

ORDINANCE NO.: 4791

AN AMENDED ORDINANCE to create Subsection 15.01(PPP)-(CCCC) and 15.04(P) of the Code of Ordinances of the City of La Crosse to add regulations for ~~sexual~~ adult-oriented establishments.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Subsection 15.01(PPP) through (CCCC) is hereby created to read as follows:

- 15.01(PPP) ADULT ARCADE.
Any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting "specified sexual activities" or "specified anatomical areas."
- 15.01(QQQ) ADULT CABARET.
An establishment or business which regularly or on a frequently recurring basis, features live entertainment that is distinguished or characterized by an emphasis on the exhibiting of "specified anatomical areas" or "specified sexual activities" for observation by patrons therein, or which holds itself out or identifies itself to the public by its name, signs and/or advertising as an establishment where such live entertainment occurs regularly or on a frequently recurring basis, including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification, or be references to "adult entertainment," "strippers," "exotic dancers," "gentleman's club," or similar terms.
- 15.01(RRR) ADULT THEATER.
A commercial establishment where, for any form of consideration, live performances, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- 15.01(SSS) ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE.
A commercial establishment which has a significant or substantial portion of its stock-in-trade, derives a significant or substantial portion of its revenues, devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:
(1) books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, which are characterized by their

emphasis upon the exhibition or display of "specified sexual activities" or "specified anatomical areas;"

- (2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

15.01 (TTT) ADULT MOTEL.

A hotel, motel, or similar commercial establishment, which:

- (1) offers accommodations to the public for any form of consideration; provides patrons with close-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the exhibition or display of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; and either
- (2) offers a sleeping room for rent for a period of time that is less than ten (10) hours, or
- (3) allows a tenant or occupant of a sleeping room to sublease the room for a period of time that is less than ten (10) hours.

15.01 (UUU) ESCORT.

A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person.

15.01 (VVV) ESCORT AGENCY.

A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

15.01 (WWW) NUDE OR SEMI-NUDE MODELING STUDIO.

Any establishment or business where a nude or semi-nude person is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university, or in a structure:

- (1) that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and,
- (2) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and,
- (3) where no more than one (1) nude or semi-nude model is on the premises at any one (1) time.

15.01 (XXX) NUDITY.

The showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; or the showing of the covered male genitals in a discernibly turgid state.

15.01 (YYY) SEMI-NUDITY.

The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition

shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed in whole or in part.

- 15.01 (ZZZ) ~~SEXUALLY ADULT-ORIENTED BUSINESS.~~
Any business that exploits interest in sex in a graphic manner. ~~Sexually~~ adult-oriented business shall specifically mean adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, or adult or semi-nude modeling studios.
- 15.01 (AAAA) SPECIFIED ANATOMICAL AREAS.
Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below the point immediately above the top of the areola; human male genitals in a discernible turgid state, even if opaquely covered.
- 15.01 (BBBB) SPECIFIED SEXUAL ACTIVITIES.
Simulated or actual showing of human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; fondling or erotic touching of human genitals, pubic region, buttocks or female breast.
- 15.01 (CCCC) SPECIFIED CRIMINAL ACTIVITY, SEXUALLY-ORIENTED.
Any sexually-oriented criminal offense, including prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a ~~sexually~~ adult-oriented business; sexual assault; molestation of a child; distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries.

SECTION II: Subsection 15.04(P) is hereby created to read as follows:

- 15.04 (P) ~~SEXUALLY ADULT-ORIENTED ESTABLISHMENTS.~~
~~Sexually~~ Adult-oriented establishments shall be permitted in the M2 Districts. These regulations are intended to reduce high-risk sexual behavior and to aid in the surveillance and detection of unlawful activities within these premises.
- (1) No ~~sexually~~ adult-oriented business shall be located within one thousand (1,000) feet of the following:
- (a) Residentially zoned property;
 - (b) Residentially used property;
 - (c) Public or private educational facilities
 - (d) Religious centers;
 - (e) Public park or recreational areas;
 - (f) Daycare center;
 - (g) Youth center;

- (h) Public library;
 - (i) Public museum;
 - (j) The Interstate 90 right-of-way; or
 - (k) Another ~~sexually~~ adult-oriented business.
- (2) Outdoor Activities. Any outdoor activities associated with the ~~sexually~~ adult-oriented business are prohibited. The ~~sexually~~ adult-oriented business shall be conducted entirely within an enclosed building.
- (3) Signs. Signs associated with the ~~sexually~~ adult-oriented businesses shall comply with Subsection 20.25 of the Municipal Code. There shall be no outdoor sign or interior sign visible from the exterior of the building which features or depicts sexual conduct or a facsimile thereof.
- (4) Multiple Uses Prohibited. There shall not be more than one (1) ~~sexually~~ adult-oriented use allowed at any given location.
- (5) Other Requirements. The ~~sexually~~ adult-oriented business shall comply with all applicable local, State, and Federal laws, rules, and ordinances regulating such uses.
- (6) Nonconforming uses. If two or more ~~sexually~~ adult-oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the ~~sexually~~ adult-oriented business which was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.
- (7) Private viewing of adult entertainment. Any ~~sexually~~ adult-oriented establishment having available for customers, patrons, or members any booth, room, or cubicle for the private viewing of any adult entertainment shall comply with all of the following requirements:
- (a) Each such booth, room, or cubicle shall:
 - (i) Be totally accessible to and from aisles and public areas of the adult-oriented establishment, and shall be unobstructed, in total or in part, by any door, curtain or portal partition.
 - (ii) Be separated from all adjacent booths, rooms, and cubicles and any non-public areas by a partition. All partitions shall be solid and without any openings, and shall extend from the floor to a height of not less than 6 feet. All partitions shall be light colored, non-absorbent, smooth textured and easily cleanable.
 - (iii) Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying such booth, room, or cubicle.
 - (iv) Have a floor which is light colored, non-absorbent, smooth textured and easily cleanable.

- (v) Be lighted in such a manner that a person in the booth, room, or cubicle is reasonably visible from the adjacent public rooms or areas, but such lighting shall not be of such intensity as to prevent the viewing of videotapes, motion pictures, or other offered entertainment.

SECTION II: This ordinance shall take effect and be in force from and after its passage and publication.

Timothy Kabat, Mayor

_____/s/_____
Teri Lehrke, City Clerk

Passed: 12/12/13
Approved:
Published: 12/21/13

CERTIFICATE OF CITY CLERK

This ordinance is approved notwithstanding the failure of the Mayor to affix his signature thereto by virtue of the provisions of sec. 62.09(8), Wis. Stats.

_____/s/_____
Teri Lehrke, City Clerk