

## Chapter 115

# REGULATION OF ADULT ENTERTAINMENT AND ADULT ORIENTED AND SEXUALLY ORIENTED ESTABLISHMENTS

### ARTICLE 1. - INTRODUCTION

#### Sec. 80-1. - Intent; findings; exemptions.

(a) *Intent.* It is the intent of this Chapter to regulate sexually oriented businesses and related activities to promote the health, safety and general welfare of the citizens of the Town of Troy 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 Chapter 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 Chapter 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 Chapter 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 this intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene materials.

(b) *Findings.*

(1) It is a lawful purpose of the Town Board to enact rules and regulations as are necessary for the preservation of health and to prevent the spread of communicable or sexually transmitted diseases in the Town of Troy. It has been found by localities through the State of Wisconsin, particularly Milwaukee, Racine, Waukesha, Delafield, Kenosha and West Allis, as well as communities around the country, including Indianapolis, Indiana; Austin, Texas; Chattanooga, Tennessee; Newport News, Virginia; Marion County, Indiana; Detroit, Michigan; and Seattle, Washington; as well as other communities around the country, that sexually oriented adult entertainment establishments are predisposed to the creation of unsafe and unsanitary conditions; that operators and employees of such businesses tend to participate in sex-related offenses on the premises, creating substantial law enforcement problems, and that the operational characteristics of such businesses have a deleterious effect on surrounding areas, resulting in neighborhood blight and reduced property values, especially when such businesses are concentrated in one area. Many of such establishments install

movie viewing booths with doors in which patrons view videotapes, movies, films and other forms of entertainment characterized by their emphasis on depicting, describing or relating to specified sexual activities or specified anatomical areas, and that such booths have been and are being used by patrons to engage in sexual acts resulting in unsanitary, unhealthy and unsafe conditions in said booths and establishments. This Chapter is intended to establish standards in order to prevent the spread of communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Town of Troy

(2) The Town Board recognizes that "Class B" licensed premises are the most likely location to conduct a live nude dancing business and that this sexually oriented adult entertainment activity could lead to the exploitation of human sexuality. Such exploitation takes the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other patrons as an inducement to the patrons to purchase alcohol beverages. The result of such exploitation is both direct and secondary criminal activity, moral degradation and disturbance of the peace and good order of the community. In addition, this commercial exploitation of such nude and semi-nude acts is adverse to the public's interest in the quality of life, commercial activity and total community environment of the Town of Troy.

(3) The Town Board also recognizes that it lacks authority to regulate obscene materials or performances by operation of Wis. Stats. §66.0107(3), which reserves the authority for such regulation to the State. The Town Board does not intend by adopting this Chapter to regulate obscene materials or performances, since nudity in and of itself is not obscene; rather, the Town Board declares that its intent in enacting this Chapter is to address the secondary effects of live, totally nude, non-obscene, erotic dancing in bars or taverns and the secondary effects of sexually oriented businesses on public health, safety and general welfare.

(4) Based on evidence concerning the adverse secondary effects of adult uses on communities stated above, and on 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); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. City of Newport, Ky.*, 479 U.S. 92 (1986); *United States v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Key, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); and *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir. 1984), and findings reported in the Final Report of the Attorney General's Commission

on Pornography (1986), the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Town Board finds that:

- a. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.
- b. Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.
- c. Sexually oriented businesses may contribute to an increased public health risk through the spread of sexually transmitted diseases.

*(c) Exemptions.*

(1) The provisions of this Chapter 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, social or political merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests 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 Chapter seeks only to minimize and prevent the secondary effects of adult oriented establishments or sexually oriented businesses on the community. Negative secondary effects have not been associated with these establishments.

**Sec. 80-2. - Definitions.**

The following definitions are applicable in this Chapter:

- (a) ***Adult Arcade.*** Any 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 (5) 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."
- (b) ***Adult Bath House.*** 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 of Wisconsin and which establishment provides to its patrons an opportunity for engaging in specified sexual activities as defined in this Article.

(c) **Adult Body Painting Studio.** An establishment or business wherein patrons are afforded an opportunity to paint images on a body which is wholly or partially nude. For purposes of this Chapter, an adult body painting studio shall not be deemed to include a tattoo parlor.

(d) **Adult Bookstore or Adult Video Store.** 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 as defined herein. This includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein. This also includes a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

*Note—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 an "adult bookstore" 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 that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.*

(e) **Adult Cabaret.** A nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:

- (1) Persons who appear in a state of nudity or semi-nudity; or
- (2) Live performances that are characterized by "specified sexual activities"; or
- (3) Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or depictions that are characterized by the depiction or description of "specified sexual activities" or "nudity".

(f) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance or is distinguished or characterized by an emphasis

on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, as defined herein, appearing unclothed, or the removal of articles of clothing to reveal specified anatomical areas.

(g) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity for less than fifty (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 herein for observation by patrons therein.

(h) **Adult Modeling Studio.** An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially nude by means of photography, painting, sketching, drawing or otherwise.

(i) **Adult Motel.** 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 transmission, 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 which may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (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.

(j) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (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 herein for observation by patrons therein.

(k) **Adult Motion Picture Theater (Outdoor).** 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 herein, for observation by patrons.

(l) **Adult Novelty Shop.** 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 herein, or stimulating such activity.

(m) ***Adult Oriented or Sexually Oriented Establishment.*** An establishment which includes, but is not limited to, adult arcades, adult bookstores, adult video stores, adult motion picture theaters, adult mini-motion picture theaters, adult theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, sexually-oriented businesses, escort agencies, establishments featuring live sexually explicit performances, adult entertainment and further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls, separate from the common area of the premises, for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect; and any or all of which businesses, establishments or activities are referred to herein as “adult oriented establishments”, “sexually oriented businesses” “sexually oriented establishments” or, simply, “establishments”. An adult oriented establishment also includes, without being limited to, any 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 term of like import.

(n) ***Adult Theater.*** A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the "exposure of specified anatomical areas" or by "specified sexual activities."

(o) ***Booth, Room or Cubicle.*** Such enclosures as 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, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, booth, room, or cubicle does not mean such enclosures as are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, that are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and that are not open to any persons other than employees; nor shall this definition apply to hotels, motels or establishments licensed by the State of Wisconsin pursuant to Wis. Stats. Chapter 50.

(p) ***Breast.*** A portion of the human female mammary gland (commonly referred to as the female breast) including the nipple and the areola (the darker colored

area of the breast surrounding the nipple) and an outside area of such gland wherein such outside area is:

- (1) Reasonably compact and contiguous to the areola; and
- (2) Contains at least the nipple and the areola and one-fourth ( $\frac{1}{4}$ ) of the outside surface area of such gland.

(q) **Buttocks.** (For a short general description see the last sentence of this Subsection). The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two (2) imaginary straight lines running parallel to the ground when a person is standing, the first or top such line being one-half ( $\frac{1}{2}$ ) below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the second or bottom such line being one-half ( $\frac{1}{2}$ ) inch above the lowest point of the curvature of the fleshy protuberance (sometimes referred to as the gluteal fold), and between two (2) imaginary straight lines, one on each side of the body (the "outside line"), which outside lines are perpendicular to the ground and to the horizontal lines described above and which perpendicular outside lines pass through the outermost point(s) at which each nate meets the outer side of each leg. Notwithstanding the above, buttocks shall not include the leg, the hamstring muscle below the gluteal fold, the tensor fasciae latae muscle or any of the above-described portion of the human body that is between either:

- (1) The left inside perpendicular line and the left outside perpendicular line; or
- (2) The right inside perpendicular line and the right outside perpendicular line.

For the purpose of the previous sentence the left inside perpendicular line shall be an imaginary straight line on the left side of the anus:

- (1) That is perpendicular to the ground and to the horizontal lines described above; and
- (2) That is one-third ( $\frac{1}{3}$ ) of the distance from the anus to the left outside line; and

The right inside perpendicular line shall be an imaginary straight line on the right side of the anus:

- (1) That is perpendicular to the ground and to the horizontal lines described above; and
- (2) That is one-third ( $\frac{1}{3}$ ) of the distance from the anus to the left outside line; and

The right inside perpendicular line shall be an imaginary straight line on the right side of the anus:

- (1) That is perpendicular to the ground and to the horizontal lines described above; and

(2) That is one-third (1/3) of the distance from the anus to the right outside line. (The above description can generally be described as covering one-third (1/3) of the buttocks centered over the cleavage for the length of the cleavage.)

(r) **Church.** A building whether or not situated in the Town, 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.

(s) **Customer.** Any person who:

(1) Is allowed to enter an adult or sexually oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or

(2) Enters an adult or sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(3) Is a member of and on the premises of an adult or sexually oriented establishment operating as a private club.

(t) **Community.** The Town of Troy, unless the context requires a greater area of application.

(u) **Day Care Center.** A facility licensed by the State of Wisconsin pursuant to Wis. Stats. §48.65, and whether or not situated in the Town.

(v) **Door, Curtain or Portal Partition.** A nontransparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed from outside the booth, room or cubicle.

(w) **Employee.** 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.

(x) **Entertainer.** Any person who provides entertainment within an adult oriented establishment whether or not a fee is charged or accepted for entertainment and whether or not such entertainment is provided as an employee or independent contractor, including:

(1) Any person who appears in a state of nudity or semi-nudity in a sexually oriented business; or

(2) Any person who engages in live performances that are characterized by "specified sexual activities".

(y) **Escort.** 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.

(z) **Escort Agency.** 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.

- (aa) **Establishment.** Includes any of the following:
- (1) The opening or commencement of any sexually oriented business as a new business;
  - (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
  - (4) The relocation of any sexually oriented business; or
  - (5) A sexually oriented business or premises on which the sexually oriented business is located.
- (bb) **Harmful to Minors.** That quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value is to be determined by applying contemporary community standards, in the adult community as a whole, with respect to what is suitable material for minors.
- (cc) **Knowingly.** Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
- (1) The character and content of any material described herein which is reasonably suspect under this Chapter; and
  - (2) The age of a minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (dd) **Knowledge of Minor's Age.** Means:
- (1) Knowledge or information that the person is a minor; and
  - (2) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.
- (ee) **Manager.** The operator or agent licensed under this Chapter, and who shall not be licensed as a massage technician.
- (ff) **Massage.** Any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for consideration.
- (gg) **Massage Establishment.** A place of business wherein private massage is practiced, used or made available as a principal use of the premises.
- (hh) **Massage Room.** The area where private massage is performed.
- (ii) **Massage Technician.** A person who practices, administers or uses massage for a consideration, and who holds a valid license under this Chapter.

- (jj) **Minor.** Any person under the age of eighteen (18) years.
- (kk) **Nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.
- (ll) **Operator.** Any person operating, conducting, maintaining or owning any sexually oriented establishment, adult oriented establishment or massage establishment.
- (mm) **Patron.** Any person who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefor.
- (nn) **Premises.** The real property upon which the sexually oriented establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the sexually oriented business.
- (oo) **Residential.** The use of land, whether or not situated within the Town, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character under this Chapter unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential for purposes of this Chapter.
- (pp) **Sadomasochistic Activity.** Flagellation or torture by a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (qq) **School.** A building, whether or not situated in the Town, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term includes:
- (1) Pre-schools and nursery schools;
  - (2) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one (1) through twelve (12) classes are taught; and
  - (3) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one (1) through twelve (12).

(rr) ***Semi-Nude or Semi-Nudity.*** The exposure of a bare female breast with less than one-fourth (1/4) of the breast surface area, contiguous to and containing the areola, completely and opaquely covered (see definition of breast in this Section). Each female person may determine which one-fourth (1/4) of her breast surface area contiguous to and containing the areola is to be covered.

(ss) ***Sexual Conduct.*** The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, lewd exhibition of human genitals, or passionate kissing and petting of a sexual nature.

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

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) 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-nudity.

(uu) ***Sexual Intercourse.*** Physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.

(vv) ***Specified Anatomical Areas.*** Less than completely and opaquely covered:

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

(ww) ***Specified Sexual Activities.*** 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, cunnilingus;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts, whether covered or uncovered.
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(xx) ***Substantial.*** As used in various definitions in this Chapter, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one (1) month during the license year.

(yy) ***Waiting Area.*** An area adjacent to the main entrance that is separate from any area where massages are given.

### **Sec. 80-3. - Public indecency; Prohibited.**

(a) It shall be unlawful for any person in the Town of Troy to knowingly or intentionally, in a public place, commit public indecency by doing one of the following:

- (1) Engaging in specified sexual activities;
- (2) Displaying specified anatomical areas; or
- (3) Appearing in a state of nudity.

**Sec. 80-4. - Materials Harmful to Minors.**

(a) It shall be unlawful for any person in the Town to knowingly exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, or specified sexual activities and which is harmful to minors.

(b) It shall be unlawful for any person in the Town to knowingly sell or loan for monetary consideration to a minor:

- (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts specified anatomical areas or shows specified sexual activities and which is harmful to others.
- (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in Subsection (b)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of specified sexual activities and which, taken as a whole is harmful to minors.

(c) It shall be unlawful for any person in the Town to knowingly admit a minor to any premises whereon there is exhibited nudity or specified sexual activities which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

**Secs. 80-5—80-19. – Reserved**

**ARTICLE 2. - ENTERTAINMENT FEATURING LIVE SEXUALLY EXPLICIT PERFORMANCES**

**Sec. 80-20. - Establishments with Alcohol Beverage Licenses.**

(a) It shall be unlawful for any owner or operator of premises in the Town holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" Alcohol Beverage license to permit any person on the licensed premises to expose to public view on the

licensed premises any specified anatomical area as defined in this Chapter, or to employ any device intended to give the appearance of or simulate such specified anatomical areas on the licensed premises or to publicly display or perform any specified sexual activities on the licensed premises.

- (b) Any Alcohol Beverage licensee who permits a violation of Subsection (a) above shall be subject to revocation of all alcohol beverage licenses issued by the Town to the licensee and/or the licensed premises, in addition to such other penalties as are provided for in this Chapter.

**Sec. 80-21. - Establishments Offering Live Performances.**

- (a) This Article applies only to establishments offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings. Appearance in public in a state of nudity is prohibited by Section 80-3
- (b) No person or other business form shall open any establishment to the public that offers live performances by entertainers appearing in a state of partial nudity displaying some portions of specified anatomical areas not covered by fully opaque coverings, whether such entertainers are paid for such performance or not, unless the person or other business form owning and/or operating the establishment has first obtained a license from the Town Board pursuant to Section 80-22 and is in full compliance with other Town regulations, including applicable zoning regulations.
- (c) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performances shall only occur on a stage, or on a table that is elevated at least eighteen (18) inches above the immediate floor level and, to prevent actual physical contact between the entertainer and any other person, employee or patron, all such areas shall be not less than five (5) feet from any area occupied by any patron. Patrons shall not have any physical contact with, and shall be not less than five (5) feet from, any entertainer during the payment of a tip or gratuity.

**Sec. 80-22. - License Required; Fee; Number Limited.**

- (a) *Application.* Applications for an adult entertainment license or license renewal shall be made annually to the Town Clerk-Treasurer. The Town Clerk-Treasurer shall notify the Sheriff's Department and Fire Inspector of the initial or renewal license application, publish a Class I notice of such application and have the license application ready to be submitted to the Town Board within thirty (30) days of submission of a complete initial or renewal application. Investigating officials shall

submit written reports and recommendations to the Town Board prior to the public hearing, which reports shall be made available to the applicant. A public hearing shall be held on the application by the Town Board, which hearing shall be preceded by a Class II notice. The Town Board may take any testimony regarding the granting, renewal or denial of such license.

- (b) *Action.* Following the public hearing the Town Board shall approve, approve with conditions, modify or reject the license application, and the reasons for the action taken shall be specified in the written record of the Town Board.
- (c) *Probationary Period.* If license issuance is approved by a majority of the Town Board, the applicant shall initially receive a probationary license from the Town. An annual license shall be issued if, after the expiration of the six (6) month probationary period, no violations of this Article or any other Town regulations have occurred and if the applicant/probationary licensees has corrected any deficiencies or problems that the applicant/probationary licensee has been directed to correct. If the application is denied by the Town Board for any reason, whether initially or during the probationary period, the Town Board shall specify its findings that support that denial.
- (d) *License Term.* Each license granted under this Article shall expire on June 30th of each year. Each license is subject to revocation as hereinafter provided.
- (e) *Form of License.* Following Town Board action, the Town Clerk-Treasurer shall be responsible for issuing all licenses under this Article. All such licenses shall specify the identity and nature of the holder, type of license and the period during which it is in effect, as well as any conditions imposed by the Town. All such licenses shall be open to public inspection and shall be posted in public view on the premises for which issued.
- (f) *Fee.* All license applications shall be accompanied by an application or renewal fee as set by the Town Board, which fee may change from time to time. A copy of the current fee schedule shall be available from the Town Clerk-Treasurer. If for any reason the license is denied, one-half (½) of the license fee shall be returned to the applicant. Otherwise the entire fee will be kept by the Town.
- (g) *Number of Licenses Limited.* No more than two (2) annual adult entertainment licenses, issued under this Article of this Chapter, shall be available for issue in the Town of Troy at one (1) time. No more than one (1) license shall be issued to any one (1) individual, partnership or corporation.

**Sec. 80-23. - License Renewal.**

The holder of a license granted under this Article shall submit an application and fee for license renewal at least sixty (60) days before the expiration of the current license. Failure to comply with the application schedule shall mean that the license shall lapse to the extent that any subsequent application for the licensed premises shall be treated as a new application. The application for renewal shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. License renewal applications shall be processed pursuant to the provisions of Section 80-22 as that Article applies to notice being given by the Town Clerk-Treasurer and provisions for publication and action by the Town Board.

**Sec. 80-24. - Regulations for Licensed Premises.**

All license holders under this Article shall comply with the following regulations:

- (a) No dancing shall be permitted by any entertainers under the auspices of the management, whether paid or not, within five (5) feet from any location from which patrons are directly served, while so entertaining the patrons.
- (b) No dancer, performer, entertainer or any individual, who is performing, singing, or dancing, shall have either direct or indirect (i.e., lap dancing) physical contact with any patron, in violation of Wis. Stats. Chapter 944.
- (c) During all times that dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.
- (d) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of "good order" for purposes of this requirement is deemed to include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.
- (e) The licensed premises shall close, and all patrons shall vacate the premises daily between midnight and 11:00a.m..
- (f) The license holder shall insure that building capacity limits as set by the Fire Department and/or Building Code are enforced and complied with at all times.
- (g) The license holder shall comply with all applicable State Statutes and regulations and all county and Town ordinances.

- (h) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.
- (i) The performance of any dance by entertainers under the auspices of the management shall be given only on a raised portion of the floor that is separated by a railing or other device from the patrons in a manner that will deter patrons from participating in the dance.
- (j) No license holder, personally or through an agent or employee, shall advertise, allow or produce nude entertainment or performances in violation of this Chapter or in violation of any Town Ordinance or State Statute.
- (k) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.
- (l) The licensee shall not permit any person to touch any performer's specified anatomical areas during a public performance.
- (m) The use of simulated sexual organs during dances or performances is prohibited.
- (n) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Section or any applicable State or Federal laws.

**Sec. 80-25. - Distance Restrictions.**

Separation requirements between adult oriented or sexually oriented establishments and certain other kinds of land use including but not limited to schools and churches are set out in the Town's Zoning Ordinance, Chapter 170.

**Sec. 80-26. – Reserved**

**Sec. 80-27. - Suspension, Revocation and Nonrenewal of License; Hearing.**

- (a) *In General.* Any adult entertainment license granted under this Article may be revoked, suspended, or not be renewed by the Town Board as follows:

- (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 Chapter or other Town regulation.
  - (3) After any conviction of any establishment personnel of an offense under Ch. 944, Wis. Stats., or an offense against the person or property of a patron of the establishment or of an offense involving a controlled substance scheduled in Subchapter II of Ch. 961, Wis. Stats., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.
  - (4) If the licensee, operator or employer becomes ineligible to obtain or continue to hold a license;
  - (5) If any cost or fee required to be paid by this Chapter is not paid; or
  - (6) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises
- (b) *Notice of Hearing.* No license shall be revoked, suspended, or not renewed by the Town Board unless after notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.
- (c) *Hearing.* The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses and to present witnesses on his or her own behalf under subpoena by the Town Board if such is required. The hearing may be stenographically recorded at the Town or by the licensee at the requester's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions of law as to what, if any, action the Town Board will take with respect to the license. The Board shall provide any complainant and the licensee with a copy of the report.

**Sec. 80-28. - License Not Transferable.**

A license granted under the provisions of this Article shall not be transferable. All license applications shall be original or for a renewal.

**Secs. 80-29—80-39. - Reserved.**

### **ARTICLE 3. - ADULT ORIENTED ESTABLISHMENTS**

#### **Sec. 80-40. - Purpose.**

It is the purpose of this Article to regulate adult oriented establishment businesses (hereinafter referred to as adult oriented establishments) to promote the health, safety, morals, and the general welfare of the citizens of the Town of Troy, 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, and to establish reasonable and uniform regulations to prevent the serious health hazards associated with unsafe and unsanitary conditions known to exist in those establishments and to alleviate the spread of sexually transmitted diseases and other contagious diseases in those establishments.

#### **Sec. 80-41. - License Required.**

- (a) Except as provided in Subsection (c) below, no adult oriented establishment shall be operated or maintained within the corporate limits of the Town of Troy without first obtaining a license to operate the adult oriented establishment from the Town of Troy.
- (b) Each adult oriented establishment shall be located at a fixed and certain place in the Town and shall require a separate application and a separate license.
- (c) An adult oriented establishment existing at the time of the original passage of this Chapter shall submit an application for a license within ninety (90) days of the passage of this Chapter. If an application is not received within said ninety (90) day period, then such existing adult oriented establishment shall cease operations.

#### **Sec. 80-42. – License Application; Required Information.**

- (a) *License Procedure.* Applications for adult oriented establishment licenses shall be made to the Town Clerk-Treasurer. The Town Clerk-Treasurer shall notify the Sheriff's Department, Fire Inspector, Building Inspector within ten (10) days of receipt of a completed application. The procedures prescribed in Section 80-22 (a) through (c) shall be followed in processing adult entertainment license applications under this Article. This specifically includes the requirement of a probationary period when applicable.
- (b) *Required Information.* An application for a license under this Article shall include the identity of all partners or limited partners of a partnership applicant, all officers or directors of a corporate applicant, all members of any limited liability company applicant, and any other person who is interested directly in the ownership or operation of the

business, all of whom/which shall be considered to be “applicants” and all of whom/which shall furnish the following information under oath:

- (1) Name, including all aliases, address and date of birth of applicant;
- (2) Written proof that an individual is at least eighteen (18) years of age;
- (3) All residential addresses of the applicant for the past ten (10) years;
- (4) The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
- (5) The complete and exact nature of the adult entertainment that will be conducted on the premises;
- (6) 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, the business entity or trade name under which the applicant operated that was subject to the suspension or revocation and the name of the municipality/state where such license was suspended or revoked;
- (7) All criminal and traffic convictions, whether federal, state, or municipal Ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges except traffic offenses;
- (8) Fingerprints made by a law enforcement agency and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;
- (9) The address of the adult oriented establishment sought to be operated by the applicant;
- (10) Proof of right to occupy under Section 80-43(d); and
- (11) If the applicant is a limited liability company or corporation, the name of the limited liability company or corporation, the date and State of incorporation/organization, the name and address of the registered agent and the names and addresses of all shareholders/members.

*(c) Failure to Provide Information.* Failure or refusal of the applicant to provide any information in the application and/or required for the investigation of the application, the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or the applicant's refusal to submit to or cooperate with any investigation required by this Article shall constitute an admission by the applicant of ineligibility for such license and shall be grounds for denial thereof.

**Sec. 80-43. - Requirements for License; Investigation; Inspection: Number of Licenses Limited**

(a) *General Requirements.* To receive a license to operate an adult establishment, an applicant must meet the following standards:

- (1) If the applicant is an individual:

- a. The applicant shall be at least eighteen (18) years of age;
- b. Subject to any requirements or limitations in Wis. Stats. Chapter 111, the applicant shall not have been convicted of, pleaded nolo contendere to, have charges pending concerning or be a party to any deferred prosecution agreement or arrangement related to, a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature, in any jurisdiction, within five (5) years immediately preceding the date of the application; and
- c. The applicant shall not have been found to have previously violated this Article within five (5) years immediately preceding the date of the application.

(2) If the applicant is a corporation:

- a. All officers, directors, and others required to be named under Section 80-42(b) shall be at least eighteen (18) years of age;
- b. Subject to any requirements or limitations in Wis. Stats. Chapter 111, no officer, director, or other person required to be named under Section 80-42(b) shall have been convicted of, pleaded nolo contendere to, have charges pending concerning or be a party to any deferred prosecution agreement or arrangement related to, a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and
- c. No officer, director or other person required to be named under Section 80-42(b) shall have been found to have previously violated this Article within five (5) years immediately preceding the date of the application.

(3) If the applicant is a partnership, joint venture, limited liability company or any other type of organization where two (2) or more persons have a financial interest:

- a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
- b. Subject to any requirements or limitations in Wis. Stats. Chapter 111, no person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of, pleaded nolo contendere to, have charges pending concerning or be a party to any

deferred prosecution agreement or arrangement related to, a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application; and

c. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this Article within five (5) years immediately preceding the date of the application.

(b) *Investigation.* No license shall be issued unless the St. Croix County Sheriff's Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the Town Clerk-Treasurer at or prior to the public hearing, unless the St Croix Sheriff states in writing before the time of the public hearing that more time is needed to complete the investigation and provides a date by which the investigation will be complete, in which case the public hearing shall be deferred to a reasonable time following receipt of the Sheriff's report.

(c) *Inspection.* The Fire Inspector and/or Sheriff's Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall provide compliance findings to the Town Clerk-Treasurer prior to the public hearing.

(d) *Proof of Occupancy.* No license shall be issued unless the applicant provides proof of one (1) of the following at the time of license application submission:

(1) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed that will house the adult oriented establishment for which license application is being made;

(2) A lease for a building which is properly zoned for the adult oriented establishment for which application is being made;

(3) An option to purchase property which is properly zoned for the adult oriented establishment for which application is being made; or

(4) An option to lease property which is properly zoned for the adult oriented establishment for which application is being made.

(e) *Number of Licenses Limited.* No more than two (2) annual adult oriented establishment licenses issued under this Article of this Chapter, shall be available for issue in the Town of Troy at one (1) time. No more than one (1) license shall be issued to any one (1) individual, partnership or corporation

All license applications shall be accompanied by an application or renewal fee as set by the Town Board, which fee may change from time to time. A copy of the current fee schedule shall be available from the Town Clerk-Treasurer.

**Sec. 80-45. - Display.**

The Town Clerk-Treasurer shall be responsible for issuing licenses under this Article. All such licenses shall specify the identity and nature of the holder, the license and the period during which it is in effect, as well as any conditions imposed by the Town. All such licenses shall be open to public inspection and shall be posted in public view on the premises for which issued.

**Sec. 80-46. - Expiration and Renewal; Fee.**

(a) Licenses issued pursuant to this Article terminate on June 30 of the period for which the license is issued unless sooner revoked, and must be renewed before operation is allowed in the following year. The holder of a license granted under this Article shall submit an application and fee for license renewal at least sixty (60) days before the expiration of the current license; failure to comply with the application schedule shall mean that the license shall lapse to the extent that any subsequent application for the licensed premises shall be treated as a new application. A copy of the application for renewal shall be distributed by the Town Clerk-Treasurer to the Sheriff's Department, Fire Inspector and the applicant. The application for renewal shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. License renewal applications shall be processed pursuant to the provisions of Section 80-22 as that Section applies to hearing notice given by the Town Clerk-Treasurer and provisions for publication, hearing and action by the Town Board.

(b) If the Sheriff's Department becomes aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Town Clerk-Treasurer prior to the renewal hearing.

**Sec. 80-47. –Failure to Provide Information.**

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

**Sec. 80-48. - License Not Transferable.**

Licenses may not be transferred. All license applications shall be original or for a renewal license.

**Sec. 80-49. - Requirements for Viewing Booths.**

Any adult oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any motion picture, videotape or compact disc in 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 must comply with the following requirements:

(a) *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.

(b) *Construction.* Every booth, room or cubicle shall meet the following construction requirements:

(1) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public areas by a wall.

(2) Each booth, room or cubicle have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.

(3) All walls of each booth, room or cubicle shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.

(4) The floor of each booth, room or cubicle shall be light colored, non-absorbent, smooth textured and easily cleanable.

(5) The lighting level of each booth, room or cubicle, when not in use, shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

(c) *Occupants.* Only one (1) individual at a time shall occupy any booth, room or cubicle. No occupant of any such booth, room or cubicle 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 in such a manner that it no longer complies with the provisions of this Article.

**Sec. 80-50. - Register of Employees; Acts of Employees; Certain Information to be Posted; Attendant Required.**

- (a) An operator licensed under this Article shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, Social Security Number, and dates of employment and termination. The above information for each employee shall be maintained in the register on the premises for a period of three (3) years following termination.
- (b) The operator shall make the full register of employees available for inspection by law enforcement officers immediately upon demand of a member of a law enforcement agency.
- (c) Every act or omission by an employee constituting a violation of the provisions of this Article shall be deemed the act or omission of the operator when 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 had committed the act or caused the omission.
- (d) Every act or omission of any employee constituting 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 any minor to loiter around or near, or frequent, an adult oriented establishment, or allow any minor to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined herein.
- (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 Chapter
- (h) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an un-mutilated, un-defaced and clearly legible sign or poster, provided by the licensee and approved by the Town Board and containing information regarding sexually transmitted diseases and local 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 Town and pertaining to sexually transmitted diseases.
- (j) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, placed in conspicuous areas of the establishment and inside each booth, room and cubicle.
- (k) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult oriented establishment at any time the adult oriented establishment is open for business.
- (l) It shall be the duty of the operator of each adult oriented establishment to ensure that an attendant is stationed at each public entrance to the adult oriented establishment at all times during regular business hours. It shall be the primary duty of each such attendant to prevent any person under the age of eighteen (18) years from entering the adult oriented establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - (1) A valid operator's, commercial operator's, or chauffeur's driver's license reflecting that such person is eighteen (18) years of age or older; or
  - (2) A personal identification card issued by the State of Wisconsin and reflecting that such person is eighteen (18) years of age or older.
- (m) No adult oriented establishment regulated under this Article shall remain open between the hours of 10:00 p.m. and 10:00 a.m. All patrons shall vacate the premises when the establishment is not open.

**Sec. 80-51. - Employees to be Registered; Identification Card Required.**

- (a) All operators, employees, and independent contractors working in any adult oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Town Clerk-Treasurer. Such registration shall include the following:
  - (1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
  - (2) Photographs and fingerprints.
- (b) The licensee shall, subject to design approval by the Town Clerk-Treasurer, provide each registered employee with an identification card containing the employee's photograph and identifying the employee as such, which shall be kept available for production while on duty at such adult oriented establishment upon the request of any inspecting municipal or law enforcement officers.

(c) All registrations hereunder are valid for a period of one (1) year.

(d) A registration fee shall be paid per registration, which shall be paid to the Town to cover costs of investigation and administration. Such fee shall set by the Town board and may be changed from time to time. A copy of the current fee schedule is on file with the Town Clerk-Treasurer.

**Sec. 80-52. - Exemption for Sex Education in Schools.**

Private schools, public schools and charter schools as defined in Wis. Stats. Chapter 115 and located in the Town of Troy are exempt from any requirement to obtain a license hereunder that could arguably be related to instructing pupils in sex education as part of its approved curriculum.

**Sec. 80-53. - Suspension, revocation and nonrenewal of license; hearing.**

(a) *In General.* Any license granted under this Article may be revoked, suspended, or not renewed by the Town Board as follows:

(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 Chapter or other Town regulation.

(3) After any conviction of any establishment personnel for an offense under Wis. Stats. Chapter 944, or of an offense against the person or property of a patron of the establishment or of an offense involving a controlled substances scheduled in Subsection II of Wis. Stats. Chapter 961., where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

(4) If the licensee, operator or employer becomes ineligible to obtain or continue to hold a license;

(5) If the licensee, operator or employer employs an employee who does not have a permit, or provides space on the premises, by lease or otherwise, to an independent contractor who performs or works as an entertainer without being registered with the Town Clerk-Treasurer;

(6) If any cost or fee required to be paid by this Chapter is not paid;

(7) If any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult oriented establishment; or

(8) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given, displayed or otherwise provides access for viewing to or by any minor any material depicting specified sexual activities or specified anatomical areas.

(b) *Notice of Hearing.* No license shall be revoked, suspended, or not renewed by the Town Board unless after notice and a hearing to determine whether grounds for such action exist. Such hearing shall be held before the Town Board. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

(b) *Hearing.* The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on his or her own behalf if such is required. The hearing shall be stenographically recorded by the Town or by the licensee's option at the requester's option and expense. At the conclusion of such hearing, the Town Board shall prepare findings of fact and conclusions as to what, if any, action the Town Board will take with respect to the license. The Town Board shall provide the complainant and licensee with a copy of the report.

#### **Sec. 80-54. - Severability.**

A judicial determination that any portion of this article is invalid shall not invalidate the entire article but only the portion identified by the court. Any such determination of invalidity shall not operate retroactively

#### **Sec. 80-55 – Penalties**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation or non-renewal, anyone who violates any of the provisions of this Article shall be subject to a forfeiture as prescribed by Chapter 39, for each and every offense, together with the costs of prosecution. If such forfeiture and costs are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law. Citations may be issued to the license holder or to his/her employees, operators or agents.

