

ORDINANCE #4-96
SEXUALLY ORIENTED BUSINESSES

1.01. TITLE. Sexually Oriented Businesses Ordinance

1.02. PURPOSE. To regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the residents of the Town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within 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 not 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. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

1.03. STATUTORY AUTHORITY. Village powers as relates to protecting the health, safety and welfare of the community, to further the peace and good order.

1.04. ABROGATION AND GREATER RESTRICTIONS. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.

1.05. SEVERABILITY. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

1.06. APPLICABILITY. The requirements of this ordinance apply to all persons within the Town of Lessor.

1.07. ADMINISTRATION. The provisions of this ordinance shall be administered by the Town Board of Lessor or its designee.

1.08. EFFECTIVE DATE. The provisions of this ordinance shall take effect upon passage and publication as provided by law.

1.09. DEFINITIONS.

(1) *Adult Arcade* means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or 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 five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

(2) *Adult Bookstore, Adult Novelty Store or Adult Video Store* means a 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:

a. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

b. instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as *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 which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(3) *Adult Cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a. persons who appear in a state of nudity or semi-nude; or
- b. live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- c. films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(4) *Adult Motel* means a hotel, motel or similar commercial establishment which:

- a. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- b. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- c. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

(5) *Adult Motion Picture Theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(6) *Adult Theater* means a theater, concern, hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

(7) *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.

(8) *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(9) *Escort Agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(10) *Establishment* means and includes any of the following:

- a. the opening or commencement of any sexually oriented business as a new business;
- b. the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- c. the additions of any sexually oriented business to any other existing sexually oriented business; or
- d. the relocating of any sexually oriented business.

(11) *Licensee* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

12 *Nude Model Studio* means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. *Nude Model Studio* shall not include a proprietary school licensed by the State of Wisconsin or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

- a. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
- b. where in order to participate in a class a student must enroll at least 3 days in advance of the class; and
- c. where no more than one nude or semi-nude model is on the premises at any one time.

(13) *Nudity or a State of Nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

(14) *Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(15) *Semi-Nude or in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female rear of the body which lies between two imaginary lines running parallel to the ground when a person is standing, the first or top of such line drawn at the top of the cleavage of the nates and second or bottom line drawn at the lowest visible point of the cleavage or the lowest point of the curvature of the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above, and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(16) *Sexual Encounter Center* means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(17) *Sexually Oriented Business* means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) *Specified Anatomical Areas* means:

- a. the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- b. less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) *Specified Criminal Activity* means any of the following offenses:

- a. prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;
- b. for which:

- (1) less than 2 years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(2) less than 5 years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(3) less than 5 years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(20) *Specified Sexual Activities* means any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
- c. excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) *Substantial Enlargement* of a sexually oriented business means the increase in floor areas occupied by the business by more than 25%, as the floor areas exist on November 12, 1996.

(22) *Transfer of Ownership or Control* of a sexually oriented business means and includes any of the following:

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

1.10. CLASSIFICATION. Sexually oriented businesses are classified as follows:

- (1) adult arcades;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) adult cabarets;
- (4) adult motels;
- (5) adult motion picture theaters;
- (6) adult theaters;
- (7) escort agencies;
- (8) nude model studios; and
- (9) sexual encounter centers.

1.11. LICENSE REQUIRED.

A. It is unlawful:

- (1) for any person to operate a sexually oriented business without a valid license issued by the Town Board pursuant to this ordinance;
- (2) for any person who operates a sexually oriented business to employ a person who is not licensed as a sexually oriented business employee by the Town Board pursuant to this ordinance;
- (3) for any person to obtain employment with a sexually oriented business without a license issued pursuant to this ordinance.

B. An application for a license must be made on a form provided by the Town.

C. All applicants must be qualified according to the provisions of this ordinance. The applicant shall provide such information as is required to enable the Town Board to determine whether the applicant meets the qualifications established in this ordinance.

D. If person requesting license is an individual, person must sign the application for license as applicant. If applicant is other than an individual, each individual who has a 20% or greater interest in the business must sign the application as applicant. Each applicant must be qualified under Section E and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and be accompanied by the following documents:

- (1) If the applicant is:

- (a) an individual, person shall state his/her legal name and any aliases and submit proof that he/she is eighteen years of age.
- (b) a partnership, the partnership shall state its complete name, the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;
- (c) a corporation, the corporation shall state its complete name, the date 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 principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate business under a name other than that of the applicant, he or she must state (a) the business's fictitious name and (b) submit the required registration documents.

(3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this ordinance, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

(4) Whether the applicant, or a person residing with the applicant, or has been a partner, officer, director or stockholder of a company, who has had a sexually oriented business license from this Town or any other municipality, county or state denied, suspended or revoked, including name and location and date of denial, suspension or revocation.

(5) Whether the applicant or a person residing with the applicant holds any other licenses under this or similar ordinance from another municipality, county or state and, if so, names and locations of such other licensed businesses.

(6) The single classification of license for which the applicant is filing.

(7) The location of the proposed business, including a legal description of the property, street address, and telephone number(s), if any.

(8) The applicant's mailing address and residential address.

(9) A recent photograph of the applicant(s).

(10) The applicant's driver's permit number, Social Security number, and/or his/her state or federally issued tax identification number.

(11) A sketch or diagram showing configuration of the premises, including total floor space occupied by the business, drawn to a designated scale or drawn to an accuracy of +/- 6 inches.

(12) 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 1,000 feet of the property to be certified; the property lines of any established religious institution, school, or public park or recreation area within 1,000 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(13) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 1.20.

F. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form provided by the town the following information:

- (1) Applicant's name or any other name (including 'stage' names) or aliases used by the individual;
- (2) Age, date, and place of birth.
- (3) Height, weight, hair and eye color;
- (4) Present residence address and telephone number;
- (5) Present business address and telephone number;
- (6) Date, issuing state and number of driver's permit or other identification card information;
- (7) Social Security number; and
- (8) Proof that the individual is at least 18 years of age.

G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(1) A color photograph of the applicant clearly showing face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(2) A statement detailing the license history of the applicant for 5 years immediately preceding the date of application, including whether such applicant previously operated or is seeking to operate, in this or any other municipality has ever had a license denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, issuing jurisdiction, and full reason, attaching a copy of any pertaining orders.

(3) A statement whether the applicant has been convicted of a specified criminal activity as defined in this ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

1.12. ISSUANCE OF LICENSE

A. Upon filing of said application for a sexually oriented business employee license, the Town shall conduct an investigation of such information as is contained on the application. The investigation process shall be completed within 30 days from the date the completed application is filed. After the investigation, the Town shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant failed to provide information requested or has falsely answered a question or request for information;

(2) The applicant is under the age of 18 years;

(3) The applicant has been convicted of a 'specified criminal activity' as defined in this ordinance;

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this ordinance; or

(5) The applicant has had a sexually oriented business employee license revoked anywhere in the State of Wisconsin within 2 years of the current application.

If the sexually oriented business employee license is denied, denial is subject to appeal as set forth in Section 1.17.

B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Town that the applicant has not been convicted of any specified criminal activity as defined in this ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 1.13.

C. Within 30 days after receipt of a completed sexually oriented business application, the Town shall approve or deny the issuance of a license to an applicant. The Town shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) An applicant is under 18 years of age;

(2) An applicant or a person with whom applicant is residing is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;

(3) An applicant has failed to provide information requested or has falsely answered a question or request for information on the application form;

(4) An applicant or a person with whom the applicant is residing has been denied a license or whose license has been revoked anywhere in the State of Wisconsin within the preceding 12 months;

(5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this ordinance;

(6) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances;

(7) The license fee required by this ordinance has not been paid.

(8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this ordinance.

D. The license, if granted, shall state on its face the name of the person(s) to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 1.10. All licenses 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.

E. The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Town.

F. A sexually oriented business license shall issue for only one classification as found in Section 1.10.

1.13. FEES.

A. Every application for a sexually oriented business license (new or renewal) shall be accompanied by a \$250.00 non-refundable application and investigation fee.

B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Town an annual non-refundable license fee of \$500.00 within 30 days of license issuance or renewal.

C. Every application for a sexually oriented business employee license (new or renewal) shall be accompanied by an annual \$250.00 non-refundable application, investigation, and license fee.

1.14. INSPECTION.

An applicant or licensee shall permit representatives of the police department, health department, fire department, zoning department, or other Town departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business. Failure to allow such inspections will be considered an ordinance violation.

1.15. EXPIRATION OF LICENSE.

A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 1.11. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

B. When the Town denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Town finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

1.16. SUSPENSION. The Town shall suspend a license for a period not to exceed 30 days if it determined that a licensee or an employee of a licensee has:

(1) violated or is not in compliance with any section of this ordinance;

(2) refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance.

(3) the Town Board has determined the offense is not serious enough to merit revocation, or that an insufficient pattern of violation has occurred to justify revocation.

1.17. REVOCATION.

A. The Town shall revoke a license if a cause of suspension in Section 1.16 occurs and the license has been suspended within the preceding 12 months, or the offense(s) charged are so serious as to justify immediate revocation.

B. The Town shall revoke a license if it determines that:

(1) a licensee gave false or misleading information in the material submitted during the application process;

(2) a licensee has knowingly allowed unlawful possession, use, or sale of controlled substances on the premises;

(3) a licensee has knowingly allowed prostitution on the premises, including adjacent areas owned or rented by the licensee;

- (4) a licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or
- (6) a licensee is delinquent in payment to the Town, County, or State for any taxes or fees past due.

C. When the Town revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date of revocation. If, subsequent to revocation, the Town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

1.18. TRANSFER OF LICENSE. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

1.19. ADDITIONAL REGULATIONS FOR ADULT MOTELS.

A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this ordinance.

B. A person commits an ordinance violation if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within 10 hours from the time the room is rented, he rents or subrents the same sleeping room again.

C. For purposes of subsection (B) of this section, the terms 'rent' or 'subrent' mean the act of permitting a room to be occupied for any form of consideration.

1.20. 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, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented license, 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 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 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 interior of the premises to an accuracy of plus or minus 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 licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any person 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 the premises has two or more manager's stations 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 licensee to ensure that the view area specified in subsection (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 application filed pursuant to subsection (1) of this Section.

(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 one (5.0) footcandle as measured at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

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

(14) The licensee 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 48" of the floor.

B. A person having a duty under Subsection (1) through (14) of Subsection (A) above commits an ordinance violation if he knowingly fails to fulfill that duty.

1.21. ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

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

1.22. ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS.

A. A nude model studio shall not employ any person under the age of 18 years.

B. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom appropriate for that person's sex not open to public view or visible to any other person.

C. A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way or visible to anyone outside the licensed premises structure.

D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

1.23. ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY.

A. It shall be an ordinance violation for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

B. It shall be an ordinance violation for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least 10 feet from any patron or customer and on a stage at least two feet from the floor.

C. It shall be an ordinance violation for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

1.24. PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS. A person commits an ordinance violation if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

1.25. HOURS OF OPERATION. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1 a.m. and 6 am on weekdays and Saturdays, and 1 am and 10 am on Sundays.

1.26. EXEMPTIONS. It is a defense to prosecution under Section 1.23 that a person appearing in a state of nudity did so in a modeling or artistic training class operated:

(1) by a proprietary school, licensed by the State of Wisconsin, a college, junior college, or university supported entirely or partly by taxation;

(2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) in a structure:

(a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) where, in order to participate in a class a student must enroll at least 3 days in advance of the class; and

(c) where no more than one nude model is on the premises at any one time.

1.27. INJUNCTION AND PENALTIES. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of (Shawano County Zoning) is subject to a suit for injunction as well as prosecution for civil or criminal violations. Such violations shall be punishable by a forfeiture of \$40.00 to \$400.00 or in lieu of payment, imprisonment not to exceed 30 days. Each day a sexually oriented business so operates is a separate offense or violation.

Adopted on November 12, 1996 after a public hearing on April 13, 1996.

VOTE: For 3 Against 0

Attested by:

John Thiede
Town Clerk

TOWN OF LESSOR

Debra Zumbardo
Town Chairman

Ray Brusky
Supervisor

Gerald Jank
Supervisor