

CHAPTER 25

Adult Entertainment

Section 1: Authority. This ordinance is adopted pursuant to the authority vested in the Town under Wis. Stat 60.10(2)(c) under which electors of the Town have granted Village Powers to the Town Board; 60.22(3) of Wis. Statutes, under which the Town Board may exercise powers relating to villages and conferred on village boards under Ch. 61, Wis Stats.: and 61.34 Wis. Stats., under which village boards and, in light of the grant of village powers to this Board. Town boards, have the power to act for the government and good order of the town and for the health, safety and welfare of the public. This Ordinance constitutes an exercise of the police power on behalf of the residents of the Town of Tilden.

Section 2: Purpose and Intent. The purpose of this Ordinance shall be to establish a standard for public conduct in the Town of Tilden. As a means of promoting the public health, safety and welfare. This purpose is manifested by the need to protect and promote the public's interest against the spread of sexually transmitted diseases, its interest in eliminating sexual harassment and in the control of such activities as prostitution and other deleterious effects associated with public nudity.

Section 3: Definitions. In this section, the following words and phrases shall have the meaning as indicated, unless expressly required otherwise.

Adult-oriented establishment means, but is not limited to, adult bookstores, adult motion picture theaters and any other premises to which public patrons or members are invited to be admitted and shall include, but not be limited to those 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 videotapes, films, motion pictures, or other offered adult entertainment, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.

Adult bookstore means an establishment having as its stock in trade, for sale, rent, 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 shall include, but not be limited to, those which have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by patrons therein.

Adult motion picture theater means an enclosed building used for presenting materials 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, for observation by patrons therein.

Adult entertainment means any exhibition of any videotape, film or motion picture 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.

Door, curtain or portal partition means a non-transparent closure device which prevents activity taking place within a booth, room or cubicle from being seen or viewed.

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

Specified sexual activities means simulated or actual:

- (a) Showing of human genitals in a state of sexual stimulation or arousal;
- (b) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
- (c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

Specified anatomical areas means:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola.
- (b) Human male genitals in a discernible turgid state, even if opaquely covered.

Business premises shall include property owned or leased or otherwise controlled by the adult-oriented establishment and contiguous with the building or other structure housing the adult-oriented establishment and shall include but not be limited to parking lots or sidewalk approaches.

Section 4: Regulation of Adult-Oriented Establishment.

A. Any adult-oriented establishment having available for customers, patrons or members any booth, room, or cubicle for the private viewing of any adult entertainment shall comply with the following requirements:

- 1.** Each such booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed, in total or in part, by any door, curtain or portal partition.
- 2.** Each such booth, room or cubicle shall:
 - a.** Be separated from all adjacent booths, rooms and cubicles and any non-public areas by a partition. All partitions shall be solid and without any openings, and shall extend from 18 inches off the floor to a height of not less than 6 feet. All partitions shall be non-absorbent, smooth textured and easily cleanable.
 - b.** Have at least one side 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. Have a floor which is light colored, non absorbent, smooth textured and easily cleanable.

d. Be lighted in such a manner that a person in the booth, room or cubicle is reasonably visible from the adjacent public rooms or areas, but such lighting shall not be of such intensity as to prevent the viewing of videotapes, motion pictures or other offered entertainment.

3. No more than one person shall occupy any such booth, room or cubicle at any time. No occupant of any such booth, room or cubicle shall engage in any sexual activity, or 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 chapter.

4. The premises of the adult-oriented establishment shall be maintained to a clean and sanitary manner at all times.

Section 5: Minors. Not to be allowed on Premises of Adult-Oriented Establishments.

No minor shall be allowed to enter or remain inside an adult-oriented establishment or be permitted to loiter on the business premises. For the purpose of this ordinance the prohibition against loitering on the business premises shall include situations in which parents, guardians or other physical custodians enter or remain inside an adult-oriented establishment while leaving minor children who are in their care or charge or custody outside the building or structure, in or outside of motor vehicles.

Section 6: Hours of Operation Regulated.

No adult-oriented establishment shall be open between the hours of 2 o'clock a.m. and 8 o'clock a.m., Monday through Friday or between 3 o'clock a.m. and 8 o'clock a.m. Saturdays or between the hours of 3 o'clock a.m. and 12 noon on Sundays.

Section 7: Consumption of Alcoholic Beverages on Business Premises Prohibited.

No person shall consume and/or sell alcoholic beverages on the business premises of an adult-oriented establishment.

Section 8: Inspections.

Each adult-oriented establishment shall be open to inspection at all reasonable times by the Town Police Department, Fire Department, Health Department and Building Inspector.

Section 9: Public Nudity Prohibited.

A. No person shall knowingly or intentionally engage in any of the following acts or conduct him or herself in one of the following manners in any public place in the Town of Tilden:

1. Sexual Intercourse;

2. Appear in a state of nudity;
3. Fondle the genitals of himself, herself or another person.

B. The prohibition set forth in A., above, shall not apply to:

1. Any child under the age of ten (10) years of age; or
2. Any person exposing a breast or breasts for or in the process of breast-feeding an infant.

C. Definitions: The following definitions shall govern and control the operation and enforcement of this Ordinance:

1. Genitals shall mean the organs of the reproductive system.
2. Nudity shall mean the showing of the human male or female genitals, pubic hair or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume or covering which gives the appearance of or simulates the genitals, natal cleft, perineum and region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola.
3. Public place shall mean all outdoor places owned by or open to the public, and all buildings or structures and other enclosed places owned by or open to the public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specified members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.
4. Sexual Intercourse shall mean vulvar penetration but does not require emission as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of the person's body or of any object into the genital or anal opening.

Section 10: Application.

The standards established in this Ordinance shall not apply to buildings, structures or premises which are lawfully operating as hotels, motels, apartment complexes or condominiums.

Section 11: Penalty.

1. Every act or omission by an employee constituting a violation of the provisions of Section 2 to 8 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. In such event, the operator shall be punishable under subsection (2) for such act or omission in the same manner as if the operator committed the act or caused the omission.

2. See Chapter 2

Section 12: Enforcement.

This ordinance may be enforced in the name of the Town by any law enforcement officer with jurisdiction or upon request of the Town Board.

Section 13: Operation of an Adult-Oriented Establishment Not in Conformity With Chapter 24.

Operation of an adult-oriented establishment, as defined as Chapter 25 of the Tilden Code of Ordinances, that is not in compliance with the minimum standards of Chapter 24 shall constitute a public health hazard subject to abatement under this Code of Ordinances.

Section 14: Regulation of Public Nuisances.

A. No person, whether as an occupant of, user of or owner of real estate in the Town of Tilden shall allow any public nuisance to exist or to be created upon or to remain upon that real estate, nor shall any person create or allow to remain any nuisance upon any public property in the town, including but not limited to town highways.

Section 15: Penalties. See Chapter 2.