

TOWN OF NASHVILLE

ORDINANCE NUMBER 12104-1

The purpose of this ordinance is to regulate adult-oriented establishments and establishments providing adult entertainment, including, but not limited to exotic dancing.

The Town Board of Nashville, Forest County, Wisconsin, does hereby ordain as follows:

SECTIONS

- I. Definitions
- II. License
- III. Application for License
- IV. Standards for Issuance of License
- V. Fees
- VI. Display of License
- VII. Renewal of License
- VIII. Suspension or Revocation of License
- IX. Responsibilities of the Operator
- X. Registration of Entertainers
- XI. Administration Procedure and Review
- XII. Exclusions
- XIII. Penalties and Prosecution
- XIV. Severability
- XV. Repealed

I. DEFINITIONS

- (A) "Adult-oriented establishments" shall include, but not be limited to, premises wherein an entertainer provides adult entertainment, whether full-time or on occasion, to a member of the public, patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect.
- (B) "Adult entertainment" means entertainment which features dancers, strippers, male or female impersonators, or similar entertainers, performing or presenting material having as its dominant theme, or distinguished or characterized by an emphasis on any actual or simulated "specified sexual activities" or "specified anatomical areas" as defined below.
- (C) "Entertainer" means a dancer, stripper, impersonator or similar performer referred to in subsection (B).

- (D) "Specified sexual activities" means simulated or actual:
- (1) Showing of human genitalia 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, buttocks or female breasts.
- (E) "Specified anatomical areas" means:
- (1) Less than completely and opaquely covered human genitalia, pubic region, perineum, buttocks, female breasts below the point immediately above the top of the areola;
 - (2) Human male genitalia in a discernable turgid state, even if opaquely covered;
- (F) "Operators" means any person, association, partnership or corporation operating, conducting, maintaining or owning any adult oriented establishment.
- (G) "School" means a public, parochial or private school that provides an educational program for one or more grades between 1 and 12 and that is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
- (H) "Church/religious organization" means an association, conference, congregation, convention, committee or other entity that is organized and operated for a religious purpose and that is exempt from federal income tax under 26 USC 501 (c)(3) or (d) and any subunit of such an organization, conference, congregation, convention, committee or entity that is organized and operated for a religious purpose.

II. LICENSE

- (A) Except as provided in Subsection (D) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the Town of Nashville without first obtaining a license to operate issued by the Town of Nashville.
- (B) A License may be issued for only one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation, which desires to operate more than one adult-oriented establishment, must have a license for each.
- (C) No license or interest in a license may be transferred to any person, partnership or corporation.

- (D) All adult-oriented establishments existing at the time of the passage of this ordinance must submit an application for license within thirty (30) days of the passage of this ordinance. If an application is not received within said thirty (30) day period, then such existing adult-oriented establishment shall cease operations.
- (E) No license will be issued for an adult-oriented establishment, which will be located within 1,000 feet from the premises of a school or church/religious organization.

III. APPLICATION FOR LICENSE

- (A) Any person, partnership 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 promptly to the Town of Nashville Board and the applicant.
- (B) The application for a license shall be upon a form provided by the Town Clerk. 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;
 - (2) Written proof that the individual is at least eighteen (18) years of age;
 - (3) The exact nature of the adult-oriented use to be conducted and the address of the adult-oriented establishment to be operated by the applicant;
 - (4) If the applicant is a corporation, the applicant shall specify the name of the corporation, the date and state of incorporation, the name and address of any shareholder(s) who individually or jointly owns or controls more than forty-nine percent (49%) of the stock in said corporation and all persons responsible for the management and operation of the adult-oriented establishment;
 - (5) If the applicant is a partnership or joint venture or any other type of organization where two (2) or more persons have a financial interest, the application shall specify the name of the entity, the name and address of any general partner(s) and all persons responsible for the management and operation of the adult-oriented establishment.
- (C) Within sixty (60) days of receiving an application for a license, the Town Clerk shall notify the applicant whenever the application is granted or denied or being held up to an additional sixty (60) days, unless otherwise agreed to by the applicant.
- (D) Whenever an application is denied, the Town Clerk 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 Town Board.

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

IV. STANDARDS FOR ISSUANCE OF LICENSE

- (A) To receive a license to operate an adult-oriented establishment, the applicant must meet the following standards:
- (1) If the applicant is an individual:
 - (a) The applicant shall be at least eighteen (18) years of age;
 - (b) The applicant shall not have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under §111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application,
 - (2) If the applicant is a corporation:
 - (a) All persons required to be named under section III (B) (4) shall be at least eighteen years of age;
 - (b) No person required to be named under section III (B) (4) shall have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under §111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application.
 - (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
 - (a) All persons required to be named under section III (B) (5) shall be at least eighteen years of age.
 - (b) No person required to be named under section III (B) (5) shall have been found to have previously violated this ordinance or an ordinance of like terms in another jurisdiction or have been arrested or convicted for a violation for which licensure may be denied under §111.335 of the Wisconsin Statutes within five (5) years immediately preceding the date of the application.

V. FEES

A license fee of Ten Thousand Dollars (\$10,000.00) shall be submitted with the application for license. If the application is denied, one-half (1/2) of the fee shall be returned to the applicant.

VI. DISPLAY OF LICENSE

- (A) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (B) Any licenses of employees or agents that work in said establishment that are related to this license or establishment shall be displayed with the adult establishment license.

VII. RENEWAL OF LICENSE

- (A) Every license issued pursuant to this ordinance will terminate at the expiration of one (1) year from the date of issuance or the following June 30, whichever is earlier, unless sooner revoked, and must be renewed before operation is allowed in the following fiscal 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 ninety (90) days before the license expires. The application for renewal shall be filed in triplicate and dated by the Town Clerk. A copy of the application for renewal shall be distributed promptly to the Town of Nashville Board and the applicant. The Town Clerk shall require complete information and data, given under oath and affirmation, as is required for an application for a new license.
- (B) A license renewal fee of Five Thousand Dollars (\$5,000.00) shall be submitted with the application for renewal. In addition of the renewal fee, a late penalty of Two Hundred Dollars (\$200.00) shall be assessed against an applicant who files for a renewal less than ninety (90) days before the license expires. If the application is denied, one-half (1/2) of the total fees collected will be returned to the applicant.

VIII. SUSPENSION OR REVOCATION OF LICENSE

- (A) The Town of Nashville may revoke a license 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 violated any provision of this ordinance or any rule or regulation adopted by the Town of Nashville pursuant to this ordinance; 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 sixty (60) days if the Town of Nashville 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.
 - (4) Any cost or fee required to be paid by this ordinance is not paid.
 - (5) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment, unless the premises has a liquor license and all appropriate zoning and conditional use permits.
- (B) The Town of Nashville Board, before revoking or suspending any license or permit, shall give the operator at least ten (10) days written notice of the charges against the operator, and the opportunity for a public hearing before the Town Board.
 - (C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
 - (D) 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 premise for which a license has been issued shall be as an adult-oriented establishment for six (6) months from the date of revocation of the license.

IV. RESPONSIBILITIES OF THE OPERATOR

- (A) Every action or omission by an employee that constitutes a violation of the provisions of this ordinance 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.
- (B) Any act or omission of any employee that constitutes a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purpose of determining whether the operator's license shall be revoked, suspended or renewed.

- (C) No operator or employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or allow any minor to view adult entertainment as defined herein.
- (D) The operator shall maintain the premises in a clean and sanitary manner at all times.
- (E) The operator shall insure compliance of the establishment and its patrons with provisions of this ordinance.
- (F) No operator shall suffer, allow or permit any employee or performer and no employee or performer shall intentionally touch the clothed or unclothed body of any patron or customer at the establishment premises, at any point below the neck and above the knee of the person, excluding the person's hand. It shall further be unlawful for any patron or customer in or upon the establishment premises, to touch any portion of the clothed or unclothed body of an operator, employee or performer below the neck and above the knee of the person, excluding the operator's/employee's/performer's hand.
- (G) This ordinance shall be displayed on the exterior of every licensed premise with such ordinance to be clearly visible to patrons entering the premise from the outside and shall be posted within eight (8) feet of any exterior entryway. The ordinance shall also be placed in each room and any enclosed location or booth within the establishment licensed under this section. The Town Board may, by formal motion or resolution, authorize the posting of an abbreviated form of this ordinance, so as to notify patrons, employees and operators of the regulations stated in this section. The exterior signs shall be in block letters, written in black on white background surface, and be no less than one (1) inch in size. The interior signs shall be of a similar type and color with a minimum height of one-half (1/2) inch each. Upon application of the owner, abbreviated versions of this ordinance may be posted or other amendments to this section may be approved, consistent with the intent of this ordinance in keeping affected persons apprised of the requirements of this ordinance.
- (H) No adult oriented establishment may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.
- (I) No employee of an adult-oriented establishment shall solicit any pay or gratuity from any patron or customer nor shall any patron or customer pay or give any gratuity to an employee in an adult-oriented establishment.

X. REGISTRATION OF ENTERTAINERS

- (A) Any person eighteen years or older desiring to provide entertainment in the Town of Nashville as an entertainer at any premises governed by this ordinance, before engaging in any such entertainment shall register with the Town of Nashville. The individual shall provide full name and permanent address, date and place of birth, information concerning height, weight, hair and eye color, gender and race, two (2) forms of identification with at least one (1) form being photo identification confirming such information, stage name and booking agent if any, accompanied by a fee of Twenty-five Dollars (\$25.00). Such registration shall be valid for one (1) year from date of registration, to, if employed by an establishment holding a liquor or beer license, such registration shall be valid until June 30th following issuance.
- (B) No Person shall permit entertainment by an individual subject to this section without prior registration as required in paragraph (A) of this section.

XI. ADMINISTRATIVE PROCEDURE AND REVIEW

The provisions of Chapter 227 of the Wisconsin Statutes pertaining to contested cases shall govern the administrative procedure and review regarding the granting, denial, renewal, non-renewal, revocation or suspension of a license.

XII EXCLUSIONS

All private school and public schools as defined in Chapter 115, Wisconsin Statutes, located within the Town of Nashville are exempt from obtaining a license hereunder when instructing pupils in professional nursing care or human growth and development as a part of its curriculum. All licensed medical care or professional nursing care facilities located within the Town of Nashville and agents of the Town of Nashville and/or Forest County Health Departments are exempt from obtaining a license hereunder when engaged in the providing of medical care or human growth and development education.

XIII. PENALTIES AND PROSECUTION

In addition to all other remedies available to the Town of Nashville in equity and under law, any person who violates any provision of this ordinance or who shall fail to obtain a license to permit as required hereunder, or who shall operate after his or her license is revoked, shall be subject to a forfeiture of One Thousand Dollars (\$1,000.00) per day or per occurrence. Any violation of this ordinance is deemed to be a public nuisance and the Town of Nashville may seek to enjoin or otherwise obtain relief and remedy of such violation in addition to any forfeiture action.

XIV. SEVERABILITY

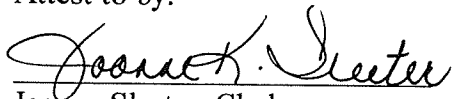
The several sections of this ordinance are declared to be severable. If any section, provision, phrase, word or any portion of this ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section, provision, phrase, word or portion thereof directly specified in the decision, and not affect the validity of all other provisions, words, sections or portions thereof of the ordinance which shall remain in full force and effect.

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

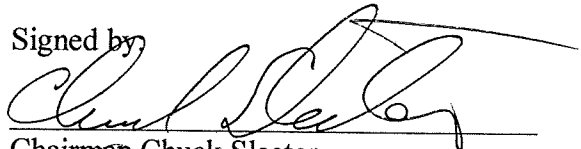
This ordinance shall take effect upon passage and publication as provided by law.

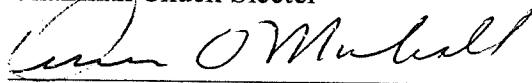
This ordinance was adopted this 1st day of December, 2004.

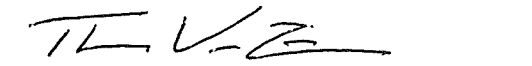
Attest to by:


Joanne Sleeter, Clerk

Signed by


Chairman, Chuck Sleeter


Supervisor Duane Marshall


Supervisor Thomas VanZile