

STATE OF WISCONSIN
TOWN OF WASHINGTON, VILAS COUNTY
CODE OF ORDINANCES

**CHAPTER 15: ADULT ENTERTAINMENT BUSINESS ORDINANCE AS
AMENDED JUNE 7, 2021**

SEXUALLY ORIENTED BUSINESSES

15.01 Purpose and Intent

It is the purpose of this ordinance to reasonably regulate the location and operation of sexually oriented businesses, as defined herein, to promote the health, safety, and general welfare of the citizens of the Town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. It is furthermore neither the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

15.02 Findings

- A. The Town recognizes that the experiences of other governmental entities with sexually oriented businesses and the findings, studies, and evidence compiled by such governments and communities, as well as the courts, are relevant and important in understanding and addressing the adverse secondary effects that sexually oriented businesses can and do have upon communities, neighborhoods, individuals, and economies. The Town relies upon and incorporates the findings, studies, evidence, and experiences of the governmental entities and communities cited herein, as well as applicable federal and state court holdings, in enacting the regulations set forth in this ordinance.

- B. Based on evidenced concerning the adverse secondary effects of sexually oriented businesses on the community, as reflected in findings incorporated in applicable federal and state court decisions, including

but not limited to *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697 (1986); *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir. 2000) *East of the River Enterprises II v. City of Hudson*, 2000 WL 1116372 (Wis. Ct. App. Aug. 1, 2000); in studies in other communities, including but not limited to Amarillo, Texas; Austin, Texas; Beaumont, Texas; Dallas, Texas; Effingham County, Illinois; Garden Grove, California; Houston, Texas; Indianapolis, Indiana; Islip, New York; Jackson County, Missouri; Kennedale, Texas; Los Angeles, California; New York, New York; Oklahoma City, Oklahoma; Overland Park, Kansas; Phoenix, Arizona; Tucson, Arizona; and Whittier, California; in reports such as those by the State of Minnesota Attorney General's Working Group on Regulation of Sexually Oriented Businesses and the Texas City's Attorney's Association; and in various published scholarship, the Town finds that:

1. Sexually oriented businesses lend themselves to unlawful and unhealthy activities that, absent lawful regulation, are uncontrolled by the operators of the establishments. Further, absent lawful regulation, there is no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.
2. Crime statistics show that all types of crimes, especially sex-related crimes and including but not limited to prostitution and other forms of sex trafficking, rape, sexual assault, the sale, distribution, or display of child pornography, robbery, public indecency, disorderly conduct, disturbances of the peace, drinking in public, littering, and other violations of the law, occur with more frequency in areas where sexually oriented businesses are located.
3. There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct associated with sexually oriented businesses.
4. Studies of the relationship between sexually oriented business and neighborhood property values have found a negative impact on both residential and commercial property values, which, in turn, can have a detrimental impact upon new residential and commercial development.

5. Sexually oriented businesses contribute to the physical deterioration and blight of neighborhoods.
6. Sexually oriented businesses tend to harm the economic welfare of the communities in which they are located and negatively and adversely affect the quality of life of those communities.
7. Employees of certain sexually oriented business engage in higher instances of certain types of illicit sexual behavior than employees of other establishments.
8. Sexual acts occur at sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows.
9. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purposes of engaging in sex within the premises of such sexually oriented businesses.
10. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, amebiasis, salmonella infections, and shigella infections.
11. Sanitary conditions in some sexually oriented businesses are unhealthy, in part because the activities conducted there are unhealthy and in further part because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
12. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.
13. The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbates the deleterious secondary effects of such businesses on the community.
14. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed herein.
15. A reasonable permitting procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of sexually oriented businesses. Further, such a permitting procedure will place an incentive on the operators to see that any sexually oriented businesses in the Town are run in a manner consistent with the health, safety, and welfare of their patrons and employees, as well as the citizens of the Town.

16. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of sexually oriented businesses, where such information is substantially related to the substantial government interest in the regulation of such uses, will aid in preventing or limiting the adverse secondary effects described herein.
17. In light of Wis. Stat. §66.0107(3), the Town lacks authority to regulate obscenity, and the Town does not intend by adopting this ordinance to regulate obscenity.
18. The United States Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and, therefore, is entitled to some limited protection under the First Amendment. Freedom of speech is among our most precious and highly protected rights, and the Town wishes to act consistently with full protection of those rights.
19. The enactment of this ordinance legitimately promotes the valid goals and intent of minimizing, preventing, and controlling the adverse secondary effects associated with sexually oriented businesses and does so in a content neutral manner while preserving numerous other means of free expression.
20. Reasonable regulation of the location and operation of sexually oriented businesses will protect the residents of the Town from the adverse secondary effects of sexually oriented businesses while providing those who desire to patronize sexually oriented businesses such opportunities within the Town as are appropriate for the location of sexually oriented businesses.
21. The general welfare, health, morals, and safety of the citizens of the Town will be promoted by the enactment of this ordinance.

15.03 Definitions

- A. ADULT ARCADE means any place to which the public is permitted or invited wherein, for any form of consideration, electronically, electrically, or mechanically-controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to give (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis on the exhibition or display of specified sexual activities or specified anatomical areas.

B. ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE means any commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals, or other printed matter; or photographs, slides, films, motion pictures, videos of any kind (including but not limited to DVDs, Blu-ray discs, or by way of streaming), or other visual representations; which are distinguished or characterized by their emphasis on the exhibition, display, depiction, or description of specified sexual activities or specified anatomical areas; or
2. instruments, devices, or paraphernalia which are designed for use or marketed primarily for the sexual stimulation of the human genitals, anus, or female breast or for the sadomasochistic use or abuse of the user or others. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of the materials or devices described in paragraphs (a) or (b) above and still be categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials or devices. The materials covered by paragraph (a) above shall expressly exclude films, motion pictures, videos, slides, or other similar visual representations given an "R" or "NC-17" rating by the Motion Picture Association of America.

C. ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear in a state of nudity or semi-nudity; or
2. live performances which are distinguished or characterized by their emphasis on the exhibition or display of specified anatomical areas or specified sexual activities; or

3. films, motion pictures, videos, slides, photographs, or other visual representations which are distinguished or characterized by their emphasis on the exhibition or display of specified sexual activities or specified anatomical areas. This definition shall expressly exclude films, motion pictures, videos, slides, or other similar visual representations given an "R" or "NC-17" rating by the Motion Picture Association of America.

D. ADULT MOTEL means a hotel, motel, or similar commercial establishment which:

1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videos, slides, photographs or other visual representations which are characterized by their emphasis on the exhibition or display of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of said visual representations;
2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

E. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, videos, slides, photographs, or other visual representations are regularly shown which are distinguished or characterized by their emphasis on the exhibition or display of specified sexual activities or specified anatomical areas. This definition shall expressly exclude films, motion pictures, videos, slides, or other similar visual representations given N "R" or "NC-17" rating by the Motion Picture Association of America.

F. ADULT THEATER means a theater, concert, hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by their emphasis on the exhibition or display of specified anatomical areas or specified sexual activities.

G. CAMPGROUND means any location which provides two or more sites designated, maintained, intended, or used for overnight camping in tents or vehicles.

- H. DISTINGUISHED or CHARACTERIZED BY means the dominant or principal theme of the object referenced. For instance, when the phrase refers to films "which are distinguished or characterized by their emphasis upon the exhibition or display of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or display of specified sexual activities or specified anatomical areas.
- I. EMPLOYEE means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.
- J. ESCORT means a person who, for any form of consideration, agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- K. ESCORT AGENCY means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other form of consideration.
- L. ESTABLISHMENT means and includes any of the following:
1. the opening or commencement of any sexually oriented business as a new business; or
 2. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 3. the addition of any sexually oriented business to any other existing sexually oriented business; or
 4. the relocation of any sexually oriented business.
- M. NUDE, NUDITY, or a STATE OF NUDITY means the showing of the human male or female genitals, pubic area, vulva, or anus, with less than a complete opaque covering, the showing of the female breast

with less than a fully opaque covering of any part of the nipple or the areola, or the showing of the covered male genitals in a discernibly turgid state.

- N. PREMISES means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, the private walkways, and the parking lots adjacent thereto under the ownership, control, or supervision of the owner or operator of the business.
- O. PERMITTEE means a person in whose name a permit to operate a sexually oriented business has been issued, as well as any individual listed as an applicant on the application for a permit.
- P. PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- Q. REGULARLY FEATURES or REGULARLY SHOWS means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as part of the ongoing business of the sexually oriented business.
- R. RESORT means a business licensed by the State of Wisconsin Department of Public Health to provide temporary lodging of less than 30 consecutive days in one or more cabins or guesthouses or a lodge or a single-family dwelling (excludes a campground or mobile home park).
- S. SEMI-NUDE, SEMI-NUDITY, or a STATE OF SEMI-NUDITY means the showing of the human male or female genitals, pubic area, vulva, or anus with not more than a complete opaque covering or the showing of the female breast with not more than a complete opaque covering of the nipple or areola.
- T. SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult novelty store, adult theater, adult video store, or escort agency.
- U. SPECIFIED ANATOMICAL AREAS means:
 - 1. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast.

V. SPECIFIED SEXUAL ACTIVITIES means any of the following:

1. the fondling or other erotic touching of another person's genitals, pubic region, buttocks, anus, or female breasts; or
2. sex acts, including but not limited to intercourse, oral copulation, masturbation, or sodomy.

W. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business permit means and includes any of the following:

1. the sale, lease, or sublease of the sexually oriented business; or
2. the transfer of securities which constitute a controlling interest in the sexually oriented business, whether by sale, exchange, or similar means; or
3. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the sexually oriented business except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

15.04 Classification

Sexually oriented businesses are classified as follows:

- A. adult arcades
- B. adult bookstores, adult novelty stores, and adult video stores
- C. adult cabarets
- D. adult motels
- E. adult motion picture theaters
- F. adult theaters; and
- G. escort agencies

15.05 Sexually Oriented Business Permit Required

- A. A permit under this ordinance shall be required for the establishment of a sexually oriented business. A permit may be issued only for one sexually oriented business located at one fixed and certain place. Any person who desires to operate more than one sexually oriented business must have a license for each.
- B. It shall be a violation of this ordinance for any person to operate a sexually oriented business without a valid sexually oriented business permit issued by the Town under this ordinance, and each day that the operation continues is to be considered a separate and distinct violation subject to civil forfeiture.
- C. An application for a sexually oriented business permit must be made on a form provided by the Town.
- D. All applicants must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information as to enable the Town to determine whether the applicant meets the qualifications established in this ordinance.
- E. A person who wishes to operate a sexually oriented business must sign the application for a permit as an applicant. If a person (as defined in this ordinance) other than an individual wishes to operate a sexually oriented business, all persons legally responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a permit as an applicant. Such persons include but are not limited to general partners, corporate officers, corporate directors, and controlling shareholders. Each applicant shall be considered a permittee if a permit is granted.
- F. The completed application for a sexually oriented business permit shall contain the following information and shall be accompanied by the following documents:
 - 1. If the applicant is:
 - a) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age or older; or
 - b) A corporation, the corporation shall state its complete name, the date and state of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors, and controlling shareholders, and the name of the registered corporate agent

and the address of the registered agent for service of process;
or

c) A partnership, joint venture, limited liability entity, or other type of business organization where two (2) or more persons have a financial interest, the entity shall state its complete name, the type of entity, and the names of persons having a financial interest in the entity.

2. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; the applicant must state the fictitious name of the sexually oriented business and submit the required registration documents.
3. The single classification of permit for which the applicant is filing.
4. The location of the proposed sexually oriented business, including a legal description of the property and its street address.
5. The applicant's mailing address, email address, and telephone number.
6. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
7. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within one thousand (1,000) feet of the premises to be certified, as well as the property lines of any established use or the boundary of any zoning district identified in subsection 15.14(A) of this ordinance within one thousand (1,000) feet of the premises to be certified. For purposes of this paragraph, a use shall be considered existing or established if it is in existence at the time an application is submitted.
8. If an applicant wishes to operate a sexually oriented business which will exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, motion pictures, videos, or live entertainment which are distinguished or characterized by their emphasis on the exhibition or display of specified sexual activities or specified anatomical areas, the

applicant shall comply with the application requirements set forth in section 15.15 of this ordinance.

15.06 Issuance of Permit

- A. A permit granted pursuant to this section shall be subject to renewal pursuant to section 15.09(A) below upon the written application of the applicant using the standard sexually oriented business permit application provided by the Town and a finding by the Town Board or its designee that the applicant has not committed any act during the existence of the previous permit which would be grounds to deny the initial permit application as set forth in subsection (B) below. The renewal of the permit shall be subject to the payment of the fee as set forth in section 15.07 and follow the timeline set forth in subsection (B) below.
- B. Within thirty (30) days after receipt of a completed sexually oriented business application or renewal application, the Town Board or its designee shall approve or deny the issuance of a permit to an applicant. The Town Board or its designee shall approve the issuance of a permit to an applicant unless it is determined by a preponderance of the evidence that one or more of the following is true:
 1. An applicant is under eighteen (18) years of age; or
 2. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form; or
 3. The premises to be used for the sexually oriented business have been found by the Town Board or its designee or any other applicable health, fire, or zoning authorities as being non-compliant with applicable laws and ordinances; or
 4. The permit fee required by this ordinance has not been paid; or
 5. The application or an applicant of the proposed establishment is otherwise in violation of any of the provisions of this ordinance.

If the Town Board or its designee does not act to approve or disapprove the application within said thirty (30) day period, the

application shall be deemed to have been approved.

- C. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the permit is issued pursuant to section 15.04 of this ordinance. All permits shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.
- D. The Town Board or its designee or any other applicable health, fire, or zoning authorities shall complete any certification that the premises are in compliance or not in compliance with applicable laws and ordinances within twenty (20) days of receipt of the completed application by the Town. If such certification is not completed within twenty (20) days, the premises shall be deemed to be in compliance for the purposes of issuing the permit.
- E. A sexually oriented business permit shall issue for only one classification as found in section 15.04 of this ordinance.
- F. If any application is denied, the Town Board or its designee shall, within five (5) days following the denial, issue to the applicant written notification as to why the permit was denied.
- G. Any discontinuation in the operation of a sexually oriented business for a period of twelve (12) months or more shall cause the permit to lapse and become void. A permittee whose permit has lapsed in this manner shall thereafter be subject to the procedures applicable to the issuance of new permits.

15.07 Fees

- A. Every application for a new sexually oriented business permit shall be accompanied by a \$250.00 non-refundable fee.
- B. Every sexually oriented business seeking a renewal permit shall pay to the Town a non-refundable permit renewal fee of \$100.00 prior to issuance of the renewal permit.
- C. All permit applications and fees shall be submitted to the Town Clerk.

15.08 Inspection

- A. An applicant or permittee shall permit representatives of any applicable police, health, fire, and zoning authorities to inspect those portions of the premises of a sexually oriented business that patrons or customers are permitted to occupy for the purpose of insuring compliance with the law at any time it is open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises at any time it is open for business. Each day that such violation continues will be considered a separate and distinct violation subject to civil forfeiture.
- C. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

15.09 Expiration of Permit

- A. Each permit shall expire on June 30 of the second calendar year following the date of issuance. (For example, any permit issued during the calendar year 2021 would expire on June 30, 2023.) Each permit may be renewed only by making application as provided in section 15.05 of this ordinance. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected. Once renewed, each permit will expire two (2) years from the date of its issuance.
- B. When the Town denies renewal of a permit, the applicant shall not be issued a permit for one (1) year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

15.10 Suspension of Permit

- A. The Town shall suspend a permit for a period not to exceed thirty (30) days if it determines that a permittee or an employee of a permittee has:
 - 1. violated or is not in compliance with any section of this ordinance;
 - or

2. refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.
- B. If the Town Board or its designee determines that facts exist warranting the suspension of a permit under this ordinance, the Town Board or its designee shall notify the permittee, in writing and by personal delivery or certified mail, of the Town Board's or its designee's intent to suspend the permit, including the grounds for such a suspension. Within five (5) business days of receipt of such notice, the permittee may provide to the Town Board or its designee, in writing, a response that shall include a statement of reasons why the permit should not be suspended.

If the permittee provides no such written response to the Town Board or its designee within the time specified above, the Town Board or its designee shall notify the permittee, in writing and by personal delivery or certified mail, that the permit has been suspended and the reasons for said suspension. Such notice shall include a statement advising the permittee of the right to challenge the suspension in a court of competent jurisdiction pursuant to section 15.12 of this ordinance. If the permittee provides a timely written response, the Town Board or its designee shall, within three (3) business days of its receipt of said response, schedule a hearing before the Town Board to consider the suspension of the permit, and notify the permittee in writing of the date and time of the hearing.

Said hearing shall be conducted within fourteen (14) days of the Town Board's or its designee's receipt of a permittee's written response to a notice of intent to suspend. At said hearing, the Town Board or its designee shall present such evidence and witnesses as it believes warrant a suspension of the permit. At said hearing, the permittee shall have the opportunity to be represented by counsel, to present evidence and witnesses on his or her behalf, and to cross-examine witnesses presented on behalf of the Town. At said hearing, the Town Board shall determine if sufficient grounds exist to warrant the suspension of the permit. If the Town Board determines that such grounds exist and determines to suspend the permit, the Town Board shall provide notice to the permittee, in writing and by personal delivery or by certified mail, of the fact of the suspension and the grounds for the suspension. Such notice shall include a statement advising the permittee of the right to challenge the suspension in a court of competent jurisdiction pursuant to section 15.12 of this ordinance.

All notifications to the permittee described herein shall be directed to the most current business address of the permittee on file with the Town.

15.11 Revocation of Permit

- A. The Town shall revoke a permit if a cause of suspension in section 15.10 occurs and the permit has been suspended within the preceding twelve (12) months.
- B. The Town shall also revoke a permit if it determines that:
 - 1. A permittee gave false or misleading information in the material submitted during the application process or omits material facts; or
 - 2. A permittee has knowingly allowed the possession, use, or sale of controlled substances on the premises; or
 - 3. A permittee has knowingly allowed prostitution on the premises; or
 - 4. A permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended; or
 - 5. A permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the permitted premises, except the provisions of this paragraph shall not apply to an adult motel unless the permittee knowingly allowed sexual activities to occur either in exchange for money in a public place or within public view; or
 - 6. A permittee is delinquent in payment of any fees past due required under this ordinance; or
 - 7. The permittee has become ineligible to obtain or maintain a permit.
- C. When the Town revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days have elapsed since the date the revocation became effective.

If the Town Board or its designee determines that facts exist warranting the revocation of a permit under this ordinance, the Town Board or its designee shall notify the permittee, in writing and by personal delivery or certified mail, of the Town Board's or its designee's intent to revoke the permit, including the grounds for such a revocation. Within five (5) business days of receipt of such notice, the permittee may provide to the Town Board or its designee, in writing, a response that shall include a statement of reasons why the permit should not be revoked.

If the permittee provides no such written response to the Town Board or its designee within the time specified above, the Town Board or its designee shall notify the permittee, in writing and by personal delivery or certified mail, that the permit has been revoked and the reasons for said revocation. Such notice shall include a statement advising the permittee of the right to challenge the revocation in a court of competent jurisdiction pursuant to section 15.12 of this ordinance. If the permittee provides a timely written response, the Town Board or its designee shall, within three (3) business days of its receipt of said response, schedule a hearing to consider the revocation of the permit and notify the permittee in writing of the date and time of the hearing.

Said hearing shall be conducted within fourteen (14) days of the Town Board's or its designee's receipt of a permittee's written response to a notice of intent to revoke. At said hearing, the Town Board or its designee shall present such evidence and witnesses as it believes warrants a revocation of the permit. At said hearing, the permittee shall have the opportunity to be represented by counsel, to present evidence and witnesses on his or her behalf, and to cross-examine witnesses presented by the department. At said hearing, the Town Board shall determine if sufficient grounds exist to warrant the revocation of the permit. If the Town Board determines that such grounds exist and determines to revoke the permit, the Town Board shall provide notice to the permittee, in writing and by personal delivery or by certified mail, of the fact of the revocation and the grounds for the revocation. Such notice shall include a statement advising the permittee of the right to challenge the revocation in a court of competent jurisdiction pursuant to section 15.12 of this ordinance.

All notifications to the permittee described herein shall be directed to the most current business address of the permittee on file with the department.

15.12 Judicial Review

After denial of a permit under this ordinance, denial of a renewal of such a permit, or suspension or revocation of any such permit, the applicant or permittee may seek prompt judicial review by statutory or common law writ of certiorari of such administrative action in any court of competent jurisdiction. The Town Board is not competent to review the denial of a permit under this ordinance or the denial of a renewal of such a permit. The administrative action shall be promptly reviewed by the court.

15.13 Transfer of Permit

A permittee shall not transfer ownership or control of a permit to operate a sexually oriented business under this ordinance to another, nor shall a permittee operate a sexually oriented business under the authority of a permit issued under this ordinance at any place other than the address designed on the permit.

15.14 Location of Sexually Oriented Business

- A. A person commits a violation of this ordinance if the person operates or causes to be operated a sexually oriented business within five hundred twenty (500) feet of, or within, the boundary of a Residential either Single-Family or Multi-Family District or within any areas zoned Shoreland in the Town of Washington or as prohibited by the Vilas County General Zoning Ordinance; or
- B. A person commits a violation of this ordinance if the person operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:
 - 1. A church, synagogue, mosque, temple, or other building which is used primarily for religious worship and related religious activities; or
 - 2. A public or private school or educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, continuation schools, special education schools, junior colleges, and universities. For the purposes of this subsection, a school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or

3. A public park or recreational area which has been designated for park or recreational activities, including but not limited to a park, playground, nature trail, beach, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, or other similar public land which is under the control, operation, or management of the Town or another governmental entity; or
 4. A campground as defined in section 15.03(G) of this chapter; or
 5. A resort as defined in section 15.03(R) of this chapter; or
 6. Any premises that in any manner sells or dispenses alcohol or is licensed pursuant to the alcohol beverage control regulations of the state; or
 7. Any residence in a zoning district allowing single or multi-family dwellings as permitted uses.
- C. A person commits a violation of this ordinance if that person causes or permits the establishment or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.
- D. A person commits a violation of this ordinance if that person causes or permits the establishment of more than one sexually oriented business in the same building, structure, or portion thereof.
- E. Each day that the operation continues in violation of paragraphs (A) through (C) above is to be considered a separate and distinct violation subject to civil forfeiture.
- F. For the purpose of paragraph (A) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use or the nearest boundary line of a zoning district listed in paragraph (A). Presence of a political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.
- G. For purposes of paragraph (B) of this section, the distance between any two sexually oriented businesses shall be measured in a straight

line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

15.15 Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos, or Live Entertainment in Viewing Rooms

- A. A person who operates or causes to be operated a sexually oriented business which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space live entertainment, films, motion pictures, or videos which exhibit or display specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Town may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
 2. The application shall be sworn to be true and correct by the applicant.
 3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Town.
 4. It is the duty of the permittee of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If two or more manager's stations are designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the permittee to ensure that the view area specified in paragraph (5) remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other materials, and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the diagram filed pursuant to paragraph (1) of this subsection.
7. No viewing room may be occupied by more than one person at any time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot-candles as measured at floor level.
9. It shall be the duty of the permittee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
10. No permittee shall allow openings of any kind to exist between viewing rooms or booths.
11. No person shall make or attempt to make any opening of any kind between viewing booths or rooms.
12. The permittee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The permittee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The permittee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight (48) inches of the floor.

B. A person having a duty under paragraphs (1) through (14) of subsection (A) above commits a violation of this ordinance if he knowingly fails to fulfill that duty. Each day that the violation continues is to be considered a separate and distinct violation subject to civil forfeiture.

15.16 Additional Regulations for Escort Agencies

A. An escort agency shall not employ any person under the age of eighteen (18) years.

B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

15.17 Prohibition Against Children in A Sexually Oriented Business

A person commits a violation of this ordinance if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. Each admission is to be considered a separate and distinct violation subject to civil forfeiture.

15.18 Alcohol

It shall be prohibited in a sexually oriented business to serve, sell, use, provide, or consume any intoxicating liquor, cereal malt beverage, or any other alcoholic beverage.

15.19 Hours of Operation

No sexually oriented business may remain open at any time between the hours of two o'clock (2:00) a.m. and eight o'clock (8:00) a.m. on

weekdays and Saturdays at two o'clock (2:00) a.m. and twelve (12:00) p.m. on Sundays.

15.20 Additional Regulations

- A. It shall be prohibited in a sexually oriented business for a person to engage in specified sexual activities.
- B. It shall be prohibited in a sexually oriented business for a person to appear nude or semi-nude unless the person is an employee who, while nude or semi-nude, is at least five (5) feet from any patron or customer and on a stage at least two (2) feet above the floor.
- C. It shall be prohibited for an employee of a sexually oriented business, while nude or semi-nude, to directly receive any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee of a sexually oriented business while that employee is nude or semi-nude. For purposes of this paragraph, "directly" means to require physical contact such as the direct touching of skin, other body parts, or clothing.
- D. It shall be prohibited for an employee of a sexually oriented business, while nude or semi-nude, to touch a patron or customer or the clothing of a patron or customer or for a patron or customer to touch an employee while that employee is nude or semi-nude.

15.21 Responsibilities of the Permittee

Any act or omission of an employee constituting the violation of the provisions of this ordinance shall be deemed the act or omission of the permittee for the purposes of determining whether the permittee's license shall be revoked, suspended, or renewed.

15.22 Exceptions

The provisions of this ordinance do not apply to the following 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 which the predominant business or attraction is not the offering of entertainment which is intended for sexual interest or titillation of customers and where the establishment is not distinguished by an

emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this ordinance seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this section.

15.23 Injunction

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise in violation of this ordinance is subject to a suit for injunction as well as any other lawful remedy to the town.

15.24 Conflicting Ordinances Repealed

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

15.25 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

15.26 Effective Date

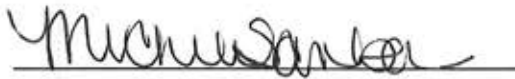
This ordinance is effective upon adoption and publication or posting. The Town clerk shall properly post or publish this ordinance under § 60.80, Wis. Stats.

Adopted this 7 day of June 2021.



Jim Egan, Town Chairperson

Attest:



Michele Sanborn, Clerk

Posted/Published: 6/16/21