

**CHAPTER 32**  
**BUSINESS REGULATIONS**

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**32.01 BUSINESS REGISTRATION**

A. PURPOSE: Because each business establishment located in the Village is a basic part of and affects the physical and economic well being of the Village, such business establishments shall in all respects be in full compliance with the provisions contained herein. This Section 32.01 is designed to keep a current listing of businesses operating in the Village, aid the Police Department in its responsibilities and ensure zoning compliance.

B. RULES: It shall be unlawful for any person to engage in any businesses or business activities in the Village without first having registered with the Village.

C. PROCEDURE AND DURATION: All businesses with buildings, premises or operating from a residence, in the Village, shall register with the Village, no later than April 1 of each year or at such time as the business desires to commence operation in the Village. Registration forms shall be made available by the Village.

The required fee for each registration shall be collected in full at the time of the issuance and delivery thereof. In no event shall any rebate or refund be made of any fee, or part thereof, by reason of the death of the registrant or by any reason of non-use of the registration or discontinuance of the operation of the business.

D. ANNUAL REGISTRATION FEE: Unless a different fee is provided or required elsewhere within the provisions of this Section 32.01 or any other ordinance of the Village, or the business holds a valid Building Contractor License in accordance with Chapter 38 of this code, or the business is part of the general operations of another taxing district such as a school, a fire protection district or a sanitary district, the annual registration fee to be paid by persons engaged in any business, trade, occupation or calling within the Village shall be \$10.00 per annum. The annual registration fee for businesses that hold a valid Building Contractor License or that are part of the general operations of another taxing district shall be waived. All fees and charges shall be paid at the time a business registration application is filed with the Village.

The annual registration fee shall be due and payable no later than April 1 of each year. Issued business registrations shall

expire on the 30th day of April of the following year. It shall be the responsibility of the registrant to provide a new and updated registration form at the annual renewal date. A renewed business registration will not be issued by the Village until an updated registration form is completed and all the required information is provided.

E. NON-TRANSFERABLE: No registration issued under this Section 32.01 may be transferred or assigned to any other person. Any attempt by a registrant to transfer or assign such registration shall be nullified.

F. DUTIES OF REGISTRANT: It shall be unlawful for any person registered to engage in any business or occupation on premises abutting a public way or for any person using any part of a public way for or in connection with his or her business or occupation to litter or to permit the accumulation of any paper, rubbish or refuse upon that portion of the public way so used. It shall also be the duty of the registrant to remove the snow and ice from the sidewalk in front of his or her premises.

G. POSTING REGISTRATION CERTIFICATE: It shall be the duty of any person conducting a registered business in the Village to keep his or her registration posted in a prominent place on the premises used for such business at all times.

H. REPLACEMENT OF REGISTRATION: Whenever a registration needs to be replaced due to loss, theft or vandalism during the fiscal year, a replacement registration must be purchased. The registrant must pay a \$2.00 replacement fee.

I. PENALTY: Any business or person violating Section 32.01 shall be fined not less than \$50.00 nor more than \$500.00 for each violation. For the purposes of this section, each 24 hour period a violation exists shall be considered a separate violation.

## **32.02 VENDING MACHINES**

A. LICENSE REQUIRED: It shall be unlawful for any person to own, use, possess or place or permit to be used or placed on the premises owned or controlled by him any nicotine vending machine anywhere in the Village without having first obtained a license from the Village to do so.

B. APPLICATION: Application for such licenses shall be made in writing to the Village. Such applications shall contain the name of the applicant, address at which such sales are to be made and the number of vending machines and shall be filed with the Village together with the license fee herein after required.

C. ANNUAL FEE: The annual fee for a license as herein required for any machine dispensing nicotine shall be \$50.00.

The annual fee shall be due and payable no later than April 30 of each year. Issued licenses shall expire on the 30th day of April of the following year.

D. REPLACEMENT OF LICENSE: Whenever a licensed vending machine is replaced during the fiscal year a replacement license must be purchased. The licensee will pay a \$2.00 transfer fee.

E. LICENSE PLACEMENT: Any license issued to a vending machine should be prominently displayed on the machine.

F. VENDING MACHINE PLACEMENT: Tobacco products, electronic cigarettes, alternative nicotine products and liquid nicotine may be sold through a vending machine only when such tobacco products, electronic cigarettes, alternative nicotine products or liquid nicotine are not sold along with non-tobacco, non-electronic cigarette or non-liquid nicotine component products in the vending machine and only in the following locations:

1. Places to which persons under 18 years of age are not permitted access.
2. Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment or an employee over 18 years of age. The sale of tobacco products, electronic cigarettes, alternative nicotine products or liquid nicotine from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of nicotine products by that person.
3. Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

G. It shall be unlawful for any person under the age of 21 years to purchase tobacco products at any coin operated nicotine vending machine licensed in this chapter.

H. PENALTY: Any person, firm or corporation violating this Section 32.02 shall be fined not less than \$50.00 nor more than \$500.00 for each violation. For the purposes of this section, each 24 hour period a violation exists shall be considered a separate violation.

### **32.03 INDUSTRIAL REVENUE BONDS**

A. APPLICATION: Application for industrial or commercial revenue bonds shall be made to the Village Administrator. The application shall be accompanied with a \$500.00 non-refundable fee and such supporting financial documents and information as may be necessary to make a complete and thorough analysis of the applicant. Information required of the applicant includes:

1. Name of the firm that will purchase the bond (if available).
2. A SEC 10-K report of public held corporations required to file.
3. The last five annual reports of the applicant including the most recent year completed. The most current report must be certified by a C.P.A. firm.
4. An updated interim financial status report of the current fiscal year not yet completed.

B. The applicant shall pay the Village for any and all professional fees, Board of Trustees salaries and any and all other Village expenses directly or indirectly incurred by, or charged to, the Village in connection with the subject matter of the bond application. The applicant will immediately deposit with the Administrator the sum of \$3,500.00 to be used by the Village toward defraying all such expenses and fees. At any time that payments from said deposit by the Village have reduced the balance therein to less than \$1,500.00, the applicant shall, immediately upon request from the Administrator, deposit such additional sum as will restore the aforesaid deposit balance to the sum originally deposited. Within 90 days after the closing of the sale of said bond, any unobligated balance remaining in said fund shall be repaid to the Applicant or his or her assigns.

The aforesaid language of this Section 32.03-B shall be inserted verbatim into the applicant's Memorandum of Intent or other preliminary Memorandum of Agreement, however it may be denominated.

C. Before the Village considers issuance of industrial or commercial revenue bonds, the President and Board of Trustees may require the following statements:

1. A written statement from the Village Attorney that he or she has reviewed, or will review, all documents pertinent to the application and bond issue. The Village Attorney shall state the basis for any fee he or she will charge for his or her services payable by the applicant, as aforesaid.
2. A written recommendation from the Village Auditor based on their study of the information supplied and from other available sources, that the applicant appears to be financially sound. The Village Auditor shall also state the amount of any fee they will charge for their services payable by the applicant as aforesaid, and to be included as a part of the estimate of the cost of the bond issue.

D. The applicant rather than the Village will find one or more purchasers for said bond and will arrange for the acquisition, construction and equipping of the project.

E. Prior to the issuance and delivery of any such industrial or commercial development revenue bonds there shall have been entered by and between the Applicant/Borrower and the Village appropriate financing agreements upon terms which are mutually satisfactory to both the Village and Applicant/Borrower and which will comply with the provisions of the Act and provide for the payment by the Applicant/Borrower of amounts which will be sufficient in the aggregate to enable the Village to pay when due the principal of, premium, if any, and interest on such bonds.

F. The industrial or commercial revenue bonds to be issued by the Village shall never constitute an indebtedness of the Village or a loan of the credit thereof within the meaning of any constitutional or statutory provision, and such fact shall be plainly stated on the face of each of said bonds. No holder or owner of any of said bonds shall ever have the right to compel any exercise of the taxing power of the Village to pay said bonds or the interest thereon. The principal of, premium, if any, and interest on such industrial or commercial development revenue bonds to be issued to finance the cost of the project may be secured by a pledge directly to the holders and owners of said bonds, of the income and revenues derived by the Village from the Project pursuant to the aforesaid financing agreements and may be further secured by a security interest in the project or other assets of the applicant.

G. If for any reason whatever, the aforesaid bonds are not issued, sold or delivered, as contemplated herein, there shall be no liability on the part of the Village or any of its officers, agents or employees for such non-issuance, non-delivery or non-acquisition.

H. The making of an application hereunder shall be taken to constitute an absolute and irrevocable undertaking on the part of such applicant, his or her successors and assigns to at all times indemnify the Village, its officers, agents and employees against any and all claims, suits, actions, debts, damages, costs, charges and expenses, including court costs and attorneys fees, and against all liability, losses and damages of any nature whatsoever, that they or any of them, shall or may at any time sustain or be put to by reason of any act done in connection with said application and by reason of the execution by the Village of any and all of such bonds, obligations, or any continuation, extension, alteration or renewal thereof, and any new bond or obligation.

Further, the Applicant, his or her successors and assigns, shall defend against any claims brought or actions filed against the Village with respect to the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. In case a claim should be brought or an action filed with respect to the subject of indemnity herein, the Village, at its option, may employ attorneys of its own selection to appear and defend the claim or action on behalf of the Village at the expense of the applicant, his or her successors and assigns.

The applicant shall also reimburse the Village for any expenses, attorneys' fees or costs incurred in the enforcement of any part of this indemnity agreement.

#### **32.04 MASSAGE ESTABLISHMENTS**

A. Definitions: Terms used in this Section are defined in Appendix A or otherwise in accordance with Section 1.02 of the Code.

B. Massage Establishment License Required: No person shall conduct, operate, maintain, or permit to be conducted, operated or maintained, or participate in the conduct, operation, or maintenance of, a massage establishment within the Village unless the Village has issued a license for such massage establishment as provided for in this Section. Such valid and current license shall be displayed in a conspicuous place within the massage establishment at all times. The annual license fee shall be due and payable no later than April 30 of each year. Issued Massage Establishment licenses shall expire on the 30<sup>th</sup> day of April of the following year, and shall be valid only for the address specified in the application for license.

C. License Fee: The annual license fee for each massage establishment shall be \$250.

D. Application Requirements: Any person desiring to operate a massage establishment shall make application for a license to the Village Administrator, or designee, on a form supplied by the Village. The application shall include, but not be limited to, the following items:

1. The name of the person(s) who will serve as the licensee under whose management or supervision the massage establishment will be operated;
2. Copies of a valid license or licenses issued by the Illinois Department of Professional Regulation pursuant to the Massage Licensing Act (225 ILCS 57/1 et seq.) ("Act"), for each massage therapist who will provide massage services at the massage establishment;
3. The applicant and each massage therapist shall supply a photo ID and social security number and will be fingerprinted by the Police Department. In connection with the applicant or any employee, written authorization for the Chief of Police to conduct a criminal background investigation;
4. A description of the proposed massage establishment, including the number of massage therapists, other activities or business conducted at the same location, the physical facilities to be used, and a scaled drawing showing all ingress and egress locations and windows, and a floor

layout diagram of the premises. If any construction, demolition, or alteration work is to be done, a building permit shall be obtained through the Village;

5. In the event the property is leased, a copy of the lease shall be submitted with the application that contains the name, address, and phone number of the property owner; and
6. Such other information as the Village may request.

E. Investigation Before License Issuance:

1. In addition to the investigation required in Section 32.04-D, the Chief of Police (or designee) shall have the right and opportunity to conduct a criminal background check, and any other background check or screening of the applicant, licensee or any employee or massage therapist at any time before or subsequent to a license being issued. Payment of all costs associated with any investigation or criminal background check pursuant to this Section shall be paid by the applicant.
2. Any information concerning criminal convictions or findings of guilt obtained by the Village shall be confidential and may not be transmitted outside the Village, except as required herein, and may not be transmitted to anyone within the Village except as needed for the purpose of evaluating the applicant, an employee, or other person investigated pursuant to this Section.

F. Issuance of License: If the Village Administrator determines that the applicant and premises are in compliance with the applicable laws of the Village and the State, the Village Administrator, or designee, shall issue the license.

G. Grounds for Denial or Denial of Renewal of License: When the investigation reveals any of the following circumstances, the Village Administrator or designee shall promptly notify the applicant or license holder that the application is disapproved and that no license shall issue or be renewed. Circumstances include, but are not limited to:

1. Location of the business does not comply with the Village Zoning Ordinance or any other Village ordinance.
2. Building or premises does not comply with Chapter 24, Building Code, of this Code.

3. Applicant/licensee or the premises do not comply with all local health, fire, and safety regulations.
4. Applicant/licensee has failed to comply with any applicable provision of this Code.
5. Applicant/licensee has failed to comply with any applicable State law or administrative regulation, or when the applicant/licensee has failed to obtain a necessary license from the State.
6. Applicant/licensee fails to provide or maintain current licensing records.
7. Applicant/licensee refuses to allow authorized Village personnel to enter the business premises at any reasonable hour for the purpose of making a pre-license investigation.
8. Applicant/licensee operated a massage business or activity in the past or currently operates such a business or activity, and failed to obtain a license or failed to pay the licensing fee. This requirement, however, will be waived if the applicant/licensee first pays all past due license fees, in addition to any penalties assessed pursuant to this Chapter.
9. Applicant/licensee or any massage therapist/employee/agent has previously been convicted of a felony or any other crime of moral turpitude, or when the applicant/licensee has unsuccessfully defended a criminal civil proceeding wherein the applicant/licensee was charged with fraud, misrepresentation, or unscrupulous business practices. However, where the conviction or unsuccessful defense occurred more than four years prior to the date of application and the Village Administrator or designee determines that the issuance of such license will not endanger the safety or welfare of the general public, the Village Administrator shall not disapprove the application solely on these grounds.
10. Applicant/licensee or any massage therapist/employee/agent has been convicted (including a sentence of supervision or conditional discharge) of the following offenses:
  - a. Any offense involving sexual misconduct with children or sex offenses as defined in 720 ILCS 5/11-6 et seq., as amended; or

- b. A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 10 years; or
  - c. A felony unrelated to conduct or involvement in such business or activity or related to similar business or activity, but which felony involved the use of a deadly weapon, violations of the Cannabis Control Act (721 ILCS 550/1 et seq.) or the Controlled Substance Act (720 ILCS 570/100 et seq.) or violence against another person, including rape, within the past five years; or
  - d. A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or similar business or activity, within the past two years; or
  - e. An offense in any other state, or a federal offense, the elements of which are similar and bear a substantial relationship to any offenses enumerated in this Section.
- 11. Applicant/licensee's license issued under this Section has been revoked for cause or any massage therapist worked for an establishment that had its license issued under this Section or a similar license issued by another unit of government revoked for cause.
  - 12. Applicant/licensee/massage therapist establishment license has been denied in the past 24 months under this Section or similar license application from another local unit of government.
  - 13. Licensee, who at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.
  - 14. Applicant under the age of 18 years of age.
  - 15. Grounds exist for revocation as provided in Section 32.04-0.
  - 16. In addition to the provisions stated hereinabove, no massage establishment license shall be issued or renewed under the following circumstances:
    - a. To a partnership, if any general partner thereof, or any limited partner owning more than 20 percent of the aggregate limited

partner interest in such partnership, would not be eligible to receive a license hereunder.

- b. To a corporation, if any officer or director, or any stockholder or stockholders owning in aggregate more than 20 percent of the stock of such corporation, would not be eligible to receive a license hereunder.
- c. To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 (805 ILCS 5/1.01 et seq.), as amended, to transact business in Illinois.
- d. To any applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee.
- e. To any applicant who is not a beneficial owner of the business to be operated by the licensee.

17. Applicant/licensee is not a United States citizen or has status as a permanent resident alien or a valid work permit.

18. Any information requested on the application form is not provided.

H. Compliance Inspections: Upon issuance of a massage establishment license, the licensee shall provide any representative of the Village with a reasonable opportunity to inspect the premises for which the license is requested and to interview the licensee's agents and employees for the purpose of determining that the provisions of this Section and other applicable ordinances and State and federal laws are being complied with. It shall be unlawful for any person to fail to allow any representative of the Village access to the premises of the massage establishment or to hinder such access in any manner. Refusal by the licensee to allow the Village representative access to the establishment shall be grounds for revoking the massage establishment license.

I. Employment of Licensed Massage Therapists: No massage therapist may be employed in a massage establishment who does not hold a current, valid license issued by the Illinois Department of Professional Regulation, as required by the Act, which license may not have been suspended, revoked, or temporarily suspended under that act. Each massage establishment shall maintain a current listing of all licensed massage therapists who perform massage services at the massage

establishment, along with proof of their valid and current Illinois license, and must allow inspection of such records at any reasonable time upon the request of any representative of the Village.

J. Operating Requirements:

1. Every portion of the massage establishment, including any and all appliances, apparatus, or other mechanical and therapeutic devices, shall be kept clean and operated under sanitary conditions.
2. Price rates for all massage services shall be prominently posted in the reception area of the massage establishment in a location available to all prospective customers.
3. All employees and massage therapists shall wear clean, nontransparent outer garments fully covering the sexual and genital areas, and any written or visual depiction of an employee or massage therapist associated, director or indirectly, with the establishment or massage services shall not show, state, or insinuate that the employee or massage therapist is dressed in less than nontransparent outer garments fully covering the sexual and genital areas or that employee or massage therapist engages in escort services or any sexual act or performance for compensation.
4. All massage establishments shall be provided with clean laundered sheets and towels in sufficient quantity, which shall be laundered after each use thereof and stored in a sanitary manner. All towels and linens furnished for use of one patron shall not be furnished for use of another patron until laundered.
5. The sexual or genital areas of clients must be covered with nontransparent towels, cloths, or undergarments when in the presence of an employee or massage therapist.
6. All walls, ceilings, floors, pools, showers, baths, and steam rooms and any other physical facilities shall be kept in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the massage establishment is in operation. Bathtubs and showers shall be thoroughly cleaned after each use. Flooring shall consist of non-porous material and walls and ceilings shall consist of smooth, cleanable surfaces in areas subject to moisture in

compliance with applicable health and plumbing regulations.

7. Oils, creams, lotions, and other preparations used in administering massages shall be kept in clean, closed containers or cabinets.
8. The facility shall be accessible for persons with disabilities and not contain a full kitchen or sleeping quarters. The serving of meals shall be prohibited.
9. Store front windows shall not be opaque and the waiting area shall be visible from the exterior. Any signage or displays shall comply with the Village Zoning Ordinance.
10. At all times that the establishment is open to the public exterior doors shall remain unlocked.
11. At all times the establishment is open to the public an Illinois licensed massage therapist shall be on the premises.
12. A copy of a valid massage therapist license issued by the Illinois Department of Professional Regulation pursuant to the Act for each massage therapist shall be displayed in a conspicuous place within the establishment at all times.
13. Each massage therapist shall wash their hands in running water using a proper soap or disinfectant before administering any massage to any customer or client.
14. It shall be unlawful for any employee or massage therapist in the massage establishment to place their hand upon, to touch with any part of a client's body, or fondle in any manner, or massage a sexual or genital area of any person or to cause a person to touch, massage, or fondle the sexual or genital or gluteal area of the employee or massage therapist of the establishment.
15. No massage therapist, employee, or licensee shall perform, offer, or agree to perform any act which shall require the touching of a client's sexual or genital area.
16. No massage therapist shall administer a massage to a client exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption, unless a physician duly licensed by the State shall certify in writing that such person may be safely massaged and shall describe the conditions under which such massage may be performed.

17. Table showers are prohibited, as well as in-shower massages.
18. No client shall be permitted to record or transmit still or moving images in any area of the massage establishment, including, without limitation, still or video cameras, video recorders, camera phones, or any similar device except a law enforcement officer using such device pursuant to a valid court order authorizing such use.
19. It shall be unlawful for any person, corporation, firm, or association licensed under this Section to provide massage therapy services between the hours of 10 p.m. and 8 a.m. Only employees engaged in the actual conduct of cleaning or closing the business shall be allowed in the premises during closed hours. The licensee shall not dispatch massage therapists to work off premises on behalf of the massage establishment at any time except when the licensee has received prior written approval from the Village Administrator.

K. Cleanliness of Premises: Every massage establishment shall comply with the following minimum requirements:

1. All massage tables, lavatories, and floors shall have surfaces which may be readily disinfected.
2. Toilet facilities shall be provided within the massage establishment. Separate men's and women's toilet rooms shall be provided by applicable plumbing code. A lavatory capable of providing both hot and cold running water shall be installed in each toilet room and shall be supplied with soap and a dispenser with sanitary towels.
3. Closed cabinets shall be provided for use in the storage of clean linens, towels, and other materials used in administering massage services. All soiled linens, towels, and other materials shall be kept in properly covered containers or cabinets, which shall be kept separate from the clean storage areas.
4. Sections 32.04-K-2 and 3 shall not apply to a massage establishment where all massages are administered to patrons who are fully clothed and where there is no application of oils, creams, lotions, or other liquids to the body of any client.

L. Advertising Restrictions: No massage establishment shall depict, place, publish, distribute, or cause to be depicted, placed, published, or distributed any advertising matter that suggests to prospective clients that any services

are available other than those services permitted by this Section, or engaged in illegal services and/or escort services and/or which would suggest that employees or massage therapists are dressed in any manner other than that permitted by this Section. Any licensed establishment is expected to actively monitor advertising for its establishment and its employees or any other information pertaining to be within its operations. A violation of this paragraph shall be presumed to be with the knowledge of the licensee, without further proof of actual or constructive knowledge, if the advertising persists for seven days after the Village identifies a potential violation of this section.

M. Employment of Minors: It shall be unlawful for any massage establishment to employ any person who is not at least 18 years of age.

N. License Exemptions: The licensing requirements of this Section shall not be applicable to:

1. Hospitals, nursing homes, sanitariums, or any facility at which a health care worker duly licensed by the State provides, on an ongoing basis, professional health services to individuals, including the offices of an occupational therapist licensed under the Occupational Therapy Practice Act (225 ILCS 75/1, et seq.); a physical therapist licensed under the Physical Therapy Act (225 ILCS 90/1, et seq.), a physician or chiropractic physician licensed under the Medical Practice Act (225 ILCS 60/1, et seq.), and a naprapath licensed under the Naprapathic Practice Act (225, ILCS 63/1 et seq.).
2. Any barber, cosmetologist, or nail technician lawfully carrying on their respective business to the extent authorized under a valid unrevoked license or certificate or registration issued by the State. Provided, this exemption is only intended to permit normal and customary barber, cosmetologist, or nail technician services which involve incidental physical contact, such as scalp rubs and facials, which otherwise qualify as massage activities. This exemption is not intended to include, and does not permit, general massage activities as part of any barber, cosmetologist, or nail technician business beyond that authorized by the State license or certification.
3. Any State registered athletic trainer who administers such athletic-related massage in the normal course of training duties.
4. Where massage services are actually performed at the patron's premises, including the patron's place of business or residence, a Village license

shall not be required for such patron's premises. However, a State massage therapist's license shall be required for the massage therapist performing massage activities in such patron's premises.

5. Bona fide health/sport establishments which allow persons of all ages on the premises and meeting the following criteria:
  - a. The primary purpose of the establishment is health and fitness; massage service is subsidiary;
  - b. No more than 20 percent of the establishment revenue is derived from massage; and
  - c. Massage facilities shall not occupy more than 10 percent of the establishment.

O. License Revocation or Suspension: Revocation or suspension of a license may be in addition to any fine or penalty which may be imposed. The Village Administrator or designee shall have the power to revoke or suspend any license for cause. Cause shall exist in any of the following situations where:

1. The licensee has either intentionally or carelessly misrepresented any material fact on the license application upon which the Village relied on in issuing such license.
2. The licensee fails to continuously comply with all conditions required as precedent to the approval of the license.
3. After the granting of any license, the licensee shall have violated any applicable regulation or provision of any Village ordinance or this Code.
4. The licensee refuses to allow authorized Village personnel to enter the licensed premises at any reasonable hour.
5. After investigation and upon the recommendation of the appropriate Village official, the licensee is conducting such licensed activity in such a manner as to constitute a breach of peace, or a menace to health, safety, or welfare of the public, or a disturbance of the peace or comfort of residents of the Village.
6. The activity licensed is conducted in violation of any applicable State statute or administrative regulation, or where the licensee has failed to obtain or retain a necessary State license.

7. After the granting of any license, the licensee is convicted of a felony or has unsuccessfully defended in a criminal or civil proceeding wherein the licensee was charged with fraud, misrepresentation, or unscrupulous business conduct.
8. Any required bond or insurance has expired or been cancelled.
9. When the licensed business or activity is protected by the First Amendment of the Constitution of the United States, the revocation or suspension of a license shall be reviewed by the President pursuant to Section 32.04-P.

P. Appeal:

1. Any applicant or licensee who receives a notice of denial, revocation, or suspension may file an appeal with the President as provided herein. Such appeal shall be filed in writing no later than 11 business days following receipt of the notice, and shall include a response to the Village Administrator's notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the Village Administrator's notice and shall set forth the basis for why the license should not be denied, revoked, or suspended. If an appeal is filed of an order of the Village Administrator suspending or revoking a license, such suspension or revocation shall be stayed pending final order of the President as provided in this Section.
2. The President shall schedule an informal hearing not later than 11 business days following receipt of such appeal. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied, or why the license should not be suspended or revoked. A record shall be made of the informal hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The President shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant or licensee to provide additional information. The President may designate a hearing officer to schedule, convene and conduct the hearing. In such case, the hearing officer shall have the same powers as the President to administer oaths and continue the hearing from time to time to permit the applicant or licensee to provide additional information. Where such designation has been made, the hearing

officer shall submit proposed findings of fact and recommendations to the President within 21 days of the close of the hearing.

3. Within 21 days after the close of the hearing set forth herein, the President shall make written findings of fact and issue an appropriate order. Within five business days a copy of such order shall be served upon the applicant or licensee. If the President determines that the license should be revoked or suspended, the suspension or revocation shall take effect immediately receipt unless otherwise specified.
4. The decision of the President provided herein shall be the final administrative action of the Village with respect to the license or application, and shall be subject to the immediate appeal by the licensee or applicant to the 22nd Judicial Circuit Court. Such appeal to the circuit court shall be filed not later than 35 days following receipt of the President's findings and order. Failure to file such appeal as provided herein shall render the President's decision final.

Q. Unless otherwise noted in this Subsection 32.04-Q, the provisions of this Section shall be effective and enforceable upon publication. Any Massage Establishment already registered with the Village as an operating business as of the date of Village Board approval shall have until June 30, 2016 to come into compliance with all provisions of this Section.

R. Violation - Penalty: In addition to the provisions set forth in Subsection 32.04-O for the revocation and suspension of licenses, any person who violates any provision of this Section shall, upon conviction thereof, be punished by a fine of \$500-\$2,000 plus legal costs. Each day that a violation is found to have existed shall be deemed a separate violation.

**32.05        RESERVED**

**32.06        ADULT ENTERTAINMENT ESTABLISHMENTS**

**32.06.01    DEFINITIONS**

In addition to the definitions in Appendix A of this Code, for the purposes of this Section 32.06, the following definitions, whether capitalized or not, are applicable to this Section:

**Adult Booth:** Any area of an adult entertainment establishment set off from the remainder of such Establishment by one or more walls or other dividers or partitions and used to show, play or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction or description of specified

anatomical areas or the conduct or simulation of specified sexual activities.

**Adult Entertainment Establishment:** Also referred to as **Establishment** in this Section, any of the following commercial establishments, as defined herein:

1. **Adult Cabaret:** Any commercial establishment that features, provides, or allows to be conducted on the premises any of the following:
  - a. Persons who appear nude.
  - b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.
  - c. Films, motion pictures, video or audio cassettes, slides, web-based videos, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
2. **Adult Store:** Any commercial establishment that contains one or more adult booths; or where 25 percent or more of its stock in trade includes, books, magazines, films for sale or viewing on premises by use of motion picture devices, computers, or web-based videos or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, explicit sexual conduct (whether auto-erotic, heterosexual, homosexual or otherwise), bestiality or sadomasochistic activity.
3. **Adult Theater:** Any commercial establishment in which 25 percent or more of its business features or provides films, motion pictures, video or audio cassettes, slides, web-based videos, or other visual representations or recordings that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.

**Adult Establishment Employees:** Any individuals, including entertainers, who work in or at, or render any services directly related to the operation of an Establishment provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food and beverages, or performing maintenance or repairs to the licensed premises.

**Adult Establishment License:** A license issued for an Establishment pursuant to the provisions of this Section. The term "License" shall also mean an adult establishment license.

**Adult Establishment Patron or Patron:** Any individual, other than an Establishment employee, present in or at any Establishment at any time when such Establishment is open for business; provided, however, that this definition shall not include persons delivering goods, materials (other than adult materials), food and beverages, or performing maintenance or repairs to the licensed premises.

**Adult Material:** Any of the following, whether new or used:

1. a. Books, magazines, periodicals or other printed matter, or digitally stored materials; or
- b. Films, motion pictures, video or audio cassettes, slides, computer displays or other visual representations or recording of any kind; that are distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.
2. Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

**Adult Use Commission or Commission:** A commission appointed by the Adult Use Commissioner pursuant to Section 32.06.02 herein.

**Adult Use Commissioner or Commissioner:** The President of the Village pursuant to Section 32.06.02 herein.

**Commercial Establishment:** Any place where admission, services, performances or products are provided for or upon payment of any form of consideration.

**Days:** Calendar days, unless otherwise specifically set forth in this Section.

**Licensed Premises or Premises:** The place or location described on a License where an Establishment is authorized to operate. No sidewalks, streets, parking areas, public rights-of-ways or grounds adjacent to any such place or location shall be included within the licensed premises.

**Licensee:** Any person or entity that has been issued a License pursuant to the provisions of this Section.

**Nude or State of Nudity:** A state of dress or undress that exposes to view (a) less than completely and opaquely covered human genitals, pubic region, anus or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast

exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areolae is not exposed; or (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state. This definition also includes a state of dress or undress in which clothing covers no more than the genitals, pubic region and areolae of the female breast, as well as portions of the body covered by supporting straps or devices or any other minor accessory apparel such as hats, gloves and socks.

**Reviewing Departments:** The Police Department, Community Development Department and the office of the Administrator of the Village.

**Section:** This Section 32.06 of the Lake in the Hills Municipal Code.

**Specified Anatomical Areas:** Any of the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breast below a point immediately above the top of the areolae, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areolae is not exposed.
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered, or any device or covering that, when worn, simulates human male genitals in a discernibly turgid state.

**Specified Criminal Act:** Any unlawful lewd, indecent or immoral sexual conduct, including specifically, but without limitation, any of the lewd, indecent or immoral sexual criminal acts specified in any of the follow statutes, as shall be amended from time to time:

1. Article 11, Sex Offenses, of the Illinois Criminal Code 720 ILCS 5/11 et seq.).
2. Section 5/26-4, Unauthorized Videotaping (720 ILCS 5/26-4).
3. Article 33D-1, Contributing to the Criminal Delinquency of a Juvenile, (720 ILCS 5/330-1).
4. The Harassing and Obscene Communications Act (720 ILCS 5/26.5-0.1 et seq.).
5. The Wrongs to Children Act (720 ILCS 150/0.01 et seq.).
6. The Improper Supervision of Children Act (720 ILCS 640/0.01 et seq.).

7. The Sale of Immoral Publications to Children Act (720 ILCS 670/0.01 et seq.).
8. Trafficking in persons, involuntary servitude and related offenses (720ILCS 5/10-9).

**Specified Sexual Activities:** Any of the following:

1. Fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
3. Masturbation, actual or simulated.
4. Human genitals in a state of sexual stimulation, arousal or tumescence.
5. Excretory functions as part of or in connection with any of the activities set forth in this definition.

**Straddle Dance:** The use by any person, including specifically, but without limitation, an Establishment employee, of any part of his or her body to touch the genitals, pubic region, buttock, anus or female breast of any Establishment patron or any other person, or the touching of the genitals, pubic region, buttock, anus or female breast of any person by any Establishment patron. Conduct shall be a "straddle dance" regardless of whether to "touch" or "touching" occurs while the person is displaying or exposing any specified anatomical area. Conduct shall also be a "straddle dance" regardless of whether the "touch" or "touching" is direct or through a medium. Conduct commonly referred to be the slang terms "lap dance," "table dance" and "face dance" shall be included within this definition.

**Zoning Code:** The Lake in the Hills Zoning Code, as amended.

### **32.06.02 ADULT USE COMMISSIONER AND ADULT USE COMMISSION**

A. ADULT USE COMMISSIONER: The President is hereby designated as the Adult Use Commissioner ("Commissioner") pursuant to the terms and conditions of this Section. The Commissioner shall have the following powers and duties:

1. To administer and rule upon the applications for, and the issuance, renewal, suspension and revocation of Licenses as set forth herein.
2. To conduct or provide for such inspection of Establishments as shall be necessary to determine and ensure compliance with the provisions of this Section and other applicable provisions of law.
3. To periodically review the provisions of this

Section and the conduct and operation of Establishments and Licensees and to make such related reports and recommendations to the Board of Trustees as the Commissioner shall deem necessary.

4. To appoint members of the Board of Trustees to serve on the Adult Use Commission ("Commission") as set forth in Section 32.06.02-B herein.
5. To direct the Commission to conduct such hearings, studies and reports on Establishments, and the regulations relating thereto, as the Commissioner shall deem necessary.
6. To take such further actions as the Commissioner shall deem necessary to carry out the purposes and intent of this Section and to exercise such additional powers in furtherance thereof as are implied or incident to those powers and duties expressly set forth herein.

B. ADULT USE COMMISSION:

1. Creation: The Adult Use Commission is hereby created and established for the purposes set forth in this Section.
2. Composition: The Commissioner may, but shall not be required to, appoint one or more members of the Board of Trustees from time to time to serve at the will of the Commissioner and to advise the Commissioner on matters relating to the implementation and enforcement of the regulations set forth in this Section and to the exercise of the Commissioner's powers and duties under this Section. The person or persons appointed by the Commissioner, along with the Commissioner, shall comprise the Commission.
3. Filing of Appointments: The Commissioner shall file a written appointment of each member of the Commission with the Clerk.
4. Duties: The Commission shall have the following powers and duties:
  - a. At the direction of the Commissioner, to recommend to the Commissioner such further regulations regarding Establishments and Licenses as the Commissioners may deem necessary to protect the public health, safety and welfare or to otherwise carry out the purposes and objectives of the regulations established in this Section.

- b. To conduct and prepare hearings, studies and reports upon matters referred to the Commission by the Commissioner and to make such reports and recommendations relating thereto as are requested by the Commissioner.
- c. To conduct such hearings on the revocation or suspension of a License as required pursuant to Section 32.06.08 herein.

### **32.06.03 ADULT ESTABLISHMENT LICENSES GENERALLY**

A. ADULT ESTABLISHMENT LICENSE REQUIRED: A License shall be required to establish, operate or maintain an Establishment within the Village.

B. OPERATION WITHOUT LICENSE PROHIBITED: It shall be unlawful for any person or business not having a current and valid License to establish, operate or maintain an Establishment within the Village at any time, or allow any person to conduct any activity which would require a License under this Section, inside or outside of a business. Without limitation of other indicia of knowledge or intent, a person or business will be presumed to have allowed the activity if (1) that person is on the premises which the person owns or controls, or (2) if the business is open while the unlawful activity is occurring, and has not promptly informed the police of the unlawful activity.

C. OPERATION IN VIOLATION OF LICENSE PROHIBITED: It shall be unlawful for any licensee to establish, operate or maintain an Establishment within the Village except in the manner authorized by, and in compliance with, the provisions of this Section and the License.

D. CONTENT AND DISPLAY OF LICENSE: Every License shall be provided by the Village and shall, at a minimum, prominently state on its face the name of the licensee, the expiration date and the address of the Establishment. Every licensee shall cause the License to be framed, covered by glass and hung at all times in plain view in a conspicuous place on the licensed premises so it can be easily seen and read at any time by any person entering the licensed premises.

E. LICENSE TERM: Except as hereinafter provided, Licenses shall be operative and valid, unless first terminated, suspended or revoked, only for a term commencing on the date of issuance and terminating on December 31, of that same year.

F. RENEWAL: A License may be renewed only by making application as required for an initial License pursuant to Section 32.06.04 herein. Application for renewal shall be made at least 30 days before the expiration of the then current License term. The expiration of the License shall not be affected or extended by a renewal application that is made less

than 30 days before expiration.

#### **32.06.04 FORM AND SUBMITTAL OF LICENSE APPLICATIONS**

A. LICENSE FEE: The annual license fee for each Adult Entertainment establishment shall be \$250.

B. APPLICATION REQUIREMENTS: Any person desiring to operate an establishment shall make application for a license to the Village Administrator, or designee, on a form supplied by the Village. The application shall include, but not be limited to, the following items:

1. The name of the person(s) who will serve as the licensee under whose management or supervision the establishment will be operated;
2. The applicant and each employee shall supply a photo ID and social security number and will be fingerprinted by the Police Department. In connection with the applicant or any employee, written authorization for the Chief of Police to conduct a criminal background investigation;
3. A description of the proposed establishment, including the number of employees, other activities or business conducted at the same location, the physical facilities to be used, and a scaled drawing showing all ingress and egress locations and windows, and a floor layout diagram of the premises. If any construction, demolition, or alteration work is to be done, a building permit shall be obtained through the Village;
4. In the event the property is leased, a copy of the lease shall be submitted with the application that contains the name, address, and phone number of the property owner; and
5. Such other information as the Village may request.

C. ADDITIONAL REQUIRED INFORMATION AND DOCUMENTS: All applications shall also include the following:

1. The general character and nature of the business of the applicant and the length of time the applicant has been in the business.
2. The location, including street address and legal description, and telephone number of the premises.
3. The specific name of the business that is to be operated under the License.

4. The identity of each fee simple owner of the premises.
5. The names of each governmental body from which, within 5 years immediately prior to the date of the present application, the applicant, or any of the individuals identified in the application, has received a license or other authorization to conduct or operate a business substantially the same as an Establishment, and the names and addresses of each such business.
6. The specific type or types of Establishment(s) that the applicant proposes to operate in the premises.
7. A copy of each License or any license substantially the same as an Establishment License currently held by the applicant or any of the individuals identified in the application.
8. Whether the applicant or any of the individuals identified in the application, has been, within five years immediately preceding the date of the application, convicted of, or pleaded nolo contendere to any Specified Criminal Act. As to each conviction, the applicant or other individuals shall provide the conviction date, the case number, the nature of the misdemeanor or felony violation(s) or offense(s), and the name and location of the court.
9. Whether the applicant, or any of the individuals identified in the application, has had a license or other authorization to conduct or operate a business substantially the same as an Establishment revoked or suspended, and, if so, the date and grounds for each such revocation or suspension, and the name and location of the establishment at issue.
10. The name of the individual or individuals who shall be the day-to-day, on-site managers of the proposed Establishment. If the manager is other than the applicant, the applicant shall provide, for each manager, all of the information required pursuant to Section 32.06.04-B and Sections 32.06.04, 05, 08, and 0
11. All persons identified in the application pursuant to Sections 32.06.04-B herein are at least 21 years of age and not under any legal disability.

## 32.06.05 PROCESSING LICENSE APPLICATIONS

### A. Investigation Before License Issuance:

1. In addition to the investigation required in Section 32.06.04, the Chief of Police (or designee) shall have the right and opportunity to conduct a criminal background check, and any other background check or screening of the applicant, licensee or any employee, at any time before or subsequent to a license being issued. Payment of all costs associated with any investigation or criminal background check pursuant to this Section shall be paid by the applicant.
2. Any information concerning criminal convictions or findings of guilt obtained by the Village shall be confidential and may not be transmitted outside the Village, except as required herein, and may not be transmitted to anyone within the Village except as needed for the purpose of evaluating the applicant, an employee, or other person investigated pursuant to this Section.

B. Issuance of License: If the Village Administrator determines that the applicant and premises are in compliance with the applicable laws of the Village and the State, the Village Administrator, or designee, shall issue the license.

C. Grounds for Denial or Denial of Renewal of License: When the investigation reveals any of the following circumstances, the Village Administrator or designee shall promptly notify the applicant or license holder that the application is disapproved and that no license shall issue or be renewed. Circumstances include, but are not limited to:

1. Location of the business does not comply with the Village Zoning Ordinance or any other Village ordinance.
2. Building or premises does not comply with Chapter 24, Building Code, of this Code.
3. Applicant/licensee or the premises do not comply with all local health, fire, and safety regulations.
4. Applicant/licensee has failed to comply with any applicable provision of this Code.
5. Applicant/licensee has failed to comply with any applicable State law or administrative regulation, or when the applicant/licensee has failed to obtain a necessary license from the State.

6. Applicant/licensee fails to provide or maintain current licensing records.
7. Applicant/licensee refuses to allow authorized Village personnel to enter the business premises at any reasonable hour for the purpose of making a pre-license investigation.
8. Applicant/licensee operated an adult establishment or activity in the past or currently operates such a business or activity, and failed to obtain a license or failed to pay the licensing fee. This requirement, however, will be waived if the applicant/licensee first pays all past due license fees, in addition to any penalties assessed pursuant to this Section.
9. Applicant/licensee or any employee/agent has previously been convicted of a felony or any other crime of moral turpitude, or when the applicant/licensee has unsuccessfully defended a criminal or civil proceeding wherein the applicant/licensee was charged with fraud, misrepresentation, or unscrupulous business practices.
10. In addition to Section 32.06.01 Specified Criminal Acts, if Applicant/licensee or any employee/agent has been convicted (including a sentence of supervision or conditional discharge) of the following offenses:
  - a. Any offense involving sexual misconduct with children or sex offenses as defined in 720 ILCS 5/11-6 et seq., as amended; or
  - b. A felony based upon conduct or involvement in such business or activity or related or similar business or activity, within the past 10 years; or
  - c. A felony unrelated to conduct or involvement in such business or activity or related to similar business or activity, but which felony involved the use of a deadly weapon, violations of the Cannabis Control Act (721 ILCS 550/1 et seq.) or the Controlled Substance Act (720 ILCS 570/100 et seq.) or violence against another person, including rape, within the past five years; or
  - d. A misdemeanor or licensing ordinance violation, based upon conduct or involvement in such business or activity or related or
  - e. An offense in any other state, or a federal

offense, the elements of which are similar and bear a substantial relationship to any offenses enumerated in this Section.

11. Applicant/licensee's license issued under this Section has been revoked for cause or a similar license issued by another unit of government revoked for cause.
12. Applicant/licensee/ establishment license has been denied in the past 24 months under this Section or similar license application from another local unit of government.
13. Licensee, who at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon a first application.
14. Applicant is under the age of 21 years of age.
15. Grounds exist for revocation as provided in Section 32.06.08
16. In addition to the provisions stated hereinabove, no establishment license shall be issued or renewed under the following circumstances:
  - a. To a partnership, if any general partner thereof, or any limited partner owning more than 20 percent of the aggregate limited partner interest in such partnership, would not be eligible to receive a license hereunder.
  - b. To a corporation, if any officer or director, or any stockholder or stockholders owning in aggregate more than 20 percent of the stock of such corporation, would not be eligible to receive a license hereunder.
  - c. To a corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the Business Corporation Act of 1983 (805 ILCS 5/1.01 et seq.), as amended, to transact business in Illinois.
  - d. To any applicant whose place of business is conducted by a manager unless the manager possesses the same qualifications required by the licensee.
  - e. To any applicant who is not a beneficial owner of the business to be operated by the licensee.

17. Applicant/licensee is not a United States citizen or has status as a permanent resident alien or a valid work permit.
18. Any information requested on the application form is not provided.

**32.06.06 COMPLIANCE INSPECTIONS:**

Upon issuance of an establishment license, the licensee shall provide any representative of the Village with a reasonable opportunity to inspect the premises for which the license is requested and to interview the licensee's agents and employees for the purpose of determining that the provisions of this Section and other applicable ordinances and State and federal laws are being complied with. It shall be unlawful for any person to fail to allow any representative of the Village access to the premises of the establishment or to hinder such access in any manner. Refusal by the licensee to allow the Village representative access to the establishment shall be grounds for revoking the establishment license.

**32.06.07 ADVERTISING RESTRICTIONS:**

No establishment shall depict, place, publish, distribute, or cause to be depicted, placed, published, or distributed any advertising matter that suggests to prospective clients that any services are available other than those services permitted by this Section, or engaged in illegal services and/or escort services and/or which would suggest that employees are dressed in any manner other than that permitted by this Section. Any licensed establishment is expected to actively monitor advertising for its establishment and its employees or any other information pertaining to be within its operations. A violation of this paragraph shall be presumed to be with the knowledge of the licensee, without further proof of actual or constructive knowledge, if the advertising persists for seven days after the Village identifies a potential violation of this section.

**32.06.08 LICENSE REVOCATION OR SUSPENSION:**

Revocation or suspension of a license may be in addition to any fine or penalty which may be imposed. The Village Administrator or designee shall have the power to revoke or suspend any license for cause. Cause shall exist in any of the following situations where:

A. The licensee has either intentionally or carelessly misrepresented any material fact on the license application upon which the Village relied on in issuing such license.

B. The licensee fails to continuously comply with all conditions required as precedent to the approval of the license.

C. After the granting of any license, the licensee shall have violated any applicable regulation or provision of any

Village ordinance or this Code.

D. The licensee refuses to allow authorized Village personnel to enter the licensed premises at any reasonable hour.

E. After investigation and upon the recommendation of the appropriate Village official, the licensee is conducting such licensed activity in such a manner as to constitute a breach of peace, or a menace to health, safety, or welfare of the public, or a disturbance of the peace or comfort of residents of the Village.

F. The activity licensed is conducted in violation of any applicable State statute or administrative regulation, or where the licensee has failed to obtain or retain a necessary State license.

G. After the granting of any license, the licensee is convicted of a felony or has unsuccessfully defended in a criminal or civil proceeding wherein the licensee was charged with fraud, misrepresentation, or unscrupulous business conduct.

H. Any required bond or insurance has expired or been cancelled.

I. When the licensed business or activity is protected by the First Amendment of the Constitution of the United States, the revocation or suspension of a license shall be reviewed by the President pursuant to Section 32.06.08.05.

J. The licensee has committed a felony or specified criminal activities on the licensed premises.

K. The licensee authorizes, approves or, as a result of the licensee's negligent failure to supervise the premises or the Establishment, allows an Establishment employee, a patron or any other person to (i) violate any of the provisions or requirements of this Section or the provisions or requirements of the License issued pursuant hereto, or (ii) commit any felony or specified criminal activities on the licensed premises.

**32.06.08.05 APPEAL:**

A. Any applicant or licensee who receives a notice of denial, revocation, or suspension may file an appeal with the President, serving as Adult Use Commissioner, as provided herein. Such appeal shall be filed in writing no later than 11 business days following receipt of the notice, and shall include a response to the Village Administrator's notice. Such response shall include a brief statement addressing the substantive deficiencies cited in the Village Administrator's notice and shall set forth the basis for why the license should not be denied, revoked, or suspended. If an appeal is filed of an order of the Village Administrator suspending or revoking a license, such suspension or revocation shall be stayed pending final order of the President as provided in this Section.

B. The President shall schedule an informal hearing not later than 11 business days following receipt of such appeal. The purpose of the hearing will be to offer the applicant or licensee an opportunity to show cause why the application should not be denied, or why the license should not be suspended or revoked. A record shall be made of the informal hearing and documents may be submitted and/or testimony given, either in person or through sworn affidavit. This record may be made by electronic recording. The President shall have the power to administer oaths and to continue the hearing from time to time to permit the applicant or licensee to provide additional information. The President may designate a hearing officer to schedule, convene and conduct the hearing. In such case, the hearing officer shall have the same powers as the President to administer oaths and continue the hearing from time to time to permit the applicant or licensee to provide additional information. Where such designation has been made, the hearing officer shall submit proposed findings of fact and recommendations to the President within 21 days of the close of the hearing.

C. Within 21 days after the close of the hearing set forth herein, the President shall make written findings of fact and issue an appropriate order. Within five business days a copy of such order shall be served upon the applicant or licensee. If the President determines that the license should be revoked suspended, the suspension or revocation shall take effect immediately receipt unless otherwise specified.

D. The decision of the President provided herein shall be the final administrative action of the Village with respect to the license or application, and shall be subject to the immediate appeal by the licensee or applicant to the 22nd Judicial Circuit Court. Such appeal to the circuit court shall be filed not later than 35 days following receipt of the President's findings and order. Failure to file such appeal as provided herein shall render the President's decision final.

#### **32.06.09 CHANGE IN INFORMATION**

During the pendency of any application for, or during the term of, any License, the applicant Licensee shall promptly notify the Village in writing of any change in any material information given by the applicant or Licensee in the application for such License, including specifically, but without limitation, any change in managers of the Establishment or in the individuals identified in the application.

#### **32.06.10 REGULATIONS APPLICABLE TO ALL ADULT ENTERTAINMENT ESTABLISHMENTS**

A. GENERAL COMPLIANCE: All licensed premises and Establishments shall comply with the provisions of this Section; all other applicable Village ordinances, resolutions, rules and regulations; and all other applicable federal state and local laws.

B. HOURS OF OPERATION: No Establishment shall be open for business at any time between the hours of 12:00 a.m. and 12:00 noon on any weekday or Saturday or at any time on any Sunday or on any legal state or federal holiday.

C. ANIMALS: Except only for dogs required to assist persons with disabilities, no animals shall be permitted any time at or in any Establishment or licensed premises.

D. RESTROOMS: All restrooms in Establishments shall be equipped with standard toilets, sinks and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the Establishment restrooms. Separate male and female restrooms shall be provided for and used by Establishment employees and patrons.

E. RESTRICTED ACCESS: No Establishment patron shall be permitted at any time to enter into any of the non-public portions of any Establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of Establishment employees. The Section 32.06.10-E shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

F. SPECIFIC PROHIBITED ACTS:

1. No Establishment employee or any other person at any Establishment shall appear, be present or perform while nude.
2. No Establishment employee or any other person at any Establishment shall perform or conduct any specified sexual activity with or for any Establishment patron or any other Establishment employee or any other person. No Establishment patron or any other person at the Establishment shall perform or conduct any specified sexual activity with or for any Establishment employee or any other Establishment patron or any other person.
3. Straddle dances shall be prohibited at all Establishments.

G. EXTERIOR DISPLAY: No Establishment shall be maintained or operated in any manner that causes, creates or allows public viewing of any adult material, or any entertainment depicting, describing or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way or any property other than the lot on which the licensed premises is located. No portion of the exterior of an Establishment shall utilize or contain any flashing lights,

search lights or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent specifically allowed pursuant to Section 32.06.10-H herein with regard to signs. This Section 32.06.10-G shall apply to any advertisement, display, promotional material, decoration or sign; to any performance or show; and to any window, door or other opening.

H. SIGNAGE LIMITATIONS: All signs for Establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, but in no event exceeding 32 square feet. The maximum number of signs shall be one per street frontage. Signs otherwise permitted pursuant to this Section shall contain only (i) the name of the Establishment and/or (ii) the specific type of Establishment conducted on the licensed premises. Temporary signage shall not be permitted in connection with any Establishment.

I. NOISE: No loudspeakers or sound equipment audible beyond the licensed premises shall be used at any time.

J. GAMBLING AND RELATED DEVICES PROHIBITED: No Establishment shall contain any video, pinball, slot, bagatelle, pigeon-hole, pool or any other games, machines, tables or implements.

K. MANAGER'S STATION: Each Establishment shall have one or more manager's stations. The interior of each Establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of each area, except restrooms, of the Establishment to which a patron is permitted access for any purpose.

L. ALCOHOL PROHIBITION: No alcoholic liquor of any kind shall be sold, used, consumed or possessed at any time on any licensed premises.

### **32.06.11 SPECIAL REGULATIONS FOR ADULT BOOTHS**

A. PROHIBITED EXCEPT IN ADULT STORES: Adult booths shall be prohibited in all Establishments except adult stores.

B. OCCUPANCY AND PROHIBITED ACTS: Only one individual shall occupy an adult booth at any one time. No individual occupying an adult booth shall engage in any specified sexual activities. No individual shall damage or deface any portion of an adult booth.

C. OPEN BOOTH REQUIREMENT: In addition to satisfying the manager station requirements in Section 32.06.10-K herein, all adult stores containing adult booths shall be physically arranged in such a manner that the entire interior portion of each adult booth shall be visible from the common area of the

adult store. To satisfy this requirement, there shall be a permanently open and unobstructed entranceway for each adult booth and for the entranceway from the area of the adult store that provides other adult materials to the area of the adult store containing the adult booths. Each of these entranceways shall not be capable of being closed or obstructed, entirely or partially, by any door, curtain, partition, drape(s) or any other obstruction whatsoever that would be capable of wholly or partially obscuring the area of the adult store containing the adult booths or any person situated in an adult booth. It shall be unlawful to install adult booths within an Establishment for the purpose of providing secluded viewing of adult materials or live performances.

D. AISLE REQUIRED: There shall be one continuously lighted main aisle alongside the adult booths provided in any adult store. Each person situated in an adult booth shall be visible at all times from this aisle.

E. HOLES PROHIBITED: Except for the open adult booth entranceway, the walls and partitions of each adult booth shall be constructed and maintained of solid walls or partitions without any holes or openings whatsoever.

F. SIGNAGE: A sign shall be posted in a conspicuous place at or near the entranceway to each adult booth that states (i) that only one person is allowed in an adult booth at any one time, (ii) that it is unlawful to engage in any specified sexual activities while in an adult booth, and (iii) that it is unlawful to damage or deface any portion of an adult booth.

G. AGE LIMITATIONS:

1. No Establishment employee or patron in an adult booth or in a licensed premises that contains an adult booth shall be under the age of 21.
2. No person under the age of 21 shall be admitted to any adult booth or any licensed premises that includes an adult booth.
3. No person under the age of 21 shall be allowed or permitted to remain in any adult booth or at any licensed premises that includes an adult booth.
4. No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult booth or any licensed premises that includes an adult booth.

**32.06.12 SPECIAL REGULATIONS FOR ADULT CABARETS**

A. PERFORMANCE AREA: The performance area of an adult cabaret shall be limited to one or more stages or platforms

permanently anchored to the floor ("Stage"). Each Stage shall be at least 18 inches in elevation above the floor level of the patron seating areas. Each Stage shall be separated by a distance of at least eight feet from all areas of the premises to which patrons have access. A continuous barrier at least three feet in height and located at least eight feet from all points of each Stage shall separate each Stage from all patron seating areas. The barrier shall consist of horizontal or vertical members spaced no more than nine inches apart and nine inches from the floor or the walls to which it is attached.

B. LIGHTING: Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret so that all objects are plainly visible at all times. A minimum lighting level of not less than 30 lux horizontal, measured at 30 inches from the floor and on 10-foot centers shall be maintained at all times for all areas of the adult cabaret where patrons are admitted.

C. TIPPING: No tip or gratuity from any patron may be offered or accepted for any performance by an Establishment employee on any Stage at any time prior to the completion of any such performance. No patron shall offer, and no Establishment employee having performed on any Stage, shall accept any form of tip or gratuity offered directly to the Establishment employee by the patron. Rather, following completion of the performance, all tips and gratuities to Establishment employees performing on any Stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the Establishment.

D. NOTICE OF SELECT RULES: A sign at least two feet by two feet, with letters at least one inch high, shall be conspicuously displayed on or adjacent to every Stage stating the following, in capital letters:

This Adult Cabaret is regulated by the Village of Lake in the Hills. Entertainers are:

1. Not permitted to engage in any type of sexual conduct.
2. Not permitted to appear in a state of nudity.
3. Not permitted to accept tips or gratuities for any performance until after completion of the performance.
4. Not permitted to accept any tips directly from patrons even after completion of the performance. Any such tips must be placed into the receptacle provided by management.

E. AGE LIMITATIONS:

1. No Establishment employee or patron at an adult cabaret or a licensed premises used for an adult

cabaret shall be under the age of 21.

2. No person under the age of 21 shall be admitted to any adult cabaret or to any licensed premises used for an adult cabaret.
3. No person under the age of 21 shall be allowed or permitted to remain at any adult cabaret or at any licensed premises used as an adult cabaret.
4. No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult cabaret or any licensed premises used for an adult cabaret.

### **32.06.13 SPECIAL REGULATIONS FOR ADULT STORES**

A. **WINDOWS AND SIGNS:** Window areas for adult stores shall not be covered or obstructed in any way. No signs or other obstructions shall be placed in the windows.

B. **AGE LIMITATIONS:**

1. No Establishment employee or patron at an adult store or a licensed premises used for an adult store shall be under the age of 18.
2. No person under the age of 18 shall be admitted to any adult store or any licensed premises used for an adult store.
3. No person under the age of 18 shall be allowed or permitted to remain at any adult store or at any licensed premises used for an adult store.
4. No person under the age of 18 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult store or any licensed premises used for an adult store.

### **32.06.14 SPECIAL REGULATIONS FOR ADULT THEATERS**

A. **SEATING:** Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on couches, benches or any other multiple person seating structures. The number of seats shall equal the maximum number of persons who may occupy the adult theater.

B. **AISLE:** Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.

C. SIGN: Each adult theater shall have a sign posted in a conspicuous place at or near each entranceway to the auditorium or similar area that lists the maximum number of persons who may occupy the auditorium area, which number shall not exceed the number of seats in the auditorium area.

D. SPECIFIC PROHIBITED ACTS: No adult theater shall present, conduct or allow any live performance that is distinguished or characterized by an emphasis on the exposure, depiction or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

E. AGE LIMITATIONS:

1. No Establishment employee or patron at an adult theater or a licensed premises used for an adult theater shall be under the age of 21.
2. No person under the age of 21 shall be admitted to any adult theater or any licensed premises used for an adult theater.
3. No person under the age of 21 shall be allowed or permitted to remain at any adult theater or at any licensed premises used for an adult theater.
4. No person under the age of 21 shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult theater or any licensed premises used for an adult theater.

**32.06.15 LICENSEE RESPONSIBILITY FOR EMPLOYEES**

Unless promptly reported to the Village Administrator by the licensee or its designee upon learning of a violation, every act or omission by an Establishment owner, employee, or worker constituting a violation of the provisions of this Section shall be deemed to be the act or omission of the licensee. The licensee shall be punishable for any such act or omission in the same manner as if the licensee committed the act or caused the omission. Accordingly, any such act or omission of any such Establishment employee constituting a violation of the provisions of this Section shall be deemed, for purposes of determining whether the License shall be revoked, suspended or renewed, to be the act or omission of the licensee.

**32.06.16 ADMINISTRATIVE RECORD**

The Village shall cause to be kept an accurate record of every License application received and acted on, together with all relevant information and material pertaining to such application, any License issued pursuant thereto, and any Establishment operated pursuant to such License.

### **32.06.17 EMPLOYEE REGISTER**

The Licensee of every Establishment shall maintain a register of all of its Establishment employees and workers. For each such Establishment employee, the register shall include the following information:

1. Legal name;
2. Any and all aliases;
3. Current residential address and telephone number;
4. Date of birth;
5. Proof of United States citizenship or documentation confirming ability to work in the United States;
6. Date of commencement of employment;
7. Date of employment termination, if applicable; and
8. Specific job or employment duties.

The register shall be maintained for all current employees and all employees employed at any time during the preceding 36 months. The Licensee shall make the register of the Establishment employees available for inspection by the Village immediately upon demand at all reasonable times.

### **32.06.18 NUISANCE DECLARED**

Any Establishment that is operated or maintained in violation of any of the provisions of the Section or of the License shall be, and the same is, declared to be unlawful and a public nuisance. The Village may, in addition to or in lieu of any other remedies set forth herein, commence an action to enjoin, remove or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person from establishing, operating or maintaining an Establishment contrary to the provisions of this Section.

### **32.06.19 PENALTY**

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this Section or of any of the provisions or requirements of any License, shall be fined \$250 - \$750 for each violation. Any violation which occurs while minors are present shall result in a fine of \$750 for each violation. Each day such violation continues, shall constitute a separate offense. For Licensees, the Village shall give written notice to any such person of any such violation and the fine imposed by serving a citation in person or by certified U.S. mail, postage

prepaid, return receipt requested, addressed to the Licensee's address as set forth in the Licensee's application.

*Recodified 07/26/01*

*Amended 09/10/09*

*Amended 03/11/10*

*Amended 06/28/12*

*Amended 07/12/12*

*Amended 03/13/14*

*Amended 04/23/15*

*Amended 06/22/17*

*Amended 04/26/18*

*Amended 06/28/18*

*Amended 03/15/19*

*Amended 04/25/19*

*Amended 04/27/23*