

## Title 7 ► Chapter 16

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# Adult Oriented Establishments

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### Sec. 7-16-1 Definitions.

The following definitions shall be applicable in this Chapter:

- (a) **Adult Cabaret.** A cabaret which features topless dancers, strippers, male or female impersonators or similar entertainers.
- (b) **Adult Entertainment.** Any exhibition of any motion pictures, live performance, display or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas" as herein defined or the removal of articles of clothing or appearing partially or totally nude. Adult entertainment establishments are those in which the predominant business or attraction is the offering to customers of activities or material which is intended to provide sexual stimulation or sexual gratification. Adult entertainment establishments are also those that are distinguished by an emphasis on, or the advertising or promotion of, employees or agents engaging in specified sexual activities or displaying specified anatomical areas.
- (c) **Adult Mini-Motion Picture Theater.** An enclosed building with a capacity of less than fifty (50) persons used for presenting material having as its dominant theme or

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distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as herein defined for observation by patrons therein.

- (d) **Adult Motion Picture Theater.** An enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.
- (e) **Adult Oriented Establishment.** Shall include, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion picture establishments, adult cabaret, adult tattoo or body piercing establishments, and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas 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 a profit, direct or indirect. "Adult-Oriented Establishments" also includes "Live Sex Act Businesses".
- (f) **Adult Store.** An establishment having as its stock in trade for sale, rent, lease, inspection or viewing books, films, video cassettes, magazines or other periodicals or sexual tools/toys/paraphernalia which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specific sexual activities" or "specified anatomical areas" as defined herein, including adult-oriented film, movies or live performances, for observation by patrons therein.
- (g) **Consideration.** The payment of money or the exchange of any item of value for:
  - (1) The right to be taken to or enter the business premises or any portion thereof; or
  - (2) The right to remain on the business premises, or any portion thereof; or
  - (3) The right to purchase any item permitting the right to enter, or remain on, the business premises, or any portion thereof; or
  - (4) The right to a membership permitting the right to enter, or remain on, the business premises, or any portion thereof.
- (h) **Live Sex Act.** Any act whereby one (1) or more persons engage in live conduct which involves Specified Sexual Activities.
- (i) **Live Sex Act Business.** Any business in which one or more persons may view, or may participate in, a live sex act for a consideration.
- (j) **Operators.** Any person, partnership or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (k) **Specified Anatomical Areas.** Means:
  - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola.

- (2) Human male genitals in a discernible turgid state, even if opaquely covered.
- (l) **Specified Sexual Activities.** Simulate or actual:
  - (1) Showing of human genitals in a state of sexual stimulation or arousal.
  - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus.
  - (3) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (m) **Tattoo Establishment.** The premises where a tattooist applies a tattoo to another person.
- (n) **Tattooist.** A person who tattoos another person at that person's request.
- (o) **Tattoo.** As a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

### **Sec. 7-16-2 Adult Oriented Establishment License.**

- (a) **License Requirement.** Except as provided in Subsection (d) below, from and after the effective date of this Chapter, no adult oriented establishment shall be operated or maintained in the Village of Bangor without having procured a license as provided in this Chapter and having further complied with all statutes, ordinances and regulations of the state, county and Village applicable thereto.
- (b) **License Required for Each Place of Business.** A license may be issued only for one (1) adult oriented establishment located at a fixed and certain place. Any person who desires to operate more than one (1) adult oriented establishment must have a license for each.
- (c) **Non-Transferable License.** No license or interest in a license may be transferred to any person.
- (d) **Existing Adult Entertainment Business.** All adult oriented establishments existing at the time of the passage of this Chapter must submit an application for a license within ninety (90) days of the passage of this Chapter. If an application is not received within such ninety (90) day period, then such existing adult oriented establishment shall cease operations.
- (e) **Number of Licenses Issued.** There shall be a limit of one (1) license issued and utilized at any one time in the Village of Bangor. If and when the existing licensee retires that license or does not renew his/her license, said license shall be deemed revoked and be available for the next approved applicant/location.

*Cross-Reference:* Title 13, Chapter 1, Article C, Adult Entertainment Zoning.

### **Sec. 7-16-3 Application for License.**

- (a) **Application.** Any person desiring to secure a license shall make application to the Village Administrator. The application shall be filed in duplicate with and dated by the Village

Administrator. A copy of the application shall be distributed promptly by the Village Administrator to the applicant and pertinent law enforcement authorities.

- (b) **Required Application Information.** The application for a license shall be upon a form provided by the Village Administrator. An applicant for a license interested directly in the ownership or operation of the business shall furnish the following information under oath:
- (1) Name and address, including all aliases, and telephone and email addresses.
  - (2) Written proof that the individual is at least eighteen (18) years of age.
  - (3) The address of the adult oriented establishment to be operated by the applicant.
  - (4) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent, the name and address of all shareholders owning more than five percent (5%) of the stock in such corporation and all officers and directors of the corporation.
  - (5) Applications shall be signed and sworn to by the applicant as provided by Sec. 887.01, Wis. Stats., and accompanied by the fee prescribed in Section 1-3-1.
  - (6) Applicants must provide a copy of their Seller's Permit, along with their application, as proof that they are in good standing for sales tax purposes before they may be issued a license.
  - (7) Any false statement contained in such application shall automatically nullify any license pursuant thereto.
  - (8) If any fact given in an application subsequently changes, the licensee shall file a notice in writing of such change with the Village Administrator within ten (10) days.

#### **Sec. 7-16-4 License Review Procedure.**

- (a) **Background Investigation.** Upon the request of the Village Administrator, the Police Department shall make an investigation of the applicant to determine whether the applicant possessed the qualifications necessary for issuance of a license under this Chapter within fourteen (14) days of receiving an application.
- (b) **Safety Inspections.** The Fire Chief and Building Inspector shall inspect the premises proposed to be licensed to determine whether such premises conforms to this Chapter and with the ordinances of the Village of Bangor and the laws of the state and any administrative regulations which are applicable which have been issued by the state or any agency of the state within fourteen (14) days of receiving an application.
- (c) **Reports.** Each of the above officials shall file written reports to the Village Administrator. If any such report is unfavorable, a copy thereof shall be mailed to the applicant together with a notice of the next regularly scheduled Village Board meeting.
- (d) **Village Board Action Required.** No license shall be granted under the Chapter until the Village Board shall authorize the same.

- (e) **Failure to Provide Information.** Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his/her refusal or failure to appear at any reasonable time and place for examination under oath regarding such application, or his/her refusal to submit to or cooperate with any investigation required by this Chapter, shall constitute an admission by the applicant that he is ineligible for such license and shall be grounds for denial thereof by the Village Board.
- (f) **Application Denial.** Whenever an application is denied, the Village Administrator shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held before the next regularly scheduled Village Board meeting as hereinafter provided.

### **Sec. 7-16-5 Standards for Issuance of License.**

To receive a license to operate an adult oriented establishment, an applicant must meet the following standards:

- (a) **Individual Applicants.** If the applicant is an individual:
  - (1) The applicant shall be at least eighteen (18) years of age.
  - (2) The applicant shall not have been found to have previously violated this Chapter within five (5) years immediately preceding the date of the application.
- (b) **Corporate Applicants.** If the applicant is a corporation:
  - (1) All officers, directors and stockholders required to be named under Section 7-16-3(b) shall be at least eighteen (18) years of age.
  - (2) No officer, director or stockholder required to be named under Section 7-16-3(b) shall have been found to have previously violated this Section within five (5) years immediately preceding the date of the application.
- (c) **Partnership or Joint Venture Applicants.** If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest, 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.

### **Sec. 7-16-6 Display of License or Permit.**

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

### **Sec. 7-16-7 Renewal of License or Permit.**

- (a) Every license issued pursuant to this Chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked and must be renewed before operation is

allowed in the following year. Any operator desiring to renew a license shall make application to the Village Administrator. The application for renewal must be filed no later than sixty (60) days before the license expires. The application for renewal shall follow the same procedure as an original application.

- (b) A license renewal fee per Section 1-3-1 shall be submitted with the application for renewal. In addition to the renewal fee, a later penalty shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected shall be returned.
- (c) If law enforcement authorities are aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Village Administrator.

### **Sec. 7-16-8 Revocation of License.**

- (a) **License Revocation.** The Village Board shall revoke a license or permit for any of the following reasons:
  - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
  - (2) The operator or any employee of the operator violates any provision of this Chapter or any rule of regulation adopted by the Village Board pursuant to this Chapter provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Village Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
  - (3) The operator becomes ineligible to obtain a license or permit.
  - (4) Any cost or fee required to be paid by this Chapter is not paid.
  - (5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult oriented establishment.
- (b) **Notice.** The Village Board before revoking or suspending any license or permit shall give the operator at least ten (10) days' written notice of the charges against him/her and the opportunity for a public hearing before the Village Board as hereinafter provided.
- (c) **License Transfers.** The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
- (d) **Loss of License Eligibility.** Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of revocation. No location or premises for which a license has been issued shall be used as an adult oriented establishment for six (6) months from the date of revocation of the license.

## **Sec. 7-16-9 Physical Location and Layout of Adult Oriented Establishments.**

- (a) **Physical Location.** Every adult oriented establishment shall be at least five hundred (500) feet from the closest private residence and area zoned residential and at least two thousand (2,000) feet from any church, other place of religious worship, park, school, childcare, playground, play field, or where children normally congregate.
- (b) **Interior Layout.** Any adult oriented establishment having available for customers, patrons or members any booth, room or cubicle for the private viewing of any adult entertainment must 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) **Booth Construction Standards.** Every booth, room or cubicle shall meet the following construction requirements:
    - a. Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any nonpublic areas by a wall.
    - b. 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.
    - c. All walls 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, nonabsorbent, smooth textured and easily cleanable.
    - d. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable.
    - e. 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.
  - (3) **Occupants.** Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

## **Sec. 7-16-10 Responsibilities of the Operator.**

- (a) **Registration of Employees.**
  - (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, Social Security number, date of employment and termination and duties of each employee. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

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- (2) The operator shall make the register of employees available immediately for inspection by a law enforcement officer upon demand at all reasonable times.
- (b) **Operators Responsible for Acts of Employees.**
  - (1) Every act or omission by an employee constituting a violation of the provisions of this Chapter 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 committed the act or caused the omission.
  - (2) Any act or omission of any employee constituting a violating of the provisions of this Chapter 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.
- (c) **Minors Prohibited.** No employee of an adult oriented establishment shall allow any minor to loiter around or to frequent an adult oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (d) **Sanitary Premises Required.** The operator shall maintain the premises in a clean and sanitary manner at all times.
- (e) **Required Lighting.** The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles provided, however, at no time shall there be less than one (1) foot candle of illumination in such aisles as measured from the floor.
- (f) **Compliance With Other Regulations.** The operator shall ensure compliance of the establishment and its patrons with the provisions of this Chapter, other Village ordinances (including, but not limited to, zoning requirements) and state regulations..
- (g) **Age of Employees.** All employees of the establishment are to be at least eighteen (18) years of age.

**Sec. 7-16-11 Administrative Procedure and Review.**

Chapter 68, Wis. Stats., [Title 4 of this Code of Ordinances] shall govern the administrative procedure and review regarding the granting, denial, renewal, nonrenewal, revocation or suspension of a license.

**Sec. 7-16-12 Exclusions.**

All private and public schools as defined in Chapter 115, Wis. Stats., located within the Village of Bangor are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.



## **Sec. 7-16-13 Enforcement; Penalties.**

- (a) **Inspections.** Law enforcement officers, Building Inspectors and Fire Inspectors shall have the authority to enter any adult oriented establishment at all reasonable times to inspect the premises and enforce this Chapter.
- (b) **Penalties.** Any person who shall violate any provisions of this Chapter or who shall fail to obtain a license or permit as required hereunder, or who shall operate after his/her license is revoked, shall be subject to penalty as follows:
  - (1) **First Offense.** Any person who shall violate any provision of this Chapter shall, upon conviction thereof, forfeit a penalty per Section 1-1-6, together with the cost of prosecution and a penalty assessment as provided by Sec. 165.87, Wis. Stats., and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
  - (2) **Second Offense.** Any person found guilty of violating any provision of this Chapter who shall previously have been convicted of a violation of the same ordinance within one (1) year shall, upon conviction thereof, forfeit a penalty per Section 1-1-6 for each such offense, together with the costs of prosecution, and a penalty assessment as provided by Sec. 165.87, Wis. Stats., and in default of payment of such forfeiture and cost shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not to exceed six (6) months.
  - (3) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in the Chapter shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provisions of this Chapter.
  - (4) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village of Bangor, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

