

## Title 7 ► Chapter 9

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# Adult-Oriented Establishments

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This Ordinance is enacted in the interest of the public health, peace, safety, morals and general welfare of the people of the Town of Friendship; and the authority of the Town to regulate the sale and consumption of alcoholic beverages under the Twenty-first Amendment to the Constitution of the United States and chapter 125 of the Wisconsin Statutes. It is not the intention of this Ordinance to regulate obscenity, such being pre-empted by state law, but rather to regulate premises licensed under chapter 125 of the Wisconsin Statutes.

### **Sec. 7-9-1 Findings of Fact.**

- (a). The commercial exploitation of nude and semi-nude acts, exhibitions and nude entertainment frequently occurs at commercial establishments either selling or allowing consumption of alcoholic beverages on the premises.
- (b). There is a direct relationship between the consumption of alcoholic beverages and the nude and semi-nude activities mentioned above and an increase in criminal activities, moral degradation and the disturbances of the peace and the good order of the community. The concurrences of these activities are hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.
- (c). The combination of the sale and consumption of alcoholic beverages with the performance of nude and semi-nude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce and total community environment in the Town.
- (d). In order to promote and preserve the public peace and good order and to safeguard the health, safety, morals and welfare of the community and the citizens thereof, it is necessary and advisable for the Town to prohibit certain forms of nude and semi-nude acts, exhibitions, entertainment at commercial establishments where alcoholic beverages are, or are available to be, sold or consumed.
- (e). In order to preserve the public peace and good order and to safeguard the health, safety, morals and welfare of the community and citizens thereof, it is necessary and advisable to regulate and restrict the conduct of owners, operators, agents, employees, entertainers, performers, patrons, spectators and persons on the premises of the commercial establishments subject hereto.

**Sec. 7-9-2 Definitions.**

- (a). **Employee.** Any person who works or performs in a licensed premises irrespective of whether the person is paid a salary or wage by the owner or manager of the premises.
- (b). **Licensed Premises.** Premises Which have been licensed under Chapter 125 of the Wisconsin statutes for the sale and consumption of liquor, beer and/or wine on the premises, regardless of whether liquor, beer and/or wine is sold or served free of charge.
- (c). **Material.** Any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation of any statue or figure, or any other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment or machines.
- (d). **Nudity.** The showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernible turgid state.
- (e). **Performance.** Any preview, play, show, skit, film, dance, contest or other exhibition performed before an audience.
- (f). **Person.** Any individual, partnership, firm, association, corporation or other" legal entity."
- (g). **Private performances.** The display or exposure of any specified anatomical area by an employee at a licensed premises to a person other than another employee while the person is in an area within the premises not accessible during such display to all other persons on the premises, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons within the premises.
- (h). **Promote.** To cause, permit, procure, counsel or assist.
- (i). **Service to Patrons.** The provision of services to guests in establishments providing food and/or beverages; including but not limited to hostessing, hat checking, cooking, bar tending, serving, table setting and Clearing, waiter and waitressing, and entertaining.
- (k). **Sexual Conduct.** Actual or simulated acts of sexual intercourse, acts of stimulating genital organs, acts of excretory functions, exhibition of the genitals in a stimulated condition, and sexual relations between humans and animals.
- (l). **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, sadomasochistic abuse, fellatio or cunnilingus;
  - 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (m). **Specified Anatomical Areas.**
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below the point immediately above the top of the areola;
  - 2. Human male genitals in a discernible turgid state, even if opaquely covered.

**Sec. 7-9-3 Prohibited Conduct.**

It shall be unlawful for any person to knowingly engage in or permit any of the following activities in any establishment licensed under Chapter 125 of the Wisconsin statutes:

- (a). Disseminate, distribute or make available to the public any materials as that term is defined in this Ordinance; or
- (b). Engage or participate in any specified sexual activities whether as a public performance or a private performance; or
- (c). Perform nude or nearly nude activity whether or not the participant or performer is paid for the activity in question and whether or not the activity is in view of all patrons or is a private performance; or
- (d). Exhibit motion pictures or other displays, circulars, or advertisements which have, as their dominant theme, or is distinguished or characterized by an emphasis on, any actual or simulated specified sexual activities or specified anatomical areas;
- (e). Provide service to patrons in such a manner as to expose to public view any specified anatomical areas.
- (f). For any employee to touch any portion of the clothed or unclothed body of a patron or another employee below the neck and above the knee, excluding that part of the employee's arm below the wrist, commonly referred to as the hand.
- (g). Promote the commission of any of the above listed acts.

**Sec. 7-9-4 Commercial Sexual Gratification.**

- (a). No person or any legal entity shall offer, make available, permit or in any way participate in the touching of the genitals, pubic area, buttocks, anus or perineum of any person or of the breasts or vulva of a female which such touching can be reasonably construed as being for the purpose of sexual arousal or gratification under circumstances in which it is reasonably expected that money or other consideration will be received therefor, in any establishment licensed under Chapter 125 of the Wisconsin Statutes.
- (b). No person or any legal entity shall offer, make available, permit or in any way participate in the administration of any form of massage for money or other consideration when the genitals, pubic area, buttocks, anus, perineum, vulva or female breast of the administrator of the massage are not fully covered by opaque material, in any establishment licensed under Chapter 125 of the Wisconsin statutes.

**Sec. 7-9-5 Enforcement and Penalties.**

- (a). Any person convicted of violating the provisions of this Ordinance shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution, and in default of payment of such forfeiture and the costs of prosecution, if such action was brought in Circuit Court, shall be in contempt of court.
- (b). In the event that a violation of this Ordinance occurs, the Town Board shall conduct a hearing to determine whether the liquor license applicable to the licensed premises at whose business establishment the activity prohibited by this Ordinance occurred, shall have his/her or its licenses suspended or revoked. The suspension or revocation of the relevant liquor license shall be in addition to any other penalty that may be imposed under this Ordinance.

**Sec 7-9-6 Severability**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Sec 7-9-7 Conflicts**

.All Ordinances in conflict herewith are hereby repealed.

**Sec 7-9-8 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 Friendship.