

## **Section 6.03 Adult-Oriented Entertainment**

### **6.03(A) Title/Purpose**

The title of this Section is Adult-Oriented Entertainment.

- (1) The purposes of this Section follow below.
- (2) The Town Board of the Town of Leeds has explicit authority under Wis. Stat. § 125.10(1) to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Wis. Stat. Ch. 125.
- (3) The First Amendment of the United States Constitution protects the rights of individuals to present adult entertainment which includes nude dancing, nude entertainment or material with themes or content of a sexual nature. The Town of Leeds may not, and does not desire to, interfere with the right of individuals to present or to attend adult entertainment. Individuals in the Town of Leeds who do not choose to present or attend adult entertainment also have constitutionally protected rights to privacy and security in their property. The Town also has an interest in maintaining order and preventing negative effects from any business which will generate substantial customer volume, automobile traffic and impact on the neighborhood's surrounding adult entertainment establishments. These concerns require the Town to exercise its police powers to ensure that the exercise of the First Amendment rights is not conducted to the detriment of the rights of others. In order to ensure that adult entertainment establishments may operate without adversely impacting the community, and therefore, to make it possible for individuals to exercise their First Amendment rights, the Town of Leeds finds that it is necessary and appropriate to adopt a licensing ordinance which allows the Town to ensure that adult entertainment establishments are created in a fashion which does not cause unacceptable impacts on the rights of others.
- (4) 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 AIDS and other communicable or sexually transmitted diseases in the Town of Leeds. It has been found by municipalities through the State of Wisconsin, as well as 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 Section is intended to establish standards in order to prevent the spread of AIDS and other communicable or sexually transmitted diseases, and to eliminate the deleterious effects described above in the Town of Leeds.

(5) The Town Board finds that there is an increasing likelihood of commercial exploitation of human sexuality by owners of premises holding “Class B” and Class “B” alcohol beverage licenses in the State of Wisconsin. Such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an inducement to other persons to purchase alcohol beverages. The direct result of such exploitation is 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 in the Town of Leeds.

(6) It is the purpose of this Section 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 Leeds, 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.

### **6.03(B) Definitions**

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

(1) 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 by 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 Section.

(2) 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 Section, an adult body painting studio shall not be deemed to include a tattoo parlor.

(3) Adult Bookstore. 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 specific 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.

(4) Adult Cabaret. A cabaret which features male or female impersonators or similar entertainers.

(5) 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.

(6) Adult Mini-Motion Picture Theater. An enclosed building with a capacity for less than fifty (50) people, 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.

(7) 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.

(8) Adult Motel. A hotel, motel, or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, 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

(b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(c) 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.

(9) Adult Motion Picture Theater. An enclosed building with a capacity of fifty (50) or more people 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.

(10) 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.

(11) 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.

(12) Adult-oriented Establishment. An establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, adult mini-motion theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, 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 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, regardless of whether such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment further 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.

(13) 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 that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to anyone other than employees; nor shall this definition apply to hotels, motels or establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.

(14) Church. A building whether situated within the Town or not, in which people regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

(15) Customer. Any individual who:

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

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

(c) Is a member of and on the premises of an adult-oriented establishment operating as a private club.

(16) Community. The State of Wisconsin.

(17) Day Care Center. A facility licensed by the State of Wisconsin pursuant to Wis. Stat § 48.65, whether situated within the Town or not.

(18) 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.

(19) Employee. Any and all individuals, including independent contractors, who work in or at or render any services directly or indirectly related to the operation of an adult-oriented establishment.

(20) Entertainer. Any person who provides entertainment within an adult-oriented establishment as defined in this Section, regardless of whether a fee is charged or accepted for entertainment and regardless of whether entertainment is provided as an employee or independent contractor.

(21) 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 are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

(22) Knowingly. Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(a) The character and content of any material described herein which is reasonably suspect under this Section; and

(b) 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.

(23) Knowledge of Minor's Age. Means:

(a) Knowledge or information that the individual is a minor; and

(b) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

(24) Manager. The operator or agent licensed under this Section who shall not be licensed as a massage technician.

(25) Minor. Any individual under the age of eighteen (18) years.

(26) 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.

(27) Operator. Any person operating, conducting, maintaining or owning any adult-oriented establishment or massage establishment.

(28) Patron. Any individual who receives a massage under such circumstances that it is reasonably expected that he or she will pay money or give any consideration therefore.

(29) Person. Any individual, corporation, limited liability company, partnership, limited partnership, association or other entity recognized by the State of Wisconsin as being capable of owning property or engaging in business operations.

(30) Residential. Pertaining to the use of land, whether situated within the Town or not, 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 premise which is designed primarily for living, sleeping working and eating therein shall be deemed to be residential in character 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.

(31) Sadomasochistic Abuse. Flagellation or torture by an individual 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.

(32) School. A building, whether situated within the town or not, where people regularly assemble for the purpose of instruction or education, together with playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

(a) Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through twelve classes are taught; and

(b) 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 through twelve.

(33) Sexual Conduct. The commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.

(34) 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.

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

(a) Human genitals, pubic region;

- (b) Buttock;
- (c) Female breast below a point immediately above the top of the areola.
- (d) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(36) Specified Sexual Activities. Simulated or actual:

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

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

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

### **6.03(C) License Required**

(1) Unless a license has been applied for and granted under Section Four below, it shall be unlawful or any owner or operator of premises holding a Class "A," "Class A," Class "B," "Class B," Reserve "Class B" or "Class C" Alcohol Beverage license to permit any person to:

- (a) Expose to public view on the licensed premises any specified anatomical area as defined in this Section;
- (b) Appear in a state of nudity;
- (c) Employ any device which is intended to give the appearance of or simulate such specified anatomical areas; or
- (d) Publicly display or perform any sexual activities as specified in this Section on the licensed premises.

(2) Any licensee who permits a violation of (1), above, shall be subject to revocation of all alcohol beverage licenses issued by the Town to the licensee.

(3) No person shall open premises to the public offering live performances by persons appearing in a state displaying some portions of specified anatomical areas not covered by fully opaque coverings, regardless of whether such persons are paid for such performance, unless the person opening the premises has obtained a license from the Town Clerk pursuant to Section four below.

(4) The licensing requirements of Section 6.03(D) below shall not apply to live, theatrical, musical or dance performances occurring or conducted at a theatre, playhouse, community center, civic center, or performing arts center where the predominant business attraction is not the offering to patrons of entertainment which is intended to provide sexual stimulation or sexual gratification to such customer and where the establishment is not distinguished by the emphasis on or advertising or promotion of employees engaging in nude erotic dancing. This exception shall only apply to establishments whose receipts from food and beverage sales do not exceed fifteen percent (15%) of gross receipts.

#### **6.03(D) License Application, Review and Issuance**

(1) Application. Applications for an annual adult entertainment license shall be made to the Town Clerk and contain all the information required to be provided as set forth in Section 6.03(L) below. The Town Clerk shall notify the Columbia County Sheriff's Department, and Town Building Inspector, of the license application, publish a Class II notice of such application and have the license application submitted to the Town Board within thirty (30) days of application. Investigating officials shall submit written reports and recommendations to the Town Board prior to the Town Board's review of the application. At the public hearing, the Town Board may take any testimony regarding the granting or denial of such license.

(2) Action. The Town Board shall either approve, modify or reject the application within sixty (60) days of the application; the reasons for the action taken shall be specified in the written findings of fact of the Town Board.

(3) Denial of Application. Whenever an initial application is denied, the Town Clerk shall, within fourteen (14) days of the denial, 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 Town Board within thirty (30) days of the denial of the application.

(4) Probationary Period. If license issuance is approved by a majority of the Town Board, an initial applicant shall be granted a probationary license by the Town

Clerk. An annual license shall be granted if, upon the expiration of the six (6) month probationary period, no violations under this Section occur and the applicant corrects any deficiencies or problems that the applicant is directed to correct. If, however, for any reason, the application is denied by the Town Board, the Town Board shall specify the findings made that support that denial.

(5) License Term. The license granted under this Section shall expire on June 30<sup>th</sup> of each year and each license shall be subject to revocation as hereinafter provided.

(6) Form of License. The Town Clerk shall be responsible for drafting and issuing all licenses under this Section. All such licenses shall specify the nature of the holder and the license and the date for which it is applicable, as well as any conditions that may be imposed by the Town. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.

(7) Fee. All such license applications shall be accompanied by a fee as established by resolution on the current Town Fee Schedule. If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be kept by the Town.

(8) Number of Licenses Limited. No more than one (1) annual license, issued under this Section, shall be issued to license holders within the Town of Leeds at any time.

### **6.03(E) Renewals**

The holder of an annual license granted under this Section shall submit an application for renewal at least sixty (60) days before the expiration of the license. Such license may be renewed pursuant to the provisions of Section Four as that Section applies to notice being given by the Town Clerk and provisions for publication and action by the Town Board.

### **6.03(F) Standards for Issuance of License or Renewal of License**

To receive a license to operate an Adult Entertainment Establishment, the applicant and the proposed premises of the Adult Entertainment establishment must meet the following standards:

(1) Standards Related to the Applicant. The applicant, in the case of a sole proprietorship, all partners in the case of a partnership, and all shareholders in the case of a corporation, must meet be at least eighteen (18) years of age.

(2) Standards Related to the Premises. The applicant must demonstrate that the property and the building can meet the following physical standards:

(a) The property shall have at least one (1) parking stall for every two (2) patrons it is capable of seating at its maximum safe fire limit.

(b) The building shall have a determined safe fire limit for occupancy calculated by the Fire Department based upon the square footage and physical characteristics of the building. The occupancy limit shall be communicated to patrons and employees by signs posted at the entrance and in the facility.

(c) No area of the building may be made available for customers, patrons for the private viewing of any adult entertainment.

(d) All portions of the building except rest rooms and areas which are off limits to patrons shall be accessible to and from aisles and public areas of the adult entertainment tavern and shall be unobstructed by any door, lock or other control type devices.

(e) The lighting level of each booth, room or cubicle shall be a minimum of ten (10) foot candles at all times as measured from the floor.

(f) There shall be a separate entrance for employees and entertainers which shall be locked to prevent unauthorized access.

(g) There shall be a video monitoring system by which the operator can continuously monitor activities outside the building but on the property and any parking areas.

(h) The tavern may not have flashing lights, neon signs other than signs provided by manufacturers of alcoholic beverages, or decorative lighting other than illumination of parking lots, walk ways and entrances.

(i) The interior of the tavern shall not be visible from the exterior, including at times when entry doors are open.

(j) The tavern shall place waste receptacles near the entrances to the tavern to discourage carrying any litter out of the building.

(k) The signage for the establishment may not include any depictions of nudity, and may refer to the premises only as an "adult entertainment establishment" or "gentleman's club."

(l) The tavern shall be sound-insulated, and sound levels controlled to the levels specified in this Section.

(m) The level of sound audible at the property line of the establishment may not exceed 70 decibels from 12 noon to 10 p.m. or 60 decibels from 10 p.m. to 12 noon.

(3) Prohibited Activities

(a) No patron may engage in any type of sexual activity, cause any bodily discharge or litter while in the establishment or its parking areas.

(b) The establishment may not sell condoms or sexual aids, either directly or through vending machines.

(c) Patrons may not be in a motor vehicle which is located on the premises of the establishment for more than one minute.

(d) Patrons may not be in a motor vehicle which is located on the premises of the establishment with an employee of the establishment or an entertainer who has performed or will perform at the establishment.

(e) Patrons of the establishment may not be allowed to congregate at or near the separate entrance for employees or entertainers.

(f) Patrons may not remain on the premises of the building for more than three minutes after exiting the building.

**6.03(G) Regulations**

Any license holder governed by this Section shall comply with the following regulations:

(1) No dancing shall be permitted by any performers under the auspices of the management, whether paid or not, within six (6) feet from any location from which patrons are directly served, while so entertaining the patrons.

(2) No dancer, performer, or any individual, who is performing, singing, or dancing, shall have either direct or indirect physical contact with any patron.

(3) While dancing is in progress, the establishment shall be adequately illuminated so as to permit safe ingress and egress from the premises.

(4) Good order shall be maintained at all times. Without limitation due to enumeration, a lack of “good order” for purposes of this Section shall be deemed to

include persistent loud noises to the annoyance or detriment of surrounding property owners, patrons urinating in public, profane language and/or fighting.

(5) The premises shall close and all customers shall vacate the premises between 12:00 midnight and 10:00 a.m. Monday through Saturday, and 12:00 midnight and noon on Sunday.

(6) The license holder shall comply at all times with building capacity limits as set by the Fire Department and/or Building Code.

(7) The license holder shall comply with all applicable State Statutes and regulations and all County and Town Codes.

(8) The management, license holder and employees shall obey all reasonable orders or directions of any law enforcement officer.

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

(10) The license holder shall not permit any person to publicly perform specified sexual activities on the licensed premises.

(11) The license holder shall not permit any person to touch any performer's specified anatomical areas during a public performance.

(12) The use of simulated sexual organs during dances or performances is prohibited.

(13) No license holder shall permit any amateur dancing, entertainment, or performances on the license holder's premises in violation of this Subsection or any applicable State or Federal laws.

### **6.03(H) Location**

(1) No license under this Section shall be granted to any establishment within one thousand (1,000) feet of any area zoned for residential, church, school, nursing home, public park, or day care center. No establishment licensed under this Section shall be located within five hundred (500) feet of any business holding an alcohol beverage license.

(2) For purposes of this Section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-

oriented establishment to the nearest property line of another adult-oriented establishment, school, place of worship, residential district or business holding an alcohol beverage license.

### **6.03(I) Penalty**

In addition to any other actions allowed by law or taken by the Town Board, including the action of license revocation or nonrenewal, anyone who violates any of the provisions of this Section shall be subject to a penalty as provided in Section 3.02 of this Code. Each day of violation shall be considered a separate offense for each violation. If the penalties are not paid, such person so convicted shall be subject to any civil penalties or other penalties available by law. The Town at any time may also seek injunctive relief to enjoin violations.

### **6.03(J) License Suspension, Revocation or Nonrenewal**

(1) Any license granted herein may be revoked, suspended, or not be renewed by the Town Board as follows:

(a) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent.

(b) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year.

(c) After one (1) conviction of any establishment employee of an offense under Wis. Stat. Ch. 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances scheduled in Subchapter II of Wis. Stat. Ch. 961, where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant.

(2) No license shall be revoked, suspended, or not renewed by the Town Board except upon due 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 personally served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

(3) The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be

stenographically recorded at the licensee'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 the complainant and licensee with a copy of the report.

(4) Any license granted under the provisions of this Section shall not be transferable.

### **6.03(K) Adult-Oriented Establishments**

(1) No adult-oriented establishment shall be operated or maintained within the Town of Leeds without first obtaining a license to operate issued by the Town of Leeds.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place per filed application.

(3) No license or interest in a license may be transferred to any person, partnership, limited liability company or corporation.

### **6.03(L) Application For License**

(1) Any person, partnership, limited liability company or corporation desiring to secure a license shall make application to the Town Clerk. The application shall be filed in triplicate with and dated by the Town Clerk. A copy of the application shall be distributed to the Columbia County Sheriffs Department, and Town, Building Inspector. The procedures prescribed in Section 6.03(D)(1) through (5) of this Chapter shall be applicable to adult entertainment licenses under this Section.

(2) The application for a license shall be upon a form provided by the Town Clerk. An applicant for a license, which shall include 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, shall furnish the following information under oath:

- (a) Name, including all aliases, address and date of birth of applicant;
- (b) Written proof that the individual is at least eighteen (18) years of age;
- (c) All residential addresses of the applicant for the past ten (10) years;

(d) The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;

(e) The exact nature of the activities to be conducted at the adult-oriented establishment;

(f) Whether the applicant previously operated in this or any other state, county or municipality under an adult-oriented establishment license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

(g) All criminal convictions, whether federal or State, or municipal ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except traffic offenses;

(h) Fingerprints and two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant;

(i) The address of the adult-oriented establishment to be operated by the applicant;

(j) If the applicant is a corporation, the application shall specify the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.

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

### **6.03(M) Standards for Issuance of License**

(1) For an individual to receive a license to operate an adult-oriented establishment, the applicant must meet the following standards:

(a) The applicant shall be at least eighteen (18) years of age;

(b) Subject to Wis. Stat. Ch. 111, the applicant shall not have been convicted of or pleaded nolo contendere 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 Section 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 Subsection 6 above shall be at least eighteen (18) years of age;

(b) Subject to Wis. Stat. Ch. 111, no officer, director, or other person required to be named under Subsection b shall have been convicted of or pleaded nolo contendere 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 12 shall have been found to have previously violated this Section 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:

(a) All persons having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall be at least eighteen (18) years of age;

(b) Subject to Wis. Stat. Ch. 111, no person having a financial interest in the partnership, joint venture, limited liability company or other type of organization shall have been convicted of or pleaded nolo contendere 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, limited liability company or other type of organization shall have been found to have violated any provision of this Section within five (5) years immediately preceding the date of the application.

(4) No license shall be issued unless the Columbia County Sheriffs Department has investigated the applicant's qualifications to be licensed. The results of that

investigation shall be filed in writing with the Town Clerk no later than fourteen (14) days after the application.

(5) The Building Inspector, and Columbia County Sheriffs Department shall inspect the premises proposed to be licensed to verify compliance with their respective Codes, and shall report compliance findings to the Town Clerk within fourteen (14) days of the date of application.

(6) No license shall be issued unless the applicant provides proof of one (1) of the following:

(a) Ownership of a properly zoned building or parcel of real property upon which a building can be constructed. Proper zoning includes permissible non-conforming use status.

(b) A lease on a building which is properly zoned to house an adult-oriented establishment. Proper zoning includes permissible nonconforming use status.

(c) An option to purchase property which is properly zoned for the adult-oriented establishment.

(d) An option to lease property which is properly zoned for the adult-oriented establishment. Proper zoning includes permissible nonconforming use status.

### **6.03(N) License Fee**

A non-refundable license application fee as specified on the current Town of Leeds Fee Schedule shall be submitted with the application for a license.

### **6.03(O) Display of License**

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

### **6.03(P) Renewal of License**

(1) Every license issued pursuant to this Section will terminate on the June 30th immediately following its 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 Town Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal

shall be filed in triplicate with and dated by the Town Clerk. A copy of the application for renewal shall be distributed by the Town Clerk to the Columbia County Sheriff's Department, Building Inspector, Fire Inspector and the applicant. The application for renewal shall be upon a form provided by the Town Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license.

(2) A license renewal fee as specified on the current Town of Leeds Fee Schedule shall be submitted with the application for renewal.

(3) If the Columbia County Sheriff's Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the Town Clerk.

### **6.03(Q) Transfer of License**

A license is personal to the owner and operator designated in the application, and it may not be transferred.

### **6.03(R) Physical Layouts of Adult-Oriented Establishments**

(1) 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.

(2) 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.

(3) Every booth, room or cubicle shall meet the following construction requirements:

(a) Each booth, room or cubicle shall be separated from adjacent booths, rooms, cubicles and any non-public 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 eight (8) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.

(d) The floor must be light colored, non-absorbent, 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.

(f) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. 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 Section.

### **6.03(S) Responsibilities of Operators**

(1) An operator, licensed under this Section, 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 date of employment and termination. The above information on each employee shall be maintained in the register on the premises of a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by law enforcement officers upon demand of a member of a law enforcement agency at all reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this Section 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.

(4) Any act or omission of any employee constituting a violation of the provisions of this Section 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.

(5) 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

sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas as defined in this Section.

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

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

(8) The operator shall ensure there is conspicuously posted inside each booth, room or cubicle an unmutated and undefaced sign or poster supplied by the Town which contains information regarding sexually transmitted diseases and the telephone numbers from which additional information can be sought.

(9) 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 pertaining to sexually transmitted diseases.

(10) The operator shall ensure there are posted regulations concerning booth occupancy on signs, with lettering at least one (1) inch high, that are placed in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.

(11) The Town shall charge its reasonable costs for supplying such posters, brochures, pamphlets and other information required under this Section.

### **6.03(T) Registration of Employees**

(1) All operators and employees working in any adult-oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Town Clerk. Such registration shall include the following: Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and

(2) Upon registration, the Town will provide to each registered employee an identification card containing the employee's photograph identifying the employee as such, which shall be kept available for production upon request of all inspecting officers while on duty at such adult-oriented establishment.

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

A registration fee as established by resolution in the Town Fee Schedule shall be paid per registration, which shall be paid to the Town to cover costs of the identification card.

(4) All private schools and public schools, as defined in Wis. Stat. Ch. 115, located within the Town of Leeds are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

**6.03(U) Suspension, Revocation or Nonrenewal of Licenses**

(1) Any license granted herein may be revoked, suspended, or not renewed by the Town Board as follows:

(a) If the applicant has made or recorded any statement required by this Section knowing it to be false or fraudulent;

(b) For the violation of any provision of this Section, except for establishment license matters involving a violation of Building Codes, in such case the license shall be revoked after the second conviction thereof in any license year;

(c) After one (1) conviction of any establishment employee of an offense under Wis. Stat. Ch. 944, or of an offense against the person or property of a patron or customer of the establishment or of an offense involving substances in Subsection II of Wis. Stat. Ch. 961 where there is shown the participation or knowledge of any other establishment employee or of any individual within the business structure of the applicant;

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

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

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

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

(h) If any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any material depicting specified sexual activities or specified anatomical areas.

(2) No license shall be revoked, suspended, or not renewed by the Town Board except upon due 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.

(3) The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine opposing witnesses, to present witnesses on the licensee's own behalf under subpoena by the Town Board if such is required, and the hearing may be stenographically recorded at the licensee'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 Board shall provide the complainant and licensee with a copy of the report.