

## ORDINANCE NO. L030800-1

**REGULATION OF PUBLIC ENTERTAINMENT**

AN ORDINANCE PROHIBITING CERTAIN TYPES OF CONDUCT WITHIN THE LIMITS OF THE TOWN OF LIBERTY, OUTAGAMIE COUNTY, WISCONSIN.

WHEREAS, the Town Board has determined that the activities defined and prohibited hereinafter are detrimental to the public health, safety, morals and general welfare, and

WHEREAS, the Town Board finds that certain forms of public nudity whether or not presented in conjunction with the sale of alcoholic beverages, promote prostitution, other illegal activities, and degrade the quality of the town's residential and business environment, and

WHEREAS, the Town Board intends to regulate conduct as set forth hereinafter for the purposes of discouraging such illegal activity, reducing the need to expend law enforcement resources, and protecting the quality of the residential and business environment without interfering with the free exchange and expression of ideas.

NOW THEREFORE, the Town Board of the Town of Liberty ordains as follows:

**SECTION 1 – TYPES OF CONDUCT PROHIBITED**

The following types of conduct on premises which are licensed to sell intoxicating liquors and/or fermented malt beverages are prohibited:

A. SPECIFIED SEXUAL ACTIVITIES

1. Display of human genitals in a state of sexual stimulation or arousal.
2. Acts of representations of acts of human masturbation, sexual intercourse or sodomy, bestiality, oral copulation, or flagellation.
3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breast.
4. Excretory functions as part of or in connection with any activities set forth in (1) through (3) above.

B. SEXUAL CONTACT

Sexual contact means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desires of either party.

C. SIMULATION

The actual or simulated display of the pubic hair, anus, vulva, or genitals.

D. CERTAIN PERFORMANCES AND CONTUES PROHIBITED:

No licensee either personally or through his agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers whether such dancers, performers or entertainers are employed by the licensee that does not meet the following wearing apparel standards when performing or when present upon the premises.

1. That portion of every costume to be worn by dancers, performers or entertainers covered by the provisions of this subsection and which relates to the area of the sex organs herein defined as the pubic area and buttocks shall be of nontransparent material.
2. The lower portion of the costume to be worn by a female dancer, performer or entertainer, or female impersonator, shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic area, and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this ordinance.
3. The lower portion of the costume worn by a male dancer, performer, or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic area, sex organs and the cleavage of the buttocks at all times. The display of the male genitals in the turgid state, whether covered or uncovered, shall constitute a violation of this ordinance.

## **SECTION 2 – DISORDERLY CONDUCT BY PATRONS PROHIBITED**

No license of a business where dancing occurs, be it personally or through his agent or employee, or person sponsoring such dances, shall permit any patron to participate in any act, stunt or dance in violation of the provisions of this section.

## **SECTION 3 – FURTHER PHYSICAL CONDUCT PROHIBITED**

Entertainers may not have physical contact with customers during their act, or shall they entice customers into joining into same.

## **SECTION 4 – DEFINITION OF PUBLIC ENTERTAINMENT**

“Public Entertainment” is defined as an adult establishment, designed for adult entertainment, and is specifically defined to include book stores, motion picture theaters, mini motion picture theaters, bath houses, massage parlors, modeling studios, body painting studios, and cabarets, and are more specifically defined as follows:

1. Adult bookstore. An establishment having as a substantial or significant portion of its stock and trade in books, magazines or 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, or an establishment with a segment or section devoted to the sale or display of such material.
2. Adult motion picture theater. An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to “specified anatomical areas” as defined herein for observation by patrons.
3. Adult motion picture theater. (Outdoor). A parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguishable characterized by an emphasis on matter depicting, describing or relating to “specified sexual activity” or “specified anatomical areas”.
4. Adult mini motion picture theater. An enclosed building with a capacity for less than 50 persons used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” as defined here for observation by patrons there in.
5. Adult bath houses. An establishment or business which provides the services 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 ordinance.
6. Adult massage parlors. An establishment or business with or without sleeping accommodations which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and

all forms and methods of physiotherapy, not operated by a medical practitioner or professional physical therapist licensed by the State of Wisconsin and which establishment provides for its patrons the opportunity to engage in “specified sexual activity” as defined in this ordinance.

7. Adult modeling studios. An establishment or business which provides the services of modeling for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise.
8. Adult body painting studios. 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 ordinance, the adult body-painting studio shall not be deemed to include a tattoo parlor.
9. Adult Cabaret. An establishment or business which features male and/or female topless and/or bottomless dancers, go go dancers, exotic dancers, strippers, burlesque shows, male or female impersonators, or similar entertainers.
10. 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 activity as defined herein or simulating such activity.

#### **SECTION 5 – PUBLIC ADULT ENTERTAINMENT – APPLICATION**

Prior to the operation of any of the entertainment business defined in Section 4, above, the proposed owner/operator of such business must submit written application to the Town Board of Supervisors for a permit to engage in such business only in an area zoned for commercial use. A nominal filing fee may accompany such application, to be imposed at the discretion of the Town Board of Supervisors. Included in such application for an adult entertainment permit shall be a specified description of the type of business to be operated, the proposed services or products to be disseminated, as well as a specific description of the physical plant in which any such business is proposed to be operated. In approving any such application, the following standards shall be specifically applied by the Town Board of Supervisors.

- A. No public adult entertainment permit shall be issued for any property within two thousand (2,000) feet of any land used or zoned for residential purposes.
- B. No public adult entertainment permit shall be issued for any property within two thousand (2,000) feet of any church or school.
- C. No portable signs or billboards shall be permitted on the premises.
- D. There shall be no flashing or traveling lights located on the building proposed to house such business operation.
- E. Adequate parking shall be provided in a fully lighted area.
- F. There shall be no display windows on the premises.
- G. The owner/operator of the proposed establishment agrees to comply with all state, federal, and local laws and ordinances, and shall ensure that minors are not permitted on the premises at any time.
- H. The owner/operator agrees that the solicitation for purposes of prostitution on the premises shall be strictly prohibited.
- I. The hours of operation of any such establishment shall be established by the Town Board of Supervisors in their sole and exclusive discretion.
- J. The owner/operator of any such business agrees to personally appear before the Town Board of Supervisors at the time such application is made, and at all times in the future, upon reasonable notice provided by the Town

Board of Supervisors. For purposes of this ordinance, reasonable notice shall be interpreted as seventy-two (72) hours, and notice shall be provided to the mailing address on the premises upon which the business is located.

#### **SECTION 6 – REGISTRATION OF EMPLOYEES**

In the event that a public adult entertainment is established, any employee of such business shall register with the Town clerk prior to providing any work-related services at said public adult entertainment establishment. Registration with the Town Clerk shall be through a form promulgated by the Town Board of Supervisors, consisting of background personal information regarding each such employee. It shall be in the discretion of the Town Board of Supervisors whether or not to charge a registration fee for each such employee.

#### **SECTION 7 – WHO MAY BE IN VIOLATION OF THE ORDINANCE**

The prohibitions contained in this ordinance are directed and prosecution may be directed against a licensee of a premise where alcoholic beverages are served, any agent, employee or manager, the entertainer, or his or her agent or employer, or patrons.

#### **SECTION 8**

Any person, partnership, or corporation violating this ordinance shall be fined \$500.00 for each occurrence plus court costs. Each day is considered a separate occurrence.

#### **SECTION 9**

This ordinance shall become effective upon its passage and publication as required pursuant to law.

#### **SECTION – 10 – SEVERABILITY**

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

By

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Michael Ubl, Chariman

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Vernon Conradt, Supervisor

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William Jurack, Supervisor

I, Cheryl Hosmer, Clerk of the Town of Liberty do hereby certify that this is an exact and true copy of ordinance L030800-1 passed by a majority vote, with a quorum present by the Town Board of Liberty.

Given under my hand and seal this       day of

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Cheryl Hosmer, Clerk