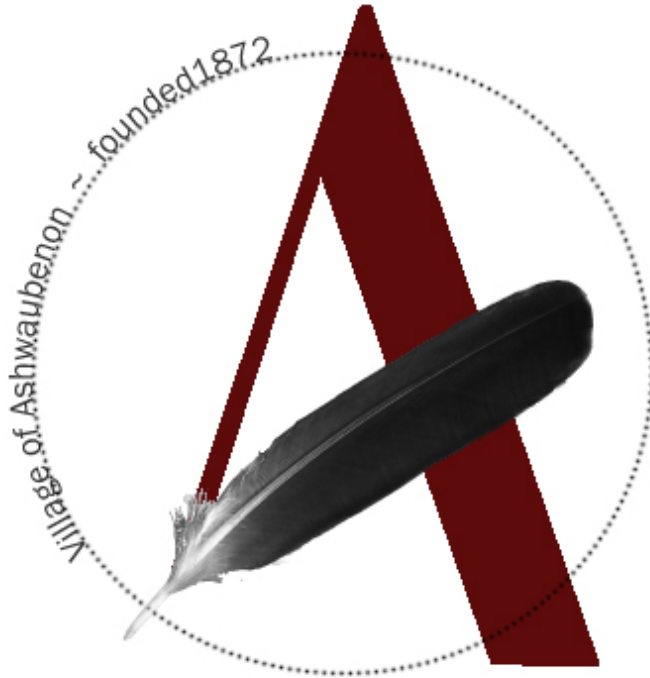


Village of Ashwaubenon

Municipal Code Book

Friday, March 24, 2017 2:53 PM



Printed for:
Chapter 3 - Alcohol Beverages

Municipal Code Book

Chapter 3 - Alcohol Beverages	4
Article 1 - In General	4
3-1-1 Definitions	4
3-1-2 Related State Statutes Adopted	5
3-1-3 Penalties	6
Article 2 - License	7
3-2-25 Applications	7
3-2-26 Payment of Taxes, Claims and Other Money Owed the Village	8
3-2-27 Licensing Procedures	8
3-2-28 License Fees	9
3-2-29 Inoperative or Unissued Licenses	9
3-2-47 Intent	9
3-2-48 Hearing Form	9
3-2-49 Grounds	9
3-2-52 Hearing Procedures	11
3-2-53 Recommendations	12
3-2-54 Village Board Action	12
3-2-55 Nonrenewal	13
3-2-56 Appeal	13
3-2-86 Statutory Requirements	13
3-2-87 Location	13
3-2-88 Health and Sanitary Requirements	13
3-2-89 Delinquent Payment	14
3-2-90 Closing Hours	14
3-2-91 Disorderly House	15
3-2-92 Outdoor Areas	15
3-2-93 Separate Area For "Class A" (Liquor) License	16
3-2-94 Use of Temporary Class "B" (Picnic) License	17
3-2-95 Violation of Stipulation or Agreement	17
3-2-96 Allowing Entry	17
3-2-97 Pyrotechnics and Fireworks	18
3-2-98 Compliance Meeting	18
3-2-99 "Class B" Combination Beer and Liquor License; Hotel and Restaurant Quota Exceptions	18
3-2-100 Quotas	18
3-2-101 Nude Dancing in Licensed Establishments Prohibited	19
3-2-102 Possession of Alcohol Beverages on School Grounds	20
3-2-103 Sales to Intoxicated Persons	21
3-2-104 Free Alcohol Beverages in Restaurants	21
3-2-105 Consumption in Public Place Without License or Permit Prohibited	21
3-2-106 Place-to-Place Deliveries	21
3-2-107 Intoxicants in Public	21

3-2-108 Furnishing Alcohol Beverages in Hotel or Motel Rooms	22
3-2-109 Penalty	22
3-2-110 Social Host	23
3-2-127 Application	25
3-2-128 Term of License; Items to be Available for Inspections	25
3-2-129 Provisional Operator's License	25
3-2-130 Denial of License; Notice; Appeal	25

Chapter 3 - Alcohol Beverages

Article 1 - In General

3-1-1 Definitions

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

Alcohol beverages means fermented malt beverages and intoxicating liquor.

Available license means a "Class B" (liquor) license that may be granted because the village has granted fewer of such licenses than permitted the village under Wis. Stat. § 125.51(4)(b)1g.

Club means an organization, whether incorporated or not, which is the owner, lessee, or occupant of the building or portion thereof used exclusively for club purposes, which is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, but not for pecuniary gain, and which only sells alcohol beverages incidental to its operation.

Fermented malt beverages means any beverage made by the alcohol fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5 percent or more of alcohol by volume.

Granted license means a license approved for issuance by the village board. Issuance is conditioned upon verification by the public safety department that the licensee to whom the license has been granted is in compliance with this chapter and the qualification provisions of Wis. Stat. Ch. 125.

Inoperative license means an issued license under which the licensed activity is no longer occurring on the licensed premises.

Intoxicating liquor means all ardent, spirituous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented or not, and by whatever name called containing 0.5 percent or more of alcohol by volume, which are beverages, but does not include fermented malt beverages.

Issued license means a license which has been granted, approved by the proper authorities, and delivered by the village clerk-treasurer to the licensee.

License means an authorization to sell alcohol beverages granted by the village board under this chapter. The village board is hereby authorized to grant the following licenses:(1) Class "A" (beer) license authorizes retail sales of fermented malt beverages in original packages, containers, and bottles for consumption off the premises where sold.

(2) "Class A" (liquor) license authorizes the retail sale of intoxicating liquor in original packages, containers, and bottles for consumption off the premises where sold.

(3) Class "B" (beer) license authorizes retail sales of fermented malt beverages to be consumed whether on or off the premises where sold.

(4) "Class B" (liquor) license authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. Wine, however, may be sold for consumption off premises in the original package or otherwise in any quantity.

(5) "Class B" combination license is a license which results when one licensee applies for both a class "B" (beer) license and a "class B" (liquor) license for use at one premises.

(6) Temporary class "B" (picnic) "class B" wine licenses means a temporary class "B" (picnic) license and a "class B" wine license is issued to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges, or societies that have been in existence for not less than six months prior to the date of the application, or to veteran organizations or posts, authorizing them to sell fermented malt beverages and wine containing not more than six percent alcohol by volume at a particular picnic, gathering, or meeting, or during a fair conducted by a fair association or an agricultural society.

(7) Wholesalers' fermented malt beverage license authorizes the sale of fermented malt beverages only in original packages or containers to retailers or wholesalers not to be consumed on or about the premises where sold.

(8) "Class C" (wine) license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

Premises means the area described in a license or permit.

Regulation means any rule or ordinance adopted by the village board.

Reserve license means a "Class B" (liquor) license as defined in Wis. Stat. § 125.51(4)(a)4, other than an available license, granted pursuant to Wis. Stat. § 125.51(3)(e)2.

Restaurant means any building, room or place where meals or lunches are prepared, served, or sold to the general public.

Sell, Sold, Sale, or Selling means any transfer of alcohol beverages with consideration or any transfer without consideration knowingly made for the purpose of evading the law relating to the sale of alcohol beverages or any shift, device, scheme, or transaction for obtaining alcohol beverages, including solicitation of order for, or the sale for future delivery of, alcohol beverages.

Wine means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5 percent or more of alcohol by volume.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-1-2 Related State Statutes Adopted

(A) The following provisions of Wis. Stat. Ch. 125, relating to the sale of intoxicating liquors and fermented malt beverages, exclusive of any provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are hereby adopted and made part of this chapter as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

(1) Wis. Stat. § 125.04: General licensing requirements.

(2) Wis. Stat. § 125.06: License and permit exceptions.

- (3) Wis. Stat. § 125.07: Restrictions on sales to minors and intoxicated persons.
- (B) In addition to the statutes adopted in subsection (A) of this section, the following provisions of Wis. Stat. Ch. 125, relating to the presence of minors in places of sale, and possession by minors; penalties, are hereby adopted and made part of this chapter as if set forth herein:
 - (1) Wis. Stat. § 125.085: Proof of age.
 - (2) Wis. Stat. § 125.09: General restrictions.
 - (3) Wis. Stat. § 125.17: Issuance of operator's licenses.
 - (4) Wis. Stat. § 125.32: General restrictions and requirements.
 - (5) Wis. Stat. § 125.51: Retail licenses and permits.
 - (6) Wis. Stat. § 125.66: Sales without license; failure to obtain permit; penalties.
 - (7) Wis. Stat. § 125.67: Evading provisions of law by giving away intoxicating liquor; penalties.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-1-3 Penalties

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

Licensee means the person to whom the license has been issued or such person's agents, employees, or assigns.

Violation means any violation of this chapter, except violations of section 3-2, adopting Wis. Stats. §§ 125.07(1), 125.07(4), 125.085, and 125.09(2).

- (B) *Forfeiture.* Any person violating a provision of this chapter where no penalty is specified shall be subject to a forfeiture of not less than \$1.00 nor more than \$500.00 for each offense.
- (C) *License Suspension.* A court shall suspend any license or permit issued under this chapter for:
 - (1) Not less than three nor more than seven days if the court finds that the licensee committed a violation within 24 months after committing one previous violation.
 - (2) Not less than seven nor more than 15 days if the court finds that the licensee committed a violation within 24 months after committing two previous violations.
 - (3) Not less than 15 nor more than 30 days if the court finds that the licensee committed a violation within 24 months after committing three previous violations.

- (4) Not less than 45 nor more than 90 days if the court finds that the licensee committed a violation within 24 months after committing four previous violations.
- (D) *License revocation.* A court shall revoke any license or permit issued under this chapter if the court finds that the licensee committed a violation within 24 months after committing five previous violations.
- (E) *Counting.* For purposes of counting previous violations under subsections (C) and (D) of this section, multiple violations arising out of the same incident and on the same date shall be considered a single violation.
- (F) *Specific Violations.* Any person violating Wis. Stats. §§ 125.07(1), 125.07(4), 125.085, and 125.09(2) as adopted in section 3-2, shall be subject to the penalties provided therein.

(Ord. No. O4-1-13, § 1, 4-23-2013)

Article 2 - License

3-2-25 Applications

- (A) *Generally.* An application for a license must contain the following information and materials. Applications lacking any of the required information or materials shall not be accepted by the Village Clerk-Treasurer.
 - (1) *Forms.* Applications shall be made upon forms provided by the village clerk-treasurer, which shall be completed in their entirety.
 - (2) *Time Limitation.* An application shall not be valid after the license year for which it is filed.
 - (3) *Property Interest.* Applications shall be accompanied by proof of one of the following:
 - (a) Ownership of the premises to be licensed.
 - (b) A valid option to purchase the premises to be licensed.
 - (c) A valid lease for the premises to be licensed for the term of the license.
 - (d) A valid option to lease the premises to be licensed for the term of the license.

- (B) *Statement of Intent.* The applicant shall sign a statement of intent on a form to be provided by the village clerk-treasurer. This statement shall include a provision that the applicant intends to personally operate under the license within 90 days of its granting by the village board and that the license shall be considered surrendered if the license is not issued within 90 days of the granting of the license. This time may be extended by the village board upon a finding that construction activities will delay the issuance. The applicant shall provide proof of such conditions upon application. The Village Board shall set a time limit for the issuance of such license, and the license shall be considered surrendered if the license is not issued within such time.
- (C) *Transfer applications.* All applications for transfer of licenses from place to place and person to person are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes. In addition, applications to transfer a license from person to person must be accompanied by written consent of the person from whom the license is to be transferred on a form provided by or acceptable to the village clerk-treasurer
- (D) *Renewal applications.* All applications for renewal of licenses are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-26 Payment of Taxes, Claims and Other Money Owed the Village

- (A) The payment of all personal property taxes, special assessments and room taxes imposed pursuant to chapter 12, all forfeitures or judgments resulting from conviction for violation of any village ordinance, except moving traffic violations, any outstanding indebtedness to the village and all other judgments due and owing from any applicant to the village at the time of the application for any license provided for in this chapter, and any of the same relating to the property or business previously licensed if the new license is granted consequent or conditionally upon the sale or transfer of the business or stock-in-trade or furnishings or equipment of the premises or of the ownership or control of a corporation is a condition precedent to the granting of such license or permit. If the personal property tax bill has not been issued, the treasurer shall require advance payment based on the previous year's mill rate multiplied by the current year's valuation of the premises, property or business. No license or permit application shall be granted until the clerk-treasurer has certified on the application that all required payments have been made.
- (B) Every applicant must disclose on his application for any license with the village any and all amounts of money owed to the village by him or by the previous owner of the premises to be licensed. Any applicant failing to disclose such debts will have his license revoked.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-27 Licensing Procedures

- (A) *Village board approval.* Applications complying with the provisions of this chapter and the Wisconsin Statutes shall be forwarded to the village board for action in the order in which they are filed, upon availability of a license of the type applied for. The village board shall review the application, the applicant's qualifications, and all other relevant factors and determine whether to grant the license application under the provisions of this chapter and the laws of the state.

- (B) *Conditional approval.* The village board may place additional conditions upon a license consistent with the provisions of this chapter and the laws of the state. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.
- (C) *Administrative approval.* Prior to the issuance of any license, the building inspector and fire inspector shall certify on a form to be provided by the village clerk-treasurer that the premises complies with all applicable laws and regulations. No license shall be issued for a premises not in compliance with such laws and regulations. The departments of the village may place conditions upon a license consistent with the provisions of this chapter and the laws of the state. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.
- (D) *Form and expiration of license.* All licenses shall be numbered in the order in which they are issued. The date of issuance, fee paid, name of the licensee, trade name and address of the premises shall appear on said license. All retail licenses shall expire on June 30 following issuance unless sooner revoked or nonrenewed. The village clerk-treasurer shall affix to the license his affidavit as required by Wis. Stats. § 125.04.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-28 License Fees

The village clerk-treasurer shall not issue a license until the fee has been paid, the amounts of which are on file at the Office of the Village Clerk-Treasurer.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-29 Inoperative or Unissued Licenses

A license which has been granted but not issued or issued but not in continuous use in a manner indicating an ongoing business for a period in excess of 90 days is presumed invalid and shall be subject to revocation, unless otherwise authorized by the village board.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-47 Intent

No license granted under this article shall be suspended or revoked by the village board without first affording the license holder an opportunity for a public evidentiary hearing.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-48 Hearing Form

The public works and protection committee shall conduct any hearing or prehearing as described in this division.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-49 Grounds

Licenses may be the subject of hearings as described in this provision for any violation of Wis. Stats. ch. 125, or of this Code, including, but not limited to, the following:

- (A) The running of a disorderly house as proscribed by Wis. Stats. § 125.12;
- (B) The licensee or operator directly interfering with police officers or otherwise violating the law in a manner substantially related to the operation of the licensed facility;
- (C) Any violation of any health code provision of this Code dealing with public health, welfare, and safety;
- (D) Any building, fire, electrical, or plumbing code violation of this Code dealing with public health, welfare, and safety;
- (E) Any liquor-related violation involving juveniles as prescribed by Wis. Stats. Ch. 125
- (F) Any violation of general statutory restrictions pertaining to licensed premises and operations as proscribed by Wis. Stats. Ch. 125;
- (G) Any failure to maintain the qualifications required of all license holders as detailed by Wis. Stat. § 125.04, and as modified by the conditions of this Code or as a condition of granting or renewing a license;
- (H) Any violation of any condition, restriction, or agreement entered into with the village or signed in consideration of a license issued by the village under this chapter or Wis. Stats. Ch. 125; and
- (I) Whether the licensee and/or the licensee's agents, employees, and assigns have accumulated 12 or more demerit points within a 24-month period pursuant to the schedule set forth below.

- (1) Point schedule.

TABLE 3-2-49

Code Section Number and/or Statute Number	Type of Violation	Points
Code § 3-95	Violation of condition or agreement requiring surrender of license	12
Code § 3-91	Disorderly house requiring police closure	12
Wis. Stats. ch. 961	Controlled substance	12
Wis. Stats. § 139.08(4)	Refusing police entry	12
Code § 3-91	Disorderly house	6
Code § 3-95	Violation of condition or agreement (except violations of a provision requiring license surrender)	6
Code § 3-90; Wis. Stats. §§ 125.32(3), 125.68(4)	Open after hours	6
Code § 3-2; Wis. Stats. § 125.07(3)	Underage person on licensed premises	6
Code § 3-2; Wis. Stats. § 125.07(1)	Serving an underage person	6
Code § 3-2; Wis. Stats. § 125.07(2)	Serving an intoxicated person	4
Wis. Stats. §§ 125.32(2), 125.68(2)	No licensed bartender	4
	Other nonenumerated violations of Code ch. 3, or Wis. Stats. ch. 125	3

- (2) This schedule shall not affect the discretion of the public works and protection committee in determining whether a formal evidentiary hearing is warranted.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-52 Hearing Procedures

- (A) Upon a verified complaint filed with the village clerk that any person licensed under this chapter has violated the provisions of Wis. Stat. Ch. 125, the criminal code of the state, or any provision of this Code, including those listed in section 3-49, or any other provision of this chapter or Wis. Stat. Ch. 125, the village board shall issue a summons signed by the village clerk-treasurer directed to any peace officer, commanding the person so complained of to appear before the public works and protection committee on a day and at a place named in such summons, not less than three days nor more than ten days from its date, and show cause why the license should not be suspended or revoked. Such summons shall be served at least three days before the time in which such person is commanded to appear, and shall be served as provided in Wis. Stat. Ch. 801.
- (B) The provisions of Wis. Stat. § 125.12 shall govern the conduct of the hearing under this section. The committee shall consider the following factors:

- (1) The licensee's history of convictions, charges, or complaints and the relationship of such history to licensed activities;
 - (2) The length of time since such conviction, charge or complaint;
 - (3) The circumstances and seriousness surrounding the complaint before the committee.
 - (4) The degree of personal rehabilitation since the last incident involving the licensee.
 - (5) The community's standards or interests to be protected;
 - (6) The number of demerit points accrued pursuant to this section.
- (C) The licensee may be represented by counsel, present and examine witnesses, and have prepared at the licensee's expense a transcript of the hearing.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-53 Recommendations

At the conclusion of the evidentiary hearing, which may be held in open or executive session depending on the nature of the evidence to be produced, the committee, following deliberation in open or executive session, shall consider the factors listed in section 3-2-52 and shall thereupon make specific findings of fact and conclusions of law, and forward one or more of the following recommendations to the village board:

- (A) No action should be taken due to insufficiency of the evidence;
- (B) No action should be taken at present because an accommodation on the part of the license holder has been reached;
- (C) A warning letter be issued and the original thereof be retained in the licensee's file kept in the office of the village clerk-treasurer;
- (D) A suspension of not less than ten days nor more than 90 days be imposed;
- (E) The license be revoked or invalidated;
- (F) The licensee be placed on probation, and the committee shall set conditions therefor; and/or
- (G) The complaint be tabled pending disposition of pending criminal or municipal court code violations, at which time the matter will be considered and a recommendation made.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-54 Village Board Action

The village board shall consider and take action on the recommendation of the public works and protection

committee within 45 days after the committee adjourns the hearing. The village board may adopt, reject, modify, or remand the recommendation to the committee for further deliberations.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-55 Nonrenewal

A license may be nonrenewed for any of the grounds identified in section 3-49. Upon village board denial of the renewal, the village attorney shall notify the licensee in writing of the intention to nonrenew. The licensee shall have ten days to request, in writing, a formal evidentiary hearing. This hearing shall be held before the public works and protection committee pursuant to Wis. Stats. § 125.12(2)(b). The committee shall make a report and recommendation as provided under Wis. Stats. § 125.12(2)(b)3, and the village board shall follow the procedure specified under that subdivision in making its determination.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-56 Appeal

Appeal from the decision of the village board shall be to the circuit court for the county.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-86 Statutory Requirements

Any license granted pursuant to this division to sell intoxicating liquor or fermented malt beverages shall be subject to the regulations, conditions, and restrictions imposed by Wis. Stats. ch. 125. In addition, the village, pursuant to the authority of Wis. Stats. § 125.10, adopts certain other restrictions and requirements specifically by this division.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-87 Location

No Class "A" (beer), "Class A" (liquor), Class "B" (beer), "Class B" (liquor), or "Class C" (wine) license shall be issued for a premises when any portion of the structure housing the premises would be less than 300 feet from any portion of a structure housing any established public school, parochial school, hospital, or church. This section shall not apply to premises licensed as such on March 1, 2004; to any premises licensed as such prior to the occupation within 300 feet thereof of any school building, child/childcare center, hospital building, or church building; or to any special event or picnic license.

(Ord. No. O4-1-13, § 1, 4-23-2013), Ord. No. O5-3-15, 05-26-15

3-2-88 Health and Sanitary Requirements

A Class "B" (beer), "Class B" (liquor), or "Class C" (wine) license shall not be issued for any premises which does not conform to the sanitary, safety, and health requirements of the state department of commerce pertaining to buildings and plumbing, to the rules and regulations of the state department of health and social services applicable to restaurants, and to all such ordinances and regulations adopted by the village. Should a licensed premises fall below such standards, the license may be revoked or suspended pursuant to chapter.

3-2-89 Delinquent Payment

The Village Clerk-Treasurer shall not issue a license to any applicant occupying a premises for which real or personal property taxes are delinquent or to an applicant otherwise indebted to the village, unless such applicant shall make arrangements satisfactory to the Clerk-Treasurer to pay such debts not less than 30 days before the expiration of the license.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-90 Closing Hours

- (A) No premises for which a Class "B" (beer), "Class B" (liquor), or "Class C" (wine) license has been issued may remain open between the hours of 2:00 a.m. and 6:00 a.m., except as otherwise provided in this chapter. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6:00 a.m. For the purposes of this section, the term "open" shall mean allowing any person, other than the licensee or an employee actively performing job-related duties, to enter, loiter or remain in or on the licensed premises.
- (B) No licensee or person in charge of a premises for which a Class "B" (beer) license has been issued shall allow the carry out of closed containers of alcohol beverages between the hours of 12:00 midnight and 6:00 a.m.
- (C) On January 1, premises licensed under a Class "B" (beer), "Class B" (liquor), or "Class C" (wine) license are not required to close.
- (D) No premises for which only a class "A" (beer) license is issued shall be permitted to remain open between the hours of 10:00 p.m. and 8:00 a.m. on Monday, Tuesday, Wednesday, and Thursday, and 12 a.m. (midnight) to 8:00 a.m. of Friday, Saturday and Sunday for the purpose of selling fermented malt beverages. No deliveries of fermented malt beverages shall be permitted within the village between the hours of 9:00 p.m. and 8:00 a.m. A "class A" intoxicating liquor licensed premises must close from 9:00 p.m. to 8:00 a.m.
- (E) Hotels and restaurants, whose principal business is furnishing of food, drinks, or lodging to patrons, bowling alleys, and golf courses may remain open for the conduct of their regular business, but may not sell alcohol beverages during the closing hours mentioned above. An establishment remaining open for the purpose of their regular business must, at all times, allow for open public access to the licensed establishment after such closing hours. In determining whether or not an establishment is open for the purpose other than selling alcohol beverages, the burden shall be on the licensee.
- (F) No person shall loiter in a licensed establishment after closing hours.
- (G) No person shall carry out closed containers of alcohol beverages from a premises for which a Class "B" (beer) license has been issued between the hours of 12:00 midnight and 6:00 a.m.

- (H) Pursuant to Wis. Stat. Sec. 125.51(3)(b), authorizing the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold; no licensee or person in charge of a premises for which a "Class B" (liquor) license has been issued shall allow the sale and carry out of closed containers of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

(Ord. No. O4-1-13, § 1, 4-23-2013), (Ord. No. O10-2-15, 10-27-15)

3-2-91 Disorderly House

- (A) *Duty to Maintain Order.* A licensee under this chapter shall have a duty to maintain order and peace in and around the licensed premises. This duty shall extend to and include any adjacent parking lot or facility adjacent to and servicing the licensed premises.
- (B) *Police Power to Close Licensed Premises.*
 - (1) *Department of Public Safety.* The Department of Public Safety may order any disorderly house closed until 8:00 a.m. the following day when, in the reasonable view of the Department, the licensee or person in charge failed to maintain peace and order as per subsection (A) of this section, or the Department otherwise believes that the public peace and safety is served by such closing by reason of threat to the bodily security, property, or peaceful repose of any member of the general public.
 - (2) *Village Inspection Department.* The Village Inspection Department or Brown County Health Department may order the temporary suspension of a restaurant and beverage license where an imminent health hazard exists on licensed premises pending a hearing. Such closing may act as grounds for suspension or revocation of a liquor license privilege under this chapter.
- (C) *Open Containers.* A licensee or person in charge shall not allow the sale, service or consumption of alcohol beverages in open containers outside the licensed premises area.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-92 Outdoor Areas

- (A) *Applications.* An application for a license pursuant to this chapter may include an outdoor area in the proposed premises, included as either a permanent portion of the premises or a temporary outside area specifically approved for three days surrounding a Packer, Resch, Lambeau, or other special event. The inclusion of the outdoor area in the licensed premises shall be subject to review in the same manner as any other license application and the restrictions provided in this division.
- (B) *Amendment.* A licensee may apply to amend a licensed premises to include an outdoor area. The request shall be filed with the village clerk no less than 30 days prior to the first date of use of the outdoor area. The application for amendment shall be subject to review in the same manner as any other license application, inspection by the building inspector and department of public safety, and the restrictions provided in this division.
- (C) *Physical Requirements.*

- (1) *Immediately Adjacent.* A licensed outdoor area must be immediately adjacent to the indoor portion of the licensed premises.
 - (2) *Fencing.* A licensed outdoor area must be enclosed by a fence or structure approved by the Chief of Public Safety or his designee.
 - (3) *Ingress.* A licensed outdoor area shall have no more than one means of direct ingress from unlicensed areas. This subsection shall not be construed to limit the means of access to or from the outdoor licensed area to indoor licensed areas.
 - (4) *Signage.* The licensee shall display signage indicating "No Carryouts Allowed" outside of the licensed outdoor area.
 - (5) *Modification.* The requirements of this subsection may be waived by a two-thirds majority vote of the village board.
- (D) *Noise.* No musical instruments, radios, juke boxes, or other means of electric sound amplification may be used or operated in a licensed outdoor area after 10:00 p.m. Mondays through Thursdays and 11:00 p.m. on Fridays and Saturdays.
 - (E) *Unlicensed Outdoor Area.* An unlicensed outdoor area adjacent to and used in conjunction with the licensed premises shall not be used for the purpose of serving or consuming alcohol beverages.
 - (F) *Licensee Responsibility.* Any licensed outdoor area is subject to all regulations of this chapter and Wis. Stat. Ch. 125.
 - (G) *Maintaining Order.* The licensee shall maintain peace and order over any outdoor area adjacent to and used in conjunction with a licensed premises whether or not said outdoor area is licensed. Violation of this section may result in the Department of Public Safety exercising its authority under section 3-2-91(B)(1), and ordering any outdoor premises or the entire licensed area closed in the public interest.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-93 Separate Area For "Class A" (Liquor) License

- (A) In the interest of limiting juvenile access to alcohol beverages at retail establishments, and in the interest of promoting effective, unhampered, and efficient enforcement of such provisions as they relate to juveniles, no "Class A" (liquor) license shall be granted for any premises where the principal business conducted thereon is other than the sale of alcohol beverages, unless the establishment meets all of the following requirements:
 - (1) Separate area with the ability to lock that portion of the premises and inaccessible to customers during the non-sale hours;
 - (2) Twenty-four-hour surveillance camera system for the entire establishment, including the area of intoxicating liquor, and recordings be available to law enforcement at their request;

- (3) Signage installed both within the area of intoxicating liquor and at points of sale within the establishment informing customers that they must be at least 21 years of age to purchase alcohol; and
 - (4) Any other condition which may be set by the village board including, but not limited to, approval of the site layout design and display of intoxicating liquor.
- (B) *Burden of Proof.* If a question arises as to what principal business is being conducted on a premises, the burden of proof shall be on the applicant or licensee. A violation of this provision can act as grounds for revocation or nonrenewal of a liquor license privilege under this chapter.

(Ord. No. O4-1-13, § 1, 4-23-2013; Ord. No. O8-4-13, § 1, 8-27-2013)

3-2-94 Use of Temporary Class "B" (Picnic) License

- (A) *Approval.* The village clerk-treasurer shall issue special event or picnic licenses, upon receipt of proper application, received not less than 30 days prior to the event, and approved by the chief of public safety.
- (B) *Licensed Operators Required.* No person holding a temporary Class "B" picnic license shall permit the sale of fermented malt beverages unless a person holding an operator's license, also issued under this chapter, is in direct supervision and control of the area in which the sale of fermented malt beverages is occurring. When two areas of sale are used, at least one licensed operator must be present and in supervision of each area of sale.
- (C) *Use of Temporary Class "B" picnic licenses.* When a temporary Class "B" picnic license is issued under this chapter, the following regulations shall apply:
 - (1) No more than two separate areas may be used to dispense fermented malt beverages; and
 - (2) At least one uniformed department of public safety officer shall be present at the event from 4:00 p.m. until closing while fermented malt beverages are being sold or dispensed. Prior to 4:00 p.m., the presence of a uniformed department of public safety officer shall be at the discretion of the chief of public safety.
- (D) *Outdoor requirements.* A person holding a temporary Class "B" picnic license shall follow the physical requirements for outdoor areas as set forth in section 3-2-92 or otherwise required by the Village.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-95 Violation of Stipulation or Agreement

No licensee may violate a provision of a stipulation or other agreement entered into with the Village or signed in consideration of a license issued by the Village under this chapter or Wis. Stat. Ch. 125. Any person who violates this provision shall be subject to a penalty as provided in section 3-2-109.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-96 Allowing Entry

No licensee or person in charge may refuse entry of a police officer, peace officer or agent of the department

of revenue to the licensed premises at any reasonable time to determine whether Wis. Stat. Ch. 125 and this chapter are being complied with. The term "reasonable time" includes, without limitation, all times when the premises is open.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-97 Pyrotechnics and Fireworks

No licensee or person in charge shall permit a pyrotechnics show or the use of fireworks on the licensed premises, except the arena, Shopko Hall or research center after obtaining a permit from the village.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-98 Compliance Meeting

Prior to or near the annual renewal date for retail alcohol licenses, the Village may require all "Class A," "Class B" and "Class C" license holders shall attend a meeting with the public safety department and village clerk-treasurer to review the state and village alcohol beverage license laws and regulations. The Village Clerk-Treasurer shall send notice to all applicable licensees in the event such meeting is required.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-99 "Class B" Combination Beer and Liquor License; Hotel and Restaurant Quota Exceptions

As a condition to the issuance of a "Class B" combination beer and liquor license within the village's license quota to a hotel or restaurant that qualifies as an exception to the village's quota, Wis. Stat. § 125.51(4)(v), said license shall contain a stipulation that, upon written notification from the village to the licensee, the licensee shall surrender the combination "Class B" license to the village and apply for a combination "Class B" license under the quota exception for qualified restaurants and hotels. Pursuant to this stipulation, there shall be no interruption of the licensee's business liquor operations during the surrender of the license and the issuance of another combination "Class B" beer and liquor license to the restaurant or hotel premises that qualifies for a license as an exception to the village's quota. The licensee's failure to comply with the stipulation for surrender of the license shall subject the licensee to all the provisions for nonrenewal, suspension or revocation of the license as provided by this chapter and Wis. Stat. Ch. 125.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-100 Quotas

- (A) In the interest of promoting effective and efficient enforcement of this chapter, quotas are hereby established limiting the number of each of the following types of licenses which may be granted as follows:
- (1) Class "A" fermented malt beverage licenses: unlimited.
 - (2) Class "B" fermented malt beverage licenses: unlimited.
 - (3) "Class A" intoxicating liquor licenses: eight.

- (4) Combination Class "B" beer and liquor licenses: 33 village quota (state quota 33).
Reserve Class "B" licenses: three (state quota).
Reserve Class "B" licenses: cannot be transferred to another place or premises within the municipality.
- (B) When the village has granted or issued a number of Class "B" liquor licenses equal to its quota, the village may issue a Class "B" liquor license, exception to the quota, to any of the following:
 - (1) A full-service restaurant that has a seating capacity of 300 or more persons; and
 - (2) A hotel that has 50 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.
- (C) Liquor license applications that have been completed and comply with the requirements of Wis. Stat. Ch. 125 and this chapter shall be referred to the Public Works and Protection Committee for review and a recommendation on the application to the village board. The committee may consider the following guidelines including but not limited to:
 - (1) Economic benefit.
 - (2) Social benefit.
 - (3) Community impact.
 - (4) Compatibility with proposed or adopted plans for the village and community development.
 - (5) Uniqueness.
 - (6) Sustainability.
 - (7) Previous applications and/or length of time doing business in the village.
 - (8) Square footage of premises and number of seats for restaurant and/or bar.
 - (9) For new construction a start and finish date.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-101 Nude Dancing in Licensed Establishments Prohibited

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

Licensed establishment means any establishment licensed by the village board to sell alcohol beverages pursuant to Wis. Stats. ch. 125.

Licensee means the holder of a retail "class A", "class B", class "B", class "A", or "class C" license granted by the village board pursuant to Wis. Stats. ch. 125.

- (B) *Prohibitions.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in, any live act, demonstration, dance or exhibition on the premises of a licensed establishment which shows:
- (1) His genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering;
 - (2) Any portion of the female breast below a point immediately above the top of the areola; or
 - (3) The covered male genitals in a discernibly turgid state.
- (C) *Exemptions.* The provisions of this division do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters, where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-102 Possession of Alcohol Beverages on School Grounds

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

Motor vehicle means a motor vehicle owned, rented or consigned to a school.

School means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

School administrator means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

School premises means the premises owned, rented or under the control of a school.

- (B) *Prohibited.* Except as provided by section 3-87, no person shall possess or consume alcohol beverages:
- (1) On school premises;

- (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle;
- (3) While participating in school-sponsored activities.
- (C) *Exceptions.* Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-103 Sales to Intoxicated Persons

No person shall procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-104 Free Alcohol Beverages in Restaurants

No person holding a permit to operate a restaurant may give away or permit to be given away any alcohol beverages on the restaurant premises.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-105 Consumption in Public Place Without License or Permit Prohibited

No owner, lessee or person in charge of a public place shall permit the consumption of alcohol beverages on the premises of the public place unless the person has an appropriate retail license or permit. This section does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, churches, premises in a state fair park or clubs.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-106 Place-to-Place Deliveries

No person shall peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-107 Intoxicants in Public

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

Public place means any location frequented by the public, where the public is present or likely to be present, that is a public right-of-way, street, sidewalk, public parking lot, etc. Premises such as business and commercial establishments, hotels, motels, restaurants, night clubs and country clubs, or premises used solely as a private residence, whether permanent or temporary in nature, are not deemed to be a public place.

- (B) *Prohibition.* No person shall consume or possess any open or unsealed container containing an alcoholic beverage on any public way, in any parking lot held out for public use, or on or within the premises of a public place, or on or in any motor vehicle on a public way or in parking lot held out for public use, unless such person is on the premises of an establishment holding a valid license for the on-premises consumption of alcohol beverages. Further, the use of commercial quadricycles (sometimes referred to as Pedi-Pubs), which means a vehicle with operative pedals for propulsion primarily by human power, that has four wheels and is operated in a manner similar to a bicycle and is designed to be occupied by a driver and by passengers providing pedal power to the drive train is strictly prohibited.
- (C) *Exemptions.* Subsection (B) of this section does not apply to:
- (1) The Lambeau Field entertainment district/parking lots or sidewalks during Packer Game Days or entertainment events approved by the village board. See Lambeau Field entertainment district map which is on file in the office of the village clerk-treasurer.
 - (2) A waiver granted by the village president after recommendation by the chief of public safety with notice to the village board.
 - (3) Residential block parties approved by the chief of public safety or designee. Such application shall be made to the chief of public safety or his designee providing the following:
 - (a) The identity of the permittee and location of the event;
 - (b) The time, place and duration of event;
 - (c) The expected number of attendees; and
 - (d) The names of the persons conducting the party or gathering.

(Ord. No. O4-1-13, § 1, 4-23-2013), (Ord. No. O7-1-15, July 28, 2015)

3-2-108 Furnishing Alcohol Beverages in Hotel or Motel Rooms

- (A) Pursuant to the provisions of Wis. Stats. § 125.26(2m), a Class "B" license authorizes a person operating a hotel or motel to furnish registered guests of legal drinking age fermented malt beverages in the guest's room in original packages and pursuant to Wis. Stat. § 125.51(3)(bm), a "Class B" license authorizes a person operating a hotel or motel to furnish registered guests of legal drinking age intoxicating liquor in the guest's room in original packages.
- (B) Alcohol beverages furnished to a hotel or motel guest must either be kept in a locked storage place or removed when the room is unoccupied. A key for the storage place shall be furnished upon registration, if requested, and the sale is deemed to occur at checkout. A price list must be posted in hotel and motel rooms. Only the licensee, manager, agent or licensed operator may stock alcohol beverages.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-109 Penalty

- (A) Any person who commits a violation of this article shall be subject to forfeiture as provided in section 1-1-13
- (B) Any person under 18 years of age who commits a violation of this article shall be subject to a forfeiture not to exceed \$50.00, except that disposition in proceedings against a person under 18 years of age on the date of disposition shall be as provided by Wis. Stats. § 938.344.
- (C) Any license or permit issued to a person who commits a violation of this article may be revoked by the court.
- (D) A violation of this article by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(Ord. No. 04-1-13, § 1, 4-23-2013)

3-2-110 Social Host

The purpose of this section is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold any person who hosts an event or gathering where persons under 21 years of age possess or consume alcohol responsible regardless of whether the person hosting the event or gathering supplied the alcohol.

- (A) *Definitions.* For purposes of this section, the following terms have the following meanings:
 - (1) *Alcohol.* "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
 - (2) *Alcoholic Beverage.* "Alcoholic Beverage" means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
 - (3) *Event or Gathering.* "Event" or "Gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
 - (4) *Host or Allow.* "Host" or "allow" means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.
 - (5) *Parent.* "Parent" means any person having legal custody of a juvenile:
 - (a) As natural, adoptive parent or step-parent;
 - (b) As a legal guardian; or
 - (c) As a person to whom legal custody has been given by order of the Court.

- (6) *Residence, Premises or Public or Private Property.* "Residence," "premises," or "public or private property" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.
 - (7) *Underage Person.* "Underage person" is any individual under 21 years of age.
 - (8) *Present.* "Present" means being at hand or in attendance.
 - (9) *In Control.* "In control" means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.
- (B) *Prohibited Acts.*
- (1) It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage; or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
 - (2) A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.
 - (3) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.
- (C) *Exceptions.*
- (1) This section does not apply to a person who procures for or dispenses, gives, or sells alcohol or any alcoholic beverage to an underage person if the underage person is in the direct company of the underage person's parent, guardian, or spouse and the parent, guardian, or spouse has attained the legal drinking age, has consented to the underage person possessing or consuming the alcohol or alcoholic beverage, and is in a position to observe and control the underage person.
 - (2) This section does not apply to legally protected religious observances.
 - (3) This section does not apply to an underage person who is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.
- (D) *Penalties.* Any person who commits a violation of this section shall be subject to penalty as provided for in the Village of Ashwaubenon Municipal Court Bond Schedule for alcohol beverage violations referencing Wis. Stats. § 125.07(1)(a)(1), for a person who procures, sells, dispenses or gives alcohol to underage persons.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-127 Application

- (A) Application for operator's licenses shall be made to the village clerk-treasurer on a form supplied by the Office of the Clerk-Treasurer.
- (B) Upon receipt of an application, the village clerk-treasurer shall forward the application to the department of public safety for verification of the veracity of the application as well as research into the qualifications of the applicant in accordance with the requirements of Wis. Stat. § 125.04.
- (C) All applications shall be accurately completed in its entirety or shall be rendered void by the village clerk.
- (D) The license fee set out in section 3-2-28(7) shall be submitted with the application.
- (E) Operator's licenses may be granted by the Village Board without further review in the event the Department of Public Safety approves of the application.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-128 Term of License; Items to be Available for Inspections

The license shall be issued for a period of two consecutive licensing years. At all times while engaged in activities requiring a license issued pursuant to this section, the licensee shall keep the following items available for production upon request of any village or state inspecting officer:

- (A) The operator's license; and
- (B) A valid form of identification issued by a governmental agency containing a photograph of the licensee.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-129 Provisional Operator's License

The Village Clerk-Treasurer shall be authorized to issue a provisional operator's license upon receipt of the regular operator's license application. The requirements and provisions of Wis. Stat. § 125.17, relating to provisional operator's license are hereby adopted and made part of this section as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

(Ord. No. O4-1-13, § 1, 4-23-2013)

3-2-130 Denial of License; Notice; Appeal

- (A) *False Information or Unqualified.* If the Department of Public Safety determines that any portion of the application is false or that the applicant does not possess the qualifications under Wis. Stat. § 125.04, the license may be denied.

- (B) *Notification.* The Village Clerk-Treasurer shall notify any applicant if the application is denied.
- (C) *Appeal.* Any applicant whose application has been denied may appeal such determination to the Public Works and Protection Committee. Upon appeal, the committee shall determine if the applicant possesses the qualifications of Wis. Stat. § 125.04. After making such determination, the Committee shall forward its recommendation to the Village Board for determination.
- (D) *Issuance of License.* The Village Clerk-Treasurer shall not issue any operator's license until all the requirements of this section have been satisfied.

(Ord. No. 04-1-13, § 1, 4-23-2013)