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ARTICLE XII. SEXUALLY ORIENTED ADULT ENTERTAINMENT**Sec. 18-436. Purpose and findings.**

(a) It is the intent of this article to regulate sexually oriented adult entertainment establishment businesses, referred to in this article as "adult oriented establishments"; to promote the health, safety, morals and general welfare of the citizens of the city; to prevent the deleterious location and concentration of sexually oriented businesses within the city; to aid in the alleviation and prevention of the adverse and deleterious effects of criminal activity and disruption of the public peace associated with such establishments; to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in such establishments; and to alleviate the spread of sexually transmitted diseases and other contagious diseases in such establishments.

(b) Based on evidence concerning the adverse secondary effects of adult uses on the city presented in hearings and in reports made available to the common council and findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the common council finds:

(1) Sexually oriented establishments lend themselves to ancillary unlawful and unhealthy activities. There is presently no mechanism to make the owners of such establishments responsible for the activities that occur on their premises.

(2) Certain employees of sexually oriented establishments such as adult theaters and cabarets engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented establishments, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.

(4) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades and other sexually oriented establishments for the purpose of engaging in sex within the premises of such establishments.

(6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented establishments, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non-A, Non-B amebiasis, salmonella and shigella infections.

(7) Since 1981 to the present time there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.

(8) The number of cases of early (less than one year) syphilis in the United States, reported annually, has risen.

(9) The number of cases of gonorrhea in the United States, reported annually, remains

at a high level.

(10) The Surgeon General of the United States, in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

(11) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(12) Sanitary conditions in some sexually oriented establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of such facilities to self-regulate such activities and maintain such facilities.

(13) Numerous studies and reports have determined that semen is found in the areas of sexually oriented establishments where persons view adult-oriented films.

(14) The findings noted in subsections (b)(1)--(14) of this section raise substantial governmental concerns.

(15) Sexually oriented establishments have operational characteristics which should be reasonably regulated in order to protect such substantial governmental concerns.

(16) A reasonable licensing procedure is an appropriate mechanism to place the burden of such reasonable regulation on the owners and operators of sexually oriented establishments. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators of such establishments to ensure that the sexually oriented establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented establishment, and is fully in possession and control of the premises and activities occurring in such establishment.

(17) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

(18) Requiring licensees of sexually oriented establishments to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by preventing minors from working in such establishments.

(19) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented establishment, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(20) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this article is designed to prevent, or who are likely to be witnesses to such activity.

(21) The fact that an applicant for an adult use license has been convicted of a sexually-related crime leads to the rational assumption that the applicant may engage in such conduct in contravention of this article.

(22) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(23) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this article.

(Code 1989, § 7-12-1)

Sec. 18-437. Definitions.

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

Adult arcade means a place to which the public is permitted or invited wherein coin-operated or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors 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.

Adult bath house means an establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state, and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this section.

Adult body painting studio means an establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For the purposes of this article, an adult body painting studio shall not be deemed to include a tattoo parlor.

Adult bookstore means an establishment having as a substantial or significant portion of its stock and trade in books, magazines and other periodicals, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. This term shall also include, but is not limited to, establishments which have facilities, including, but not limited to, booths, cubicles, rooms or stalls, for the presentation of adult entertainment, as defined in this section, including adult oriented films, movies or live performances for observation by patrons therein, or which, as part of its regular and substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, videocassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to adult entertainment, as defined in this section.

Adult cabaret means a cabaret which features male or female impersonators or similar entertainers.

Adult entertainment means an exhibition of a motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance based on, or is distinguished or characterized by an emphasis on, an actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined in this section, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.

Adult mini-motion picture theater means an enclosed building with a capacity for less than 50 patrons, including establishments that have coin-operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons of such establishment.

Adult modeling studio means an establishment or business which provides the services of modeling for the purpose of reproducing the wholly or partially nude human body by means of photography, painting, sketching, drawing or otherwise.

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, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and which may have a sign visible from the public right-of-way which advertises the availability of such adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time less than ten hours.

Adult motion picture theater means an enclosed building, with a capacity of 50 or more persons, at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons of such establishment.

Adult motion picture theater, outdoor, means a parcel of land from which individuals may view a motion picture presented out-of-doors, which presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical areas, as defined in this section, for observation by patrons of such establishment.

Adult novelty shop means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or other items which are distinguished or characterized by their emphasis on, or designed for, specified sexual activities or specified anatomical areas, as defined in this section, or stimulating such activity.

Adult oriented or sexually oriented establishment means an establishment which includes, but is not limited to, adult bookstores, indoor or outdoor adult motion picture theaters, adult mini-motion picture theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, sexually oriented businesses, adult modeling studios, escort agencies, establishments featuring live sexually explicit performances, and further means a premises to which public patrons or members are regularly invited, admitted and/or allowed to view adult entertainment, whether or not such entertainment is held, conducted, operated or maintained for direct or indirect profit. An adult oriented establishment further includes, but is not limited to, an adult entertainment studio, or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other like term.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or seminudity, and/or live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities.

Booth, room or cubicle means enclosures which are specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure, which shall include, but is not limited to, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, such terms do not mean enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire, for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the state pursuant Wis. Stats. ch. 50.

Church means a building, whether situated within the city or not, in which persons regularly assemble for religious worship, intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Customer means a person who:

- (1) Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity;
- (2) Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered in such establishment; or
- (3) Is a member of and on the premises of an adult oriented establishment operating as a private club.

Day care center means a facility licensed by the state pursuant to Wis. Stats. § 48.65, whether situated within the city or not.

Door, curtain or portal partition means a nontransparent closure device which prevents activity which is taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.

Employee means any and all persons, including independent contractors, who work in or at, or render any services directly or indirectly related to the operation of an adult oriented establishment.

Entertainer means a person who provides entertainment within an adult oriented establishment, as defined in this section, whether or not a fee is charged or accepted for such entertainment, and whether or not the entertainment is provided by an employee of the establishment or independent contractor.

Operator means a person operating, conducting, maintaining or owning any sexually oriented establishment or adult oriented establishment.

Residential means the use of land, whether situated within the city or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for nontransient occupancy, and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boardinghouses, nursing homes and hospitals shall not be considered to be residential.

School means a building, whether situated within the city or not, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadium and other structures or grounds used in conjunction with such school. The term is limited to:

- (1) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through 12 classes are taught; and
- (2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or grades one through 12.

Specified anatomical areas mean less than completely and opaquely covered:

- (1) Human genitals, pubic region;
- (2) Buttocks;
- (3) Female breast below a point immediately above the top of the areola;
- (4) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities mean simulated or actual:

- (1) Showing of human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia,

sadomasochistic abuse, fellatio or cunnilingus;

(3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts, whether covered or uncovered;

(4) Excretory functions as of or in connection with any of the activities set forth in subsections (1)--(3) of this definition.

Substantial means 50 percent or more of a business' stock in trade, display space, floor space or retail sales in any one month during the license year.

(Code 1989, § 7-12-2)

Cross references: Definitions generally, § 1-2.

Sec. 18-438. License required.

(a) Except as provided in subsection (d) of this section, from and after the effective date of the ordinance from which this article is derived, no adult oriented establishment shall be operated or maintained within the corporate limits of the city without first obtaining a license issued by the city to operate such establishment.

(b) A license may be issued for only one adult oriented establishment located at a fixed and certain place, per each application filed. Any person who desires to operate more than one adult oriented establishment must have a separate license for each establishment.

(c) No adult oriented establishment license, or interest in such a license, may be transferred to any person.

(d) All adult oriented establishments existing at the time of the original passage of the ordinance from which this article is derived must submit an application for a license within 90 days of the passage of the ordinance from which this article is derived. If an application is not received within such 90-day period, then such existing adult oriented establishment shall cease operation. An adult oriented establishment shall be deemed to be existing at the time of the passage of the ordinance from which this article is derived if it comes within the definition of such term at any point during the 30-day period prior to the passage of the ordinance from which this article is derived, and intends to continue adult oriented operations beyond the date of the passage of the ordinance from which this article is derived.

(Code 1989, § 7-12-3)

Sec. 18-439. Application for license.

(a) *Procedure.* Any person desiring to obtain an adult oriented establishment license shall make application to the clerk-treasurer. The application shall be filed in triplicate and submitted a minimum of 45 days prior to a common council meeting to be eligible for consideration by the common council. A copy of the application shall be distributed, within ten days of receipt thereof, to the police chief, fire chief/inspector, county health department, building inspector and planning/zoning coordinator.

(b) *Required information.* The application for an adult oriented establishment license shall be made upon a form provided by the clerk-treasurer. All such licenses shall specify the nature of the holder and the license, and the dates for which such license is applicable, as well as any conditions that may be imposed by the city. An applicant for such license, which shall include all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of a limited liability company applicant, and any other person who is interested directly in the ownership or operation of the business, shall furnish, under oath, the

following information:

- (1) Name, including all aliases, address and date of birth of the applicant;
- (2) Written proof that the applicant is at least 18 years of age;
- (3) All residential addresses of the applicant for the past ten years;
- (4) The business, occupation or employment of the applicant for ten years immediately preceding the date of the application;
- (5) Whether the applicant previously operated in this or any other state, county or municipality under an adult oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
- (6) All criminal convictions, whether federal, state or municipal ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;
- (7) Fingerprints made by a law enforcement agency, and two portrait photographs of at least two inches by two inches of the applicant. Each applicant shall make arrangements to provide fingerprints in person at the police department, and shall pay all costs or fees as may be charged by the police department. The required photograph may also be taken through the police department, although not necessary, provided the applicant pays all costs or fees as may be charged by the police department;
- (8) The address of the adult oriented establishment to be operated by the applicant; and
- (9) If the applicant is a corporation or limited liability company, the application shall specify the name of the corporation or limited liability company, the date and state of incorporation or organization, the name and address of the registered or principal agent, and all officers, directors or managing members of the corporation or limited liability company.

(Code 1989, § 7-12-4)

Sec. 18-440. Standards for issuance of license.

(a) *Generally.* In order to receive a license to operate an adult oriented establishment within the city, each person required to be named in the permit application for the adult oriented establishment must meet the following standards:

- (1) The applicant shall be at least 18 years of age;
- (2) Subject to Wis. Stats. ch. 111, the applicant shall not have been convicted of or pleaded nolo contendere, or have charges pending or deferred prosecution to a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five years immediately preceding the date of the application; and
- (3) The applicant shall not have been found to have previously violated the provisions of this article within five years immediately preceding the date of the application.

(b) *Investigation.* No adult oriented establishment license shall be issued unless the police department has investigated the applicant's qualifications to be licensed. The results of the investigation shall be filed in writing with the clerk-treasurer no later than the time the agenda is posted for the common council meeting at which the permit application will be reviewed.

(c) *Inspection.* The fire chief/inspector, county health department, building inspector and

planning/zoning coordinator shall inspect the premises proposed to be licensed to verify compliance with their respective codes, and shall report compliance findings to the clerk-treasurer within 30 days after the filing date of the application. No license may be issued under this article unless the premises is approved by the inspecting authorities.

(d) *Proof.* No adult oriented establishment license shall be issued unless the applicant provides proof of one of the following:

(1) Ownership of a properly zoned building or parcel of real property upon which a building may be constructed. Proper zoning includes permissible nonconforming use status.

(2) A lease on a building which is properly zoned to house such a venture. Proper zoning includes permissible nonconforming use status.

(3) An option to purchase property which is properly zoned for the venture. Proper zoning includes permissible nonconforming use status.

(4) An option to lease property which is properly zoned for the venture. Proper zoning includes permissible nonconforming use status.

(e) *Back taxes.* No adult oriented establishment license **shall** be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the city are delinquent or unpaid.

(f) *Number of licenses.* No more than three annual licenses issued under this article shall be issued to license holders within the city limits at one time.

(Code 1989, § 7-12-5)

Sec. 18-441. License fee.

A license application under this article shall be accompanied by a fee as set forth in the fee schedule on file in the clerk-treasurer's office. If for any reason the license application is denied, one-half of the fee paid shall be returned to the applicant. If the license is granted, the city shall retain the entire fee.

(Code 1989, § 7-12-6)

Sec. 18-442. Display of license.

An adult oriented establishment license shall be displayed in a conspicuous public place in the licensed adult oriented establishment.

(Code 1989, § 7-12-7)

Sec. 18-443. Renewal of license.

(a) Each license issued pursuant to this article shall terminate on December 31 of the year for which the license is issued, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew an adult oriented establishment license shall make application to the clerk-treasurer for such renewal. The application for renewal must be filed not later than 60 days before the license expires. The application for renewal shall be filed in triplicate. The renewal application shall be distributed to the same inspection authorities and subject to the same background check and building inspection requirements as for an application for a new license as set forth in section 18-440. The

application for renewal shall be upon a form provided by the clerk-treasurer, and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license as set forth in section 18-439.

(b) A license renewal fee as set forth in the fee schedule on file in the clerk-treasurer's office shall be submitted with the application for renewal. If, for any reason, the license renewal is denied, one-half of the fee paid shall be returned to the applicant. If the license renewal is granted, the city will retain the entire fee.

(Code 1989, § 7-12-8)

Sec. 18-444. Granting or denial of application.

(a) Opportunity shall be given by the common council to any person to be heard for or against the granting of any license under this article. The clerk-treasurer shall issue the license to the applicant only upon the approval of the license application by the common council.

(b) If the common council denies the initial application, the clerk-treasurer shall, within 14 days of such denial, send notice to the applicant in writing stating the reasons for such denial. The notice shall also inform the applicant of the opportunity to appear before the common council to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in closed session, pursuant to Wis. Stats. § 19.85(1), unless the applicant requests such reconsideration be held in open session and the common council consents to the request. If the applicant requests a hearing within ten days of receipt of the notice of denial, the hearing before the common council shall occur at its next regularly scheduled meeting.

(c) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his refusal or failure to appear at any reasonable time and place for examination under oath regarding such application, or his refusal to submit to or cooperate with any investigation required by this article shall constitute an admission by the applicant that he is ineligible for such license, and shall be grounds for denial thereof by the clerk-treasurer.

(d) No application for a license under this article which has been denied by the common council for any reason shall again be considered by the common council for a period of three months from the date of such denial.

(Code 1989, § 7-12-9)

Sec. 18-445. Transfer of license.

Licenses issued under this article may not be transferred. All adult oriented establishment license applications shall be for an original or renewal license.

(Code 1989, § 7-12-10)

Sec. 18-446. Adult oriented establishment requirements.

Adult oriented establishments within the city having open for customers, patrons or members any booth, room or cubicle for the private viewing of any sexually oriented adult entertainment shall comply with the following requirements:

(1) *Access.* Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment, and shall be unobstructed by any door, lock or other control-type devices.

(2) *Construction.* Every booth, room or cubicle within an adult oriented establishment shall meet the following construction requirements:

- a. Each booth, room or cubicle shall be separated by a wall from adjacent booths, rooms, cubicles and any nonpublic areas.
- b. At least one side shall be totally open to a public lighted aisle so that there is an unobstructed view, at all times, of anyone occupying such booth, room or cubicle.
- c. All walls shall be solid and without openings, extending from the floor to a height of not less than six feet, and light colored, nonabsorbent, smooth textured and easily cleanable.
- d. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
- e. When not in use, the lighting level shall be a minimum of ten footcandles, at all times, as measured from the floor.

(3) *Occupants.* Only one individual shall occupy a booth, room or cubicle at any time. No occupant shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth, room or cubicle. No person shall alter, damage or deface any portion of any such booth, room or cubicle.

(4) *Physical contact.* No dancer, performer or other individual who is performing, singing or dancing, shall have direct or indirect physical contact with any patron of such establishment.

(5) *Illumination.* While dancing or another performance is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.

(6) *Maintenance of good order.* Good order shall be maintained, at all times. Without limitation due to enumeration, a lack of "good order," for purposes of this article, shall be deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons, urinating in public, profane language, and/or fighting.

(7) *Entertainment hours.* Music and other entertainment which is amplified inside the establishment shall cease no later than 2:00 a.m.

(8) *Capacity limits compliance.* The license holder shall ensure that building capacity limits are set so that the appropriate fire inspection and/or building inspection authorities are complied with at all times.

(9) *Other regulations.* The license holder shall comply with all applicable statutes and regulations, and all county and city ordinances, including, but not limited to, the totally nude dancing restrictions for certain licensed liquor establishments as set forth in chapter 6, article III of this Code.

(10) *Order compliance.* The management and employees of all license holders under this article shall obey all reasonable orders and directions of any law enforcement officer.

(11) *Performance area.* The performance of any dance by performers under the auspices of the management shall be given only on a raised portion of the floor separated by a railing or other device from the patrons so as to deter patrons from participating in the dance.

(12) *Prohibited acts.* It shall be unlawful to perform live acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual

acts which are prohibited by law, on the licensed premises.

(13) *Fondling prohibited.* The actual live touching, caressing or fondling of the breasts, buttocks, anus or genitals of a person shall be prohibited.

(14) *Simulations prohibited.* The actual live use of simulated sexual organs during dances or performances within a licensed adult oriented establishment shall be prohibited.

(15) *Food or beverage solicitation.* Entertainers or dancers in licensed adult oriented establishments shall be prohibited from soliciting or serving drinks or food while performing.

(16) *Serving attire.* No person who serves beverages or food within a licensed adult oriented establishment may be nude or unclothed, which means the showing of specified anatomical areas as defined in section 18-437.

(17) *Prohibited gratuities.* No customer may pay a gratuity or consideration to an entertainer or dancer while performing within a licensed adult oriented establishment, whereby the gratuity or consideration, any part of the customer's body or clothing or any device held or controlled by the customer comes into contact with the entertainer's or dancer's body, clothing or any device held or controlled by the entertainer or dancer.

(18) *Amateur participation.* No adult oriented establishment license holder shall permit any amateur dancing, obscene entertainment or performances on the licensed premises in violation of this article or any applicable state and federal laws.

(19) *Prohibited locations.* No adult oriented establishment licensed under this article shall be located within 200 feet of any residential area or zoned residential district, church, school, day care center, public park or other adult oriented establishment licensed under this article. For the purpose of this subsection, 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 listed in this subsection to the nearest portion of the building or structure used as the part of the premises where another sexually oriented business is conducted, whichever is applicable. Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this subsection.

(Code 1989, § 7-12-11)

Sec. 18-447. Operators' responsibilities.

(a) An operator, licensed under this article, shall maintain a register of all employees, showing the name and aliases used by such employees, home addresses, birth dates, sex, telephone numbers, social security numbers, and the dates of employment and termination. The information on each employee shall be maintained in the register on the premises for a period of three years following termination of employment of such employees.

(b) The operator shall make the register of employees available immediately, at all times, for inspection by law enforcement officers upon demand by a member of the police department.

(c) Every act or omission by an employee of a licensed adult oriented establishment which constitutes a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if

the operator himself committed the act or caused the omission.

(d) Any act or omission of any employee of a licensed adult oriented establishment which constitutes a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(e) No employee of an adult oriented establishment shall allow a minor to loiter around or to frequent an adult oriented establishment, or to allow a minor to view sexually explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined in section 18-437.

(f) The operator shall maintain the premises in a clean and sanitary manner, at all times.

(g) The operator shall ensure compliance of the establishment and its patrons with the provisions of this article.

(h) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle of the licensed premises an un mutilated and undefaced sign or poster supplied by the county health inspection authority which contains information regarding sexually transmitted diseases, and the telephone numbers from which additional information can be sought.

(i) The operator shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures or pamphlets supplied by the health inspection authority pertaining to sexually transmitted diseases.

(j) The operator shall ensure there are posted regulations concerning booth, room or cubicle occupancy on signs, with lettering at least one inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.

(k) The operator shall be responsible for paying all reasonable costs or fees charged by the county health inspection authority for supplying such posters, brochures, pamphlets and other information as set forth in this section.

(Code 1989, § 7-12-12)

Sec. 18-448. Registration of employees.

(a) All operators, employees and independent contractors working in adult oriented establishments licensed under this article shall, prior to beginning employment or contracted duties, register with the police department, unless such persons have already done so under the license application procedures required under this article. Such registration shall include the following:

(1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer.

(2) Photographs and fingerprints submitted according to the same standards established under the license application procedures set forth in section 18-439(b)(7). Each person governed by this provision shall make arrangements to provide fingerprints in person at the police department, and shall pay all costs or fees as may be charged by the police department. The required photographs may also be taken through the police department, although not necessary, provided the applicant pays all costs or fees as may be charged by the police department.

(b) Registrations under this section shall be valid for a period of one year.

(Code 1989, § 7-12-13)

Sec. 18-449. License suspension, revocation or nonrenewal.

(a) *Generally.* A license granted under this article may be revoked or suspended indefinitely or not renewed by the common council for the following reasons:

- (1) If the applicant has made or recorded any statement required by this article knowing it to be false or fraudulent or intentionally deceptive;
- (2) For the violation of any provision of this article, except for adult oriented establishment license matters involving a violation of chapter 14 of this Code, in which case the license shall be revoked after the second conviction thereof in any license year;
- (3) After one conviction by an establishment personnel of an offense under Wis. Stats. ch. 944, or of an offense against the person or property of a patron of the property, or of an offense involving substances set forth in Subchapter II of Wis. Stats. ch. 961 (Wis. Stats. § 961.31 et seq.) where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

(b) *Notice of hearing.* No adult oriented establishment license shall be revoked, suspended or not renewed by the common council, except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the committee of the whole. Notice of such hearing shall be made in writing, and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least 15 days prior to the date of the hearing, and shall state the time and place of such hearing.

(c) *Hearing.* The licensee shall be entitled to be heard, represented by counsel, cross examine opposing witnesses, and present witnesses on his own behalf under subpoena by the common council, if such is required. The hearing shall be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the committee of the whole shall prepare and submit a report, including findings of fact and conclusions of law, and a recommendation of action with respect to the license. The committee of the whole shall provide the complainant and licensee with a copy of the report. The common council shall decide the matter, and shall prepare a written decision which shall be filed with the city clerk-treasurer, and a copy thereof delivered to the licensee and complainant within 20 days after its decision.

(Code 1989, § 7-12-14)

Sec. 18-450. Exclusions.

All private and public schools, as defined in Wis. Stats. ch. 115, located within the city, are exempt from obtaining a license under this article when instructing pupils in sex education as part of the school's curriculum.

(Code 1989, § 7-12-15)

Sec. 18-451. Violation; penalty.

In addition to any other actions allowed by law or taken by the common council, including the action of license revocation or nonrenewal, any person who violates any of the provisions of this article shall be subject to a forfeiture as provided in section 1-16.

(Code 1989, § 7-12-15)

Secs. 18-452--18-480. Reserved.