

Chapter 6

Regulation and Licensing of Fireworks

7-6-1 Regulation and Licensing of Fireworks

Sec. 7-6-1 Regulation of Fireworks.

- (a) **Definition.** In this Section, "fireworks" means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:
- (1) Fuel or a lubricant.
 - (2) A firearm cartridge or shotgun shell.
 - (3) A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - (4) A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - (5) A cap containing not more than one-quarter (1/4) grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.
 - (6) A toy snake which contains no mercury.
 - (7) A model rocket engine.
 - (8) Tobacco and a tobacco product.
 - (9) A sparkler on a wire or wood stick not exceeding thirty-six (36) inches in length or 0.25 inch in outside diameter which does not contain magnesium, chlorate or perchlorate.
 - (10) A device designed to spray out paper confetti or streamers and which contains less than one-quarter (1/4) grain of explosive mixture.
 - (11) A device designed to produce an audible sound but not explode, spark, move or emit an external flame after ignition and which does not exceed three (3) grams in total weight.
 - (12) A device that emits smoke with no external flame and does not leave the ground.
 - (13) A cylindrical fountain not exceeding one hundred (100) grams in total weight with an inside tube diameter not exceeding 0.75 inch, designed to sit on the ground and emit only sparks and smoke.
 - (14) A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke.

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(b) **Sale.** No person may sell or possess with intent to sell fireworks, except:

- (1) To a person holding a permit under Subsection (c)(3);
- (2) To a municipality; or
- (3) For a purpose specified under Subsection (c)(2)b-f.

(c) **Use.**

- (1) **Permit Required.** No person may possess or use fireworks without a user's permit from the Town Chairperson or from an official or employee of the Town as designated by the Town Board. No person may use fireworks or a device listed under Subsection (a)(5)-(7) and (9)-(14) while attending a fireworks display for which a permit has been issued to a person listed under Subparagraph (c)(3)a-e or under Subparagraph (c)(3)f if the display is open to the general public.
- (2) **Permit Exceptions.** Subparagraph (c)(1) above does not apply to:
 - a. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least two (2) days in advance,
 - b. The possession or use of explosives in accordance with rules or general orders of the Wisconsin Department of Industry, Labor and Human Relations,
 - c. The disposal of hazardous substances in accordance with rules adopted by the Wisconsin Department of Natural Resources,
 - d. The possession or use of explosive or combustible materials in any manufacturing process,
 - e. The possession or use of explosive or combustible materials in connection with classes conducted by educational institutions.
- (3) **Who May Obtain Permit.** A permit under this Subsection may be issued only to the following:
 - a. A public authority.
 - b. A fair association,
 - c. An amusement park,
 - d. A park board,
 - e. A civic organization.
 - f. An agricultural producer for the protection of crops from predatory birds or animals.
- (4) **Crop Protection Signs.** A person issued a permit for crop protection shall erect appropriate warning signs disclosing the use of fireworks for crop protection.
- (5) **Bond.** The Town Chairperson issuing a permit under this Subsection shall require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under the permit. The bond or policy shall be taken in the name of the Town, and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all

persons shall not exceed the amount of the bond or policy. The bond or policy, together with a copy of the permit, shall be filed in the office of the Town Clerk.

- (6) **Required Information for Permit.** A permit under this Subsection shall specify all of the following:
 - a. The name and address of the permit holder, b. The date on and after which fireworks may be purchased, c. The kind and quantity of fireworks which may be purchased, d. The date and location of permitted use. e. Other special conditions prescribed by ordinance.
 - (7) **Copy of Permit.** A copy of a permit under this Subsection shall be given to the Fire Chief at least two (2) days before the date of authorized use.
 - (8) **Minors Prohibited.** A permit under this Subsection may not be issued to a minor.
- (d) Storage and Handling.**
- (1) **Fire Extinguishers Required.** No wholesaler, dealer or jobber may store or handle fireworks on the premises unless the premises are equipped with fire extinguishers approved by the Fire Chief.
 - (2) **Smoking Prohibited.** No person may smoke where fireworks are stored or handled.
 - (3) **Fire Chief to be Notified.** A person who stores or handles fireworks shall notify the Fire Chief of the location of the fireworks.
 - (4) **Storage Distance.** No wholesaler, dealer or jobber may store fireworks within five hundred (500) feet of a dwelling.
 - (5) **Restrictions on Storage.** No person may store fireworks within five hundred (500) feet of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon.
- (e) **Parental Liability.** A parent or legal guardian of a minor who consents to the use of fireworks by the minor is liable for damages caused by the minor's use of the fireworks.

Chapter 7

Street Use Permits

7-7-1 Street Use Permits

Sec. 7-7-1 Street Use Permits.

- (a) **Purpose.** The streets in possession of the Town are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Town Clerk may grant a permit for street use, subject to reasonable municipal regulation and control. Therefore, this Chapter is enacted to regulate and control the use of streets pursuant to a Street Use Permit to the end that the health, safety and general welfare of the public and the good order of the Town can be protected and maintained.
- (b) **Application.** A written application for a Street Use Permit by persons or groups desiring the same shall be made on a form provided by the Town Clerk and shall be filed with the Town Clerk. The application shall set forth the following information regarding the proposed street use:
- (1) The name, address and telephone number of the applicant or applicants.
 - (2) If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization.
 - (3) The name, address and telephone number of the person or persons who will be responsible for conducting the proposed use of the street.
 - (4) The date and duration of time for which the requested use of the street is proposed to occur.
 - (5) An accurate description of that portion of the street proposed to be used.
 - (6) The approximate number of persons for whom use of the proposed street area is requested.
 - (7) The proposed use, described in detail, for which the Street Use Permit is requested.
- (c) **Representative at Meeting.** The person or representative of the group making application for a Street Use Permit shall be present when the Town Board gives consideration to the granting of said Street Use Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.
- (d) **Denial of Street Use Permit.** An application for a Street Use Permit may be denied if:
- (1) The proposed street use is primarily for private or commercial gain.
 - (2) The proposed street use would violate any federal or state law or any Ordinance of the Town.

- (3) The proposed street use will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property.
 - (4) The application for a Street Use Permit does not contain the information required above.
 - (5) The application requests a period for the use of the street in excess of eight (8) hours.
 - (6) The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Street Use Permit shall be denied, as hereinabove set forth, the Town Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.
- (e) **Permit Fee.** Each application for a Street Use Permit shall be accompanied by a fee in accordance with the Town Board's current fee schedule. The applicant shall be responsible for obtaining state-approved barricades and pay the cost thereof.
- (o) **Insurance.** The applicant for a Street Use Permit may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Town of Taycheedah. The applicant may be required to furnish a performance bond prior to being granted the permit.
- (g) **Termination of a Street Use Permit.** A Street Use Permit for an event in progress may be terminated by law enforcement officers if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Town of Taycheedah. Law enforcement officers have the authority to revoke a permit or terminate an event in progress if the event organizers fail to comply with any of the regulations in the street use policy or conditions stated in the permit.

Chapter 8

Regulation of Large Assemblies of Persons

7-8-1 Permits for Large Public Gatherings

Sec. 7-8-1 Permits for Large Public Gatherings.

(a) **Intent.**

- (1) It is the purpose of the Town Board to regulate the assemblage of large numbers of people, in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the Town of Taycheedah, in order that the health, safety and welfare of all persons in the Town, residents and visitors alike, may be protected.
- (2) The purpose and intent of this Section is to establish site approval for locations in the Town of Taycheedah used temporarily for large gatherings, as defined in Subsection (b) below, it being recognized that the character and type of such gatherings vary widely and the facilities required to carry out the general purpose and intent of this Section should be the subject of a Public Gathering Permit issued only after public hearing and a determination by the Town Board that there will be compliance with the standards set forth in this Section.

- (b) **Scope.** This Section shall apply to all public and private gatherings, rallies, assemblies or festivals at which attendance is greater than five hundred (500) persons for a one (1) day event and greater than two hundred fifty (250) persons for a two (2) day or more event. The requirement for a Public Gathering Permit shall not apply to events held in any regularly established permanent place of worship, stadium, school, athletic field, arena or other similar permanently established structure designed for assemblies or to church picnic events which do not exceed by more than two hundred fifty (250) people the maximum seating capacity of the structure where the assembly is held.

(c) **Definitions.** The following definitions shall be applicable in this Section:

- (1) **Person.** Any individual, partnership, corporation, firm, organization, company, association, society or group.
- (2) **Assembly.** A company of persons gathered together at any location at any single time for any purpose, and may be considered a large public gathering if it falls within the definition in Subsection (b) above.
- (3) **Public Gathering.** Shall be as defined in Subsection (b) above.

- (d) **Permit Required.** No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give away tickets to an actual or reasonably anticipated large gathering, whether on public or private property, unless a Public Gathering Permit to hold the assembly has first been issued by the Town Board. A permit to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.
- (e) **Application for Permit.**
 - (1) **Applicant.** Applications for a Public Gathering Permit shall be made by the owner or a person having a contractual interest in lands proposed as the site for a public or private gathering, rally, assembly or festival as defined in this Section. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of an individual, natural human being, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers of an unincorporated association, organization, society or group or, if there be no officers, by all members of such association, organization, society or group.
 - (2) **Filing Period.** An application for a Public Gathering Permit shall be filed with the Town Clerk not less than forty-five (45) days nor more than one hundred twenty (120) days before the date on which it is proposed to conduct the event.
- (f) **Required Application Information.** The application for a Public Gathering Permit shall contain and disclose all of the following information:
 - (1) The name, residence and mailing address of all persons required to sign the application by Subsection (e)(1) above and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding ten percent (10%) or more of the stock of such corporations.
 - (2) The name and mailing address of the promoter and/or sponsor of the gathering.
 - (3) The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the owner of record of all such property. This description shall be by plat of survey to a scale of one (1) inch equals one hundred (100) feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, existing or proposed wells, buildings, fences, woods, streams, lakes or water courses, as well as the vertical contour interval two (2) feet above the ordinary highwater level.
 - (4) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner of all such property that the applicant has permission to use such property for an assembly of two hundred fifty (250) or more persons.
 - (5) The nature or purpose of the assembly.

- (6) The total number of days and/or hours during which the assembly is to last.
 - (7) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the county if the assembly is to continue overnight.
 - (8) The maximum number of tickets to be sold, if any.
 - (9) The plans of the applicant to limit the maximum number of people permitted to assemble.
 - (10) The plans for fencing the location of the assembly and the gates contained in such fence.
 - (11) The plans for supplying potable water including the source, amount available and location of outlets.
 - (12) The plans for providing toilet and lavatory facilities including the source, number and location, type and the means of disposing of waste deposited.
 - (13) The plans for holding, collection and disposing of solid waste material.
 - (14) The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
 - (15) The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps.
 - (16) The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and parking lots.
 - (17) The plans for camping facilities, if any, including facilities available and their location.
 - (18) The plans for security including the number of guards, their deployment, command arrangements, and their names, addresses, credentials and hours of availability.
 - (19) The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
 - (20) The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers.
 - (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds including the names and addresses of all concessionaires and their license or permit numbers.
 - (22) The application shall include the bond required in Subsection (g) and the permit fee.
- (g) **Bond.** The Town Board shall have authority to require the applicant and site owners to file a cash bond or establish an escrow account in an amount to be determined by the Town Board, but not exceeding One Hundred Thousand Dollars (\$100,000.00), conditioned on complete compliance by the applicant and site owner with all provisions of this Section,

the terms and conditions of the Public Gathering Permit, including cleaning up the site, and the payment of any damages, administrative and law enforcement costs, fines, forfeitures or penalties imposed by reason of violation thereof. Such bond or escrow account information shall be filed with the Town Clerk prior to the issuance of a permit.

- (h) **Charge for Increased Costs.** Where the Town Board determines that the cost of municipal services incident to the staging of the usage will be significantly increased because of the usage, the Town Board may require the permittee to make an additional payment into the general fund of the Town in an amount equal to the increased costs.
- (i) **Hearing; Determination.** Prior to considering an application for a Public Gathering Permit, the Town Board shall conduct a public hearing on the matter. Written notice of such hearing shall be mailed to the applicant and all property owners adjacent to the site of the proposed assembly. The Town Board shall, based on evidence presented at the hearing, make a finding of the number of persons expected to attend the event. Such finding shall be final and conclusive on the applicant for the purpose of determining the amount of the permit fee and the applicability of those standards set forth herein which are dependent upon the number of persons attending the event.
- (j) **Standards.** A Public Gathering Permit shall not be issued unless it is determined, based on evidence produced at the hearing or submitted with application materials, that the following standards are or will be met; the applicant may be required to file with the Town Clerk copies of properly executed contracts establishing the ability to fully provide the services required under this Section:
 - (1) For events scheduled for two (2) successive days or more, at least one (1) acre of land, exclusive of roads, parking lots and required yards shall be provided for each one hundred (100) persons attending.
 - (2) Every site proposed for a Public Gathering Permit shall be on generally well-drained ground and shall not be on ground on which storm or other waters accumulate or on ground which is wet or muddy due to subsoil moisture.
 - (3) Due to the physical characteristics of the site, the Town Board may require that the applicant shall provide proof that he will furnish, at his own expense, a minimum of two (2) days before the assembly commences, a snow-fence type fence completely enclosing the proposed location of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four (4) gates, at least one (1) at or near four (4) opposite points of the compass.
 - (4) The applicant shall provide proof that he has contracted for local EMS services to provide emergency ambulance and EMT services, at the applicant's expense, for events at which over one thousand (1,000) persons will be in attendance.
 - (5) The applicant shall provide proof that he will furnish, at his own expense before the assembly commences if the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least

- five (5) foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
- (6) The applicant shall provide proof that he will furnish, at his own expense before the assembly commences, a free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one (1) parking space for every four (4) persons.
 - (7) The applicant shall provide proof that he will furnish, at his own expense before the assembly commences, security guards, either regularly employed, duly sworn, off-duty Wisconsin peace officers or private guards, licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled at the rate of at least one (1) security guard for every five hundred (500) people. If it is determined by the Town Chairperson that additional police protection shall be required, he may contact the County Sheriffs Department; and all costs for the additional protection required shall be deducted from the posted cash bond.
 - (8) The applicant shall provide proof that he will furnish, at his own expense before the assembly commences, fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and ordinances of the county and Town, and sufficient emergency personnel to efficiently operate the required equipment.
 - (9) The applicant shall provide an adequate source of pure water with sufficient supply outlets for drinking and other purposes to comfortably accommodate the number of persons expected to attend the event at the rate of one (1) gallon per person per day. Where a public water supply is not available, potable water, meeting all federal and state requirements for purity, may be used. Any well or wells supplying any such site shall comply with the Wisconsin Administrative Code.
 - (10) The applicant shall provide separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one (1) toilet for every one hundred (100) females and at least one (1) toilet for every two hundred (200) males together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
 - (11) The applicant shall provide a sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least two and one-half (2.5) pounds of solid waste per person per day, together with a plan for holding and a plan for collection of all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.

(12) If the assembly is to continue overnight, camping facilities shall be provided in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of the Town and county, sufficient to provide camping accommodations for the maximum number of people to be assembled, (k) **Reasons for Denial.** Applicants may be denied for any of the following non-exclusive reasons:

- (1) It is for a use which would involve a violation of federal or state law or any Town or county ordinance.
 - (2) The granting of the permit would conflict with another permit already granted or for which application is already pending.
 - (3) The application does not contain the information or does not properly satisfy the conditions required by this Section.
 - (4) The application is made less than the required days in advance of the proposed assembly.
 - (5) The policing of the assembly will require so large a number of persons and vehicles, including ambulances, as to prevent adequate service of the needs of the rest of the community.
 - (6) The assembly will substantially hinder the movement of police and fire and other emergency vehicles as to create a substantial risk to persons and property.
 - (7) The assembly will reasonably create a substantial risk of injury to persons or damage to property.
 - (8) The assembly use is so poorly organized that participants are likely to engage in aggressive or destructive activity.
- (1) **Class B Fermented Malt Beverage Licenses.** When fermented malt beverages are sold at any event authorized by this Section, a valid Temporary Fermented Malt Beverage license shall be obtained and applicable Town ordinances shall be fully complied with. Said license must be possessed by the person who filed for the license and shall be presented to any law enforcement officer upon request.
- (m) **Recommendations of Governmental Agencies.** The Town Clerk may submit a copy of the application to the County Sheriffs Department and other governmental agencies for their recommendations.
- (n) **Permit Revocation.** Any law enforcement officer, the Town Chairperson, or the Town Board may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by a change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, an above-named official may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Town and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the usage sufficient to indemnify

the Town and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants, (o) **Fees.** The following fees shall be applicable under this Section:

- (1) **Gatherings of 250 to 500 [Two (2) day or More Event]. No fee.**
- (2) **Gatherings of 500 to 2,500.** A fee in accordance with the Town Board's current fee schedule.
- (3) **Gatherings of 2,500 to 5,000.** A fee in accordance with the Town Board's current fee schedule.
- (4) **Gatherings of Over 5,000.** A fee in accordance with the Town Board's current fee schedule.

Chapter 9

Adult-Oriented Establishments

7-9-1	Purpose
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Sec. 7-9-1 Purpose.

- (a) Adult-oriented establishments require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of the Town.
- (b) The Town Board finds that adult-oriented establishments may be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.
- (c) It has been found in Milwaukee and Kenosha Counties, Wisconsin; Chattanooga, Tennessee; Newport News, Virginia; and Marion County, Indiana, to name a few locales, that the viewing booths in adult-oriented establishments have been and are being used by patrons for engaging in sexual acts, particularly between males, including but not limited to, intercourse, sodomy, oral copulation and masturbation, resulting in unsafe and unsanitary conditions in said booths.
- (d) Acquired Immune Deficiency Syndrome (AIDS) is a sexually-transmitted disease that destroys the body's immune system, and has no known cure. Statistics from the State of Wisconsin have indicated an increase in the number of AIDS cases in the state. The concern over sexually-transmitted diseases is a legitimate health concern of the Town that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the Town.
- (e) Licensing is a legitimate means of accountability to ensure that operators of adult-oriented establishments comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

Adult-Oriented Establishments

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- (f) Adult-oriented establishments; because of their very nature, have a deleterious effect on both the existing establishments around them and the surrounding residential areas adjacent to them.
- (g) Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to blight and downgrading the quality of life in the adjacent area.
- (h) The Town Board wants to prevent these adverse effects and thereby protect the health, safety, and welfare of Town residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight.
- (i) It is not the intent of this Chapter to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments.
- (j) It is not the intent of the Town Board to condone or legitimize the distribution of obscene materials, and the Town Board recognizes that state and federal laws prohibit the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in the Town of Taycheedah, Fond du Lac County, Wisconsin.

Sec. 7-9-2 Authority.

The Town Board has the specific authority, powers, and duties pursuant to adoption of its Village powers under Sec. 60.10, Wis. Stats., to regulate and control certain uses, activities, establishments and operations in the Town of Taycheedah.

Sec. 7-9-3 Definitions.

For purposes of this Chapter:

- (a) **Adult Bookstore.** An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.
- (b) **Adult Entertainment.** Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized

by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

- (c) **Adult Motion Picture Theater.** An enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.
- (d) **Adult-Oriented Establishment.** Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It 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, whether or such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises 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.
- (e) **Booths/Cubicles/Rooms/Compartments/Stalls.** Enclosures that 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. This 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," "cubicle," "room," "compartment," or "stall" 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, are not open to any person other than employees, nor shall this definition apply to hotels, motels, or other similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.
- (f) **Operators.** Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- (g) **Specified Anatomical Areas.** Less than completely and opaquely-covered human genitals, pubic region, buttocks, female breasts below the point immediately above the top of the areola; or, human male genitals in a discernible turgid state, even if opaquely covered.
- (h) **Specified Sexual Activities.** Simulated or actual:
 - (1) Showing of human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado masochistic abuse, fellatio, or cunnilingus; or
 - (3) Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.

Sec. 7-9-4 License.

- (a) **License.** Except as provided below, from and after the effective date of this Chapter, no adult-oriented establishment shall be operated or maintained in the Town without first obtaining a license to operate issued by the Town Board. A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain location. Any person who desires to operate more than one (1) adult-oriented establishment must have a license for each. No license or interest in a license may be transferred to any person. All adult-oriented establishments existing at the time of the passage of this Chapter must submit an application for a license within ninety (90) days of the passage of this Chapter. A license fee in accordance with the Town Board's current fee schedule shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned. A license renewal fee in accordance with the Town Board's current fee schedule shall be submitted with the application for renewal. A license must be renewed every year.
- (b) **Application for License.** Any person desiring to secure a license shall make application to the Town Clerk. The applicant for a license shall furnish the following information under oath:
- (1) The name and address of the intended operator;
 - (2) The name and address of the owner of the premises if different from the operator;
 - (3) The name and address of the adult-oriented establishment to be operated by the applicant;
 - (4) Written proof that the individual is at least eighteen (18) years of age;
 - (5) The address of the adult-oriented establishment to be operated by the applicant;
 - (6) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agents, and the name and address of all shareholders owning more than five percent (5%) of the stock in such corporation and all officers and directors of the corporation;
 - (7) If the establishment is in operation, the date on which the owner acquired the establishment for which the license is sought. The date on which the establishment began operations as an adult-oriented business at the location for which the license is sought;
 - (8) If the establishment is a corporation, a certified copy of the Articles of Incorporation and a certified copy of a certificate of good standing disclosing that the corporation is authorized to transact business in the State of Wisconsin;
 - (9) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of a recorded deed; and
 - (10) If the operator is not the fee owner of the tract of land, then the lease, purchase contract, purchase option contract, lease option contract, or other documents evidencing the legally-enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract of land for the establishment.

- (c) **Issuance of License.** The Town shall approve the issuance of a license to the applicant within forty-five (45) days after receipt of the application unless the Town finds one (1) or more of the following to be true:
- (1) The applicant is under eighteen (18) years of age;
 - (2) The applicant or the applicant's spouse is overdue in the payment of Town taxes, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to an adult-oriented establishment;
 - (3) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application;
 - (4) The applicant is residing with a person who has been denied a license by the Town to operate an adult-oriented establishment within the preceding twelve (12) months, or residing with a person whose license to operate an adult-oriented establishment has been revoked within the preceding twelve (12) months;
 - (5) The premises to be used have not been approved by the Building Inspector, Fire Department, or any other local, state or federal official as being in compliance with applicable laws, regulations and ordinances;
 - (6) The fee required by this Chapter has not been paid; or
 - (7) Any intoxicating liquor or cereal malt beverage is served or consumed on the premises of the adult-oriented establishment.
- (d) **Hearing.** The Town Board, before revoking or suspending any license, shall give the operator at least ten (10) days' written notice of the charges against him and the opportunity for a public hearing before the Town Board or its designated committee.
- (e) **Transfer.** The transfer of a license or any interest therein, shall automatically and immediately revoke the license.
- (f) **Inspection.** Any applicant or licensee shall permit representatives of the County Sheriffs Department, County Health Department, Town Fire Department, Building Inspector, or other Town or state departments or agencies to inspect the premises of an adult-oriented establishment for the purpose of ensuring compliance with this Chapter and all relevant state and federal laws.

Sec. 7-9-5 Physical Layout and Operation.

- (a) **Exterior.** It shall be unlawful for an owner or operator of an adult-oriented establishment:
- (1) To allow the merchandise or activities of the establishment to be visible from a point outside the establishment;
 - (2) To allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by this Chapter;

- (3) To allow exterior portions of the establishment to be painted in a color other than a single color.
- (b) **Signage.** The operator shall comply with the Town's Sign Ordinance. In addition, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.
- (c) **Booth/Room/Cubicle.** Any adult-oriented establishment having available for customers, patrons, or members, in a booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:
 - (1) Each booth, room, or cubicle shall be totally accessible to and from isles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock, or other control-type devices;
 - (2) Every booth, room, or cubicle shall meet the following construction requirements: a. Each booth, room or cubicle shall be separated from adjacent booths, rooms, or cubicles and any non-public areas by a wall; b. Have at least one (1) side totally open to a public lighted isle so that there is an unobstructed view at all times of anyone occupying the same; c. All walls shall be solid and without any openings, extended from floor to a height of not less than six (6) 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.
 - (3) Only one (1) individual shall occupy a booth, room, or cubicle at any time. No occupants shall engage in any type of sexual activity, cause any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.
- (d) **Responsibilities of the Operator.** Every act or omission by an employee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused by omission.
- (e) **Minors.** It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished either a valid operator's drivers license or a valid personal identification certificate issued by a State reflecting that the person is eighteen (18) years of age or older.

- (0) **Hours.** An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 12 midnight, seven (7) days a week.

Sec. 7-9-6 Locational Restrictions.

Adult-oriented establishments are permitted in any Business District provided that the establishment may not be operated within one thousand (1,000) feet of:

- (a) A church, synagogue, or regular place of religious worship;
- (b) A public or private elementary or secondary school;
- (c) A boundary of any residential district;
- (d) A public park;
- (e) A license day-care center; or
- (f) Another adult-oriented establishment.

Sec. 7-9-7 Measurement.

For the purpose of this Chapter, measurement shall be made in a straight line, without regard to intervening structures or objects from the nearest portion of the building or structure used as part of the premises where an adult-oriented establishment is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, Residential District, or residential lot, or licensed day-care center. The distance between any two (2) adult-oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which such business is located.

Sec. 7-9-8 Nonconforming Uses.

Any business lawfully operating on the effective date of this Chapter that is in violation of the locational or structural configuration requirements of this Chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period of not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. The non-conforming use is required to submit an application for a permit and otherwise comply with the requirements of this Chapter.

Sec. 7-9-9 Miscellaneous.

- (a) **Penalties.** Any person who fails to comply with any provisions of this Chapter shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) or more than One

Thousand Dollars (\$1,000.00) and the costs of prosecution, including reasonable attorneys' fees, for each violation. Each day that a violation exists or continues shall constitute a separate offense.

- (b) **Other Remedies.** In addition to other remedies the Town reserves the right to institute appropriate action or proceedings to prevent, restrain, correct, or abate a violation of this Chapter or to prevent any illegal act, conduct, business, or use in or about the subject premises.
- (c) **Interpretation.** The provisions of this Chapter are considered minimum requirements. Where the provisions of this Chapter impose greater restrictions than any statute or other regulation, the provisions of this Chapter shall apply. Where the provisions of any statute or other regulation impose greater restrictions, the provisions of the statute or regulation shall prevail.
- (d) **Severability.** If any provision of this Chapter is declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this Chapter in its entirety, or any part thereof, other than that so declared to be invalid. The balance of the Chapter not found invalid shall be enforced.
- (e) **Rules of Construction.** In the construction of this Chapter references to the male gender include the female and references to the singular include the plural. References to "person" or "persons" extends to natural persons, firms, corporations, partnerships, limited liability companies or other entities.

Chapter 10

Licensees to Pay Local Claims;

- 7-10-1 Licensees Required to Pay Local Taxes, Assessments and Claims; Appellate Procedures
- 7-10-2 Duty of Clerk with Regard to Licenses

Sec. 7-10-1 Licensees Required to Pay Local Taxes, Assessments and Claims.

- (a) **Payment of Claims.** The Town shall not issue or renew any license to transact any business within the Town of Taycheedah:
 - (1) For any purposes for which taxes, assessments or other claims of the Town are delinquent and unpaid.
 - (2) For any person who is delinquent in payment:
 - a. Of any taxes, assessments or other claims owed the Town; or
 - b. Of any forfeiture resulting from a violation of any Town Ordinance.
- (b) **Exemption.** This Section shall apply to licenses issued pursuant to the provisions of Title 7 of this Code of Ordinances, except Chapters 1 and 5.
- (c) **Applicability.** An application for renewal of a license subject to this Chapter shall be denied pursuant to the provisions of Subsection (a) only following notice and opportunity for hearing as provided by Subsection (d) below.
- (d) **Hearings.** Prior to any denial of an application for renewal of a license, including denials pursuant to Subsection (a), the applicant shall be given notice and opportunity for a hearing as hereinafter provided:
 - (1) With respect to licenses renewable under Chapter 2 of Title 7 of this Code of Ordinances, notice and opportunity for hearing shall be as provided by Sec. 125.12, Wis. Stats., as amended from time to time, and Town ordinances.
 - (2) With respect to licenses other than those described in Subsection (a) herein, the Town Board or its assignee shall notify the applicant in writing of the Town's intention not to renew the license and shall provide the applicant with an opportunity for hearing. The notice shall state the reasons for the intended action and shall establish a date, not less than three (3) days nor more than ten (10) days after the date of the notice on which the applicant shall appear before the Town Board. If the applicant shall fail to appear before the Board on the date indicated on the notice, the Board shall deny

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the application for renewal. If the applicant appears before the Board on the date indicated in the notice and denies that the reasons for nonrenewal exist, the Town Board shall conduct a hearing with respect to the matter. At the hearing, both the Town and the applicant may produce witnesses, cross examine witnesses and be represented by counsel. The applicant shall, upon request, be provided a written transcript of the hearing at the applicant's expense. If the Town Board determines the applicant shall not be entitled to renewal pursuant to Subsection (a), the application for renewal shall be denied.

- (e) **Appeals.** Where an individual, business or corporation wishes to appeal the Town Clerk's decision not to issue a license or permit under this Title on grounds other than those specified in Subsections (a) through (d) above, the applicant may file a request in writing with the Town Clerk that the matter be referred to the Town Board. A public hearing shall be scheduled within fourteen (14) calendar days by the Town Board. All parties may be represented by counsel. The Board shall consider all relevant information and shall render a decision which shall be binding.

Sec. 7-10-2 Duty of Clerk with Regard to Licenses.

The Town Clerk shall be charged with the administration of all ordinances relating to licenses unless otherwise provided by the Town Board.