis, rabies, para influenza (kennel cough) or other similar diseases.

(b) Obvious signs of nutritional deficiencies, which may include rickets, emaciation, etc.

(c) Obvious signs of severe parasitism.

(d) Obvious fractures or congenital abnormalities affecting the general health of the animal.

(e) Skin diseases such as ringworm or fungus.

(2) **Restriction of sale.** The humane officer or health department may restrict the sale of any animal suspected of being diseased or otherwise unfit for sale. An examination by a veterinarian, at the expense of the enforcement agency, may be requested.

(C) **Purchase, Keeping or Sale of Endangered or Dangerous Species.** No pet shop shall engage in the purchase, keeping or sale of any species of primates, bats, foxes, raccoons, skunks, turtles, turtle eggs, poisonous snakes, or any species of animal considered "endangered" or considered a public health hazard by the U.S.D.A. or the Food and Drug Administration, unless licensed by federal permit issued for the sale of endangered species.

(D) **Pet Shop Permit.**

(1) **Permit required.** No person shall operate a pet shop without first obtaining a permit in compliance with this division.

(2) **Issuance.** When all applicable provisions of this division have been complied with by the applicant and a valid occupancy permit for this type of business has been issued by the building inspector, upon payment of the applicable fee as set forth in this division, the Town Clerk/Treasurer shall issue a permit to operate.

(3) **Term.** The permit period for a pet shop shall be from July 1 until June 30 of the following year. Renewal applications for pet shop permits shall be made not later than June 30 of each year. Application for a permit to establish a new pet shop under the provisions of this ordinance may be made at any time.

(4) **Permit fees.**

(a) **Annual fee.** The annual permit fee for each pet shop shall be One Hundred Twenty-five (\$125.00) Dollars.

(b) **Exception to fee.** No permit fee may be required of any animal shelter.

(c) **Late fee.** Application for a renewal license made after July 1 for the following license year shall be assessed a late fee of Fifteen (\$15.00) Dollars.

(d) **Change in ownership.** If there is a change in ownership of a pet shop, the new owner may have the current permit transferred to his name upon payment of a transfer fee of Ten (\$10.00) Dollars.

(5) **Display of permit.** The current permit issued under this ordinance must

be prominently displayed at each place of business of the permittee.

(E) **Enforcement.**

(1) **Notice of violation.** Whenever building inspector or the health department finds, upon inspection, any violation of this ordinance, the permittee shall be notified by means of a written notice of inspection. This notice of inspection shall contain references to the specific conditions found, the corrections necessary, and a specific and reasonable time for compliance.

(2) **Service of notice.** Each notice or order provided under this section will be considered to have been properly served when it has been delivered personally, or when it has been mailed, postage prepaid, by first class mail with return receipt requested, to the permit holder.

(3) **Suspension of permit.** If, at the end of the period specified in the notice served under subsection (2) of this section, a reinspection by building inspector or the health department reveals that corrections have not been made, the permit holder shall be given notice in writing that the Town intends to suspend the permit.

(4) **Appeal of suspension order.** Any permit holder who has received a notice of intention to suspend the pet shop permit may, within thirty (30) days after service of this notice, demand a hearing before the Town Board. Any proceedings to suspend the permit, shall be stayed pending decision of the Town Board.

(5) **Hearing.** The Town Board shall conduct the hearing on any appeal filed by a permit holder under this section. At the conclusion of such a hearing, the board may sustain, modify or withdraw the notice or order, depending upon its findings as to whether the provisions of this ordinance have been complied with. The Town Board may also modify any order so as to authorize a variance from the provisions of this ordinance if a literal enforcement of these provisions will result in practical difficulty or unnecessary hardship because of special conditions. If the board sustains or modifies a notice or order, the permit holder shall comply with all provisions of the order within a reasonable period of time, as determined by the board. If the board upholds a notice of intention to suspend any permit required by this ordinance, then that permit shall be suspended as of the date of the hearing, until all provisions of the order are fulfilled.

(F) **Inspections.** Inspection of the premises of a permit holder under this division to determine compliance with this division may be made by the health department or authorized agents during normal business hours.

(G) **Operator Requirements.**

(1) **Record of sale.** Each permit holder under this ordinance shall keep accurate records of each dog, cat or bird sale for a minimum period of twelve (12)

months after the date of sale or transfer of such animal, and shall include the source of such animal, date of sale, description, approximate age, sex of animal sold, and the name and address of purchaser. Records of sales of small mammals and fish are not required.

(2) **Record of prophylactic medication and immunization.** A record of prophylactic medication and immunization, the type, amount and date of each, shall be kept by the permit holder under this ordinance and shall become a part of the retail sales record.

(3) **Reasonable care.** Each permit holder under this ordinance shall take reasonable care to release for sale, trade or adoption only those animals which are free of disease, injuries or abnormalities. A health certificate issued by a licensed veterinarian for any such animal within thirty (30) days before such sale, trade or adoption is prima facie evidence that the permit holder has taken reasonable care as required by this section.

(H) **Written Statement Required for Purchase.** The permit holder under this ordinance shall furnish the purchaser with a written statement at the time of sale. The statement shall show:

(1) Date of sale.

(2) Name, address and telephone number of both permit holder and purchaser.

(3) Breed, description and approximate age, if dog or cat.

(4) Prophylactic medication and immunizations and dates administered; if none, so state.

(5) Internal parasite medication and date administered; if none, so state.

(6) Guarantee, if offered; if none, so state.

(I) **Standards.** All pet shops and stores selling animals, birds and fish as pets shall, in addition to the other requirements of this article, comply with the following standards. Failure to meet these standards shall be grounds for denial or revocation of a permit:

(1) All animals, birds or fish shall be displayed in a healthy condition, or, if ill, removed from display and shall be given appropriate treatment immediately.

(2) All the animals shall be quartered, and the quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.

(3) The room temperature of the shop shall be maintained at a level that does not present a health hazard to any species of animal kept in the shop.

- (4) There shall be sufficient, clean, dry bedding to meet the needs of each individual animal. Litter and/or bedding material shall be changed at least daily and there shall be adequate ventilation to prevent an odor nuisance.
- (5) Feces shall be removed from pens and enclosures at least daily, or more frequently if necessary to prevent unsanitary conditions and odor nuisance, and stored in tightly covered containers until final disposal.
- (6) All cages and enclosures are to be of a nonporous material for cleaning and disinfecting and shall have secure latches in good repair. Each cage must be of sufficient size that the animal will have room to stand, turn and stretch out to its full length. Cages will be cleaned every day, including Sundays and holidays.
- (7) The floor and walls of any room in which animals are kept shall be covered with impervious, smooth, cleanable surfaces. The floors and walls shall be cleaned and disinfected as often as necessary to prevent an odor nuisance.
- (8) The premises shall be kept free of insect and rodent infestations. Food supplies shall be stored in rodent-proof containers.
- (9) There shall be available hot water for washing cages. Fresh drinking water shall be available to all species at all times. All water containers shall be mounted so that the animal cannot easily turn them over and shall be removable for cleaning.
- (10) Food for all dogs and cats shall be served in a clean dish, so mounted that the animal cannot readily tip it over or defecate or urinate in such dish.
- (11) Adult dogs and cats shall be fed at least once a day. In the case of young dogs and cats, they shall be fed more than once daily. All other animals and birds must be fed and watered according to the accepted procedure for that species.
- (12) The licensee or his representative shall be present for general care and maintenance of animals at least once daily.
- (13) Shade is required. Shade from the direct rays of the sun shall be provided for all animals.
- (14) Each bird must have sufficient room to sit on a perch. Perches shall be placed horizontally to each other in the same cage. Cages must be cleaned every day and cages must be disinfected when birds are sold. Parrots and other large birds shall have separate cages from smaller birds.
- (15) Cats shall be provided with litter pans at all times. The pans shall be cleaned and sanitized at least once daily, or more often if necessary.
- (16) Any permit holder offering medication with the sale of an animal shall take

steps to ensure that such medication is properly labeled for ease of identification, should it be accidentally ingested.

(J) **Penalties.** Any person who shall violate any provision of this ordinance, Section 12.14, shall, upon conviction, forfeit not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars. Each day of violation shall constitute a separate offense.