

December 22, 2020

ORDINANCE NO. 2020-XX

ORDINANCE BY THE ECONOMIC DEVELOPMENT AND LAND USE PLANNING
COMMITTEE AMENDING SECTION 20 OF THE RACINE COUNTY CODE OF
ORDINANCES RELATING TO ADULT ESTABLISHMENT USES

To the Honorable Members of the Racine County Board of Supervisors:

The Racine County Board of Supervisors do ordain as follows:

Chapter 20, Article I, Section 1 of the Racine County Code of Ordinances relating to Adult Establishment Uses is hereby amended to read as follows:

ARTICLE I. - IN GENERAL

Sec. 20-1. - Definitions.

~~Adult bath houses shall mean an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the state and which establishment provides to its patrons an opportunity for engaging in "specified sexual activities."~~

~~Adult body painting studios shall mean an establishment or business wherein patrons are afforded an opportunity to paint images on a "specified anatomical area." For purposes of this chapter, the adult body painting studio shall not be deemed to include a tattoo parlor.~~

~~Adult bookstore shall mean an establishment or business having as substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."~~

Adult bookstore shall mean an establishment or business having as at least 25% of its: a) retail floor space used for display of adult products; or b) stock in trade consisting of adult products; or c) weekly revenue derived from adult products. For purposes of this definition, the phrase adult products means books, films, magazines, motion pictures, periodicals, or other printed matter, or photographs, video cassettes, Compact Disks (CDs), DVDs, Blu-Ray Discs, slides, tapes, records or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." For purposes of this definition, the phrase adult products also means any device designed or marketed as useful primarily for the stimulation of human genital

1 organs, or for sadomasochistic use or abuse. Such devices shall include, but are not
2 limited to bather restraints, body piercings implements (excluding earrings or other
3 decorative jewelry), chains, dildos, muzzles, non-medical enema kits, phallic shaped
4 vibrators, racks, whips and other tools of sadomasochistic abuse.

5
6 Adult booth shall mean any area of an adult establishment set off from the remainder
7 of such establishment by one (1) or more walls or other dividers or partitions and used to
8 show, play, or otherwise demonstrate any adult materials or to view any live performance
9 that is distinguished or characterized by an emphasis on the exposure, depiction, or
10 description of "specified anatomical areas" or the conduct or simulation of "specified
11 sexual activities."

12
13 Adult cabaret shall mean any nightclub, bar, theatre, restaurant, or similar commercial
14 establishment which features: (4a) live performances by bottomless and/or topless
15 dancers, exotic dancers, go-go dancers, strippers or similar entertainers where such
16 performances which are characterized or distinguished by an emphasis on specified
17 sexual activities or by the exposure of "specified anatomical areas" or the removal of
18 articles of clothing; or (2b) films, motion pictures, video cassettes, digital video disks, CDs,
19 DVDs, Blu-Ray Discs, or other photographic and/or, video reproductions, slides or other
20 visual presentations which are distinguished or characterized by depicting or describing
21 "specified sexual activities" or "specified anatomical areas;" for observation by patrons;
22 or (3c) persons who engage in exotic dancing or performances that are intended for the
23 sexual interests or titillation of an audience or customer.

24
25 Adult drive-in theatre shall mean an open lot or part thereof, with appurtenant
26 facilities, devoted primarily to the presentation of films, motion pictures, theatrical
27 productions, and other forms of visual productions, for any form of consideration, to
28 persons in motor vehicles or on outdoor seats in which a preponderance of the total
29 presentation time is devoted to the showing of materials distinguished or characterized
30 by an emphasis on matter depicting, describing or relating to specified sexual activities or
31 specified anatomical areas for observation by patrons.

32
33 Adult establishments shall mean and include but are not limited to adult bookstores,
34 adult motion picture theaters (indoor or outdoor), adult mini-motion picture theaters, adult
35 video stores, adult bath houses, adult motels, adult theatres, adult novelty shops, adult
36 massage parlors, adult modeling studios, adult body painting studios, and adult cabarets.

37
38 Adult establishments shall mean an adult bookstore, adult cabaret, adult drive-in
39 theatre, adult live entertainment arcade, adult mini-motion pictures theatre, adult motel,
40 adult motion picture arcade, adult motion picture theatre, or adult services establishment.

41
42 Adult live entertainment arcade shall mean any building or structure which contains
43 or is used for commercial entertainment where the patron directly or indirectly is charged
44 a fee to view from an enclosed, screened area, or booth a series of live dance routines
45 or strip performances or other gyrational choreography, which choreography,

1 performances, or routines are distinguished or characterized by an emphasis on specified
2 sexual activities or by exposure to specified anatomical areas.

3
4 ~~*Adult massage parlor* shall mean an establishment or business with or without~~
5 ~~sleeping accommodations which provides services including any method of rubbing,~~
6 ~~pressing, stroking, kneading, tapping, pounding, vibrating or stimulating a "specified~~
7 ~~anatomical area" with the hands or with any instruments, heat and light treatments of the~~
8 ~~body, and all forms and methods of physiotherapy not operated by a medical practitioner~~
9 ~~or professional physical therapist licensed by the state.~~

10
11 ~~*An adult mini-motion picture theater* shall mean an enclosed building with a capacity~~
12 ~~for less than fifty (50) persons used for presenting materials distinguished or~~
13 ~~characterized by an emphasis on matter depicting, describing or relating to "specified~~
14 ~~sexual activities" or "specified anatomical areas" for observation by patrons therein.~~

15
16 ~~*Adult mini-motion picture theater* shall mean an enclosed building with a capacity of~~
17 ~~more than five (5) but less than fifty (50) persons used for presenting films, motion~~
18 ~~pictures, slides, video cassettes, or similar photographic reproductions in which a~~
19 ~~preponderance of the total presentation time is devoted to showing of materials which are~~
20 ~~distinguished or characterized by an emphasis on matter depicting, describing or relating~~
21 ~~to specified sexual activities or specified anatomical areas for observation by patrons~~
22 ~~therein.~~

23
24 ~~*Adult modeling studio* shall mean any establishment or business where a person who~~
25 ~~displays "specified anatomical areas" and is provided to be observed, sketched, drawn,~~
26 ~~painted, sculptured, photographed, or similarly depicted by other persons who pay money~~
27 ~~or any form of consideration. Adult modeling studios shall not include a proprietary school~~
28 ~~licensed by the State of Wisconsin or a college, technical college, or university; or in a~~
29 ~~structure:~~

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

37
38 ~~*Adult motel* shall mean a hotel, motel, or similar commercial establishment which:~~
39 ~~(1) Offers accommodations to the public for any form of consideration; provides~~
40 ~~patrons with closed-circuit television transmissions, films, motion pictures, video~~
41 ~~cassettes, slides, or other photographic reproductions which are characterized by~~
42 ~~the depiction or description of "specified sexual activities" or "specified anatomical~~
43 ~~areas"; and has a sign visible from the public right of way which advertises the~~
44 ~~availability of this adult type of photographic reproductions; or~~

- 1 ~~(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours;~~
2 ~~or~~
3 ~~(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period~~
4 ~~of time that is less than ten (10) hours.~~

5
6 Adult motel shall mean a hotel, motel, or similar establishment offering public
7 accommodations, for any form of consideration, that offers a sleeping room for rent for a
8 period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping
9 room to sub-rent the room for a period of time that is less than ten (10) hours and that
10 provides patrons, upon request, with closed-circuit television transmissions, films, motion
11 pictures, slides, video cassettes, or other photographic reproduction that are
12 distinguished or characterized by an emphasis upon the depiction or description of
13 specified sexual activities or specified anatomical areas.

14
15 ~~Adult motion picture theater shall mean an enclosed building with a capacity of fifty~~
16 ~~(50) or more persons used for presenting material distinguished or characterized by an~~
17 ~~emphasis on matter depicting, describing or relating to "specified sexual activities" or~~
18 ~~"specified anatomical areas" for observation by patrons therein.~~

19
20 Adult motion picture arcade shall mean any place to which the public is permitted or
21 invited wherein coin or slug-operated or electronically, electrically or mechanically
22 controlled still or motion picture machines, projectors, or other image-producing devices
23 are maintained to show images to five or fewer persons per machine at any one time, and
24 where the images displayed are distinguished or characterized by an emphasis on
25 depicting or describing specified sexual activities or specified anatomical areas.

26
27 ~~Adult motion picture theater (outdoor) shall mean a parcel of land from which~~
28 ~~individuals may view a motion picture presented out of doors which presents material~~
29 ~~distinguishably characterized by an emphasis on matter depicting, describing or relating~~
30 ~~to "specified sexual activity" or "specified anatomical areas."~~

31
32 Adult motion picture theatre shall mean an enclosed building with a capacity of fifty
33 (50) or more persons used for presenting films, motion pictures, slides, video cassettes,
34 CDs, DVDs, Blu-Ray Discs, or similar photographic reproductions in which a
35 preponderance of the total presentation time is devoted to showing of materials which are
36 distinguished or characterized by an emphasis on matter depicting, describing or relating
37 to specified sexual activities or specified anatomical areas for observation by patrons
38 therein.

39
40 ~~Adult novelty shop shall mean an establishment or business having as a substantial~~
41 ~~or significant portion of its stock and trade in novelty or other items which are distinguished~~
42 ~~or characterized by their emphasis on or designed for "specified sexual activity" or~~
43 ~~stimulating such activity.~~

1 Adult service establishment shall mean any building, premises, structure or other
2 facility, or part thereof, under common ownership or control which provides a
3 preponderance of services involving specified sexual activities, display of specified
4 anatomical areas, or massage of specified anatomical areas, not performed or operated
5 by a medical practitioner, professional physical therapist, or massage therapist licensed
6 or registered by the State of Wisconsin.

7
8 ~~Adult theater shall mean a theater, concert hall, auditorium, or similar commercial~~
9 ~~establishment which regularly features persons who appear in a state of nudity or semi-~~
10 ~~nudity, or live performances which are characterized by the exposure of "specified~~
11 ~~anatomical areas" or by "specified sexual activities."~~

12
13 ~~Adult video store shall mean an establishment or business having as a substantial or~~
14 ~~significant portion of its stock and trade for sale or rental of motion pictures or other visual~~
15 ~~media which are distinguished or characterized by their emphasis on matter depicting,~~
16 ~~describing or relating to "specified sexual activities" or "specified anatomical areas."~~

17
18 ***

19
20 Enlargement (pertaining to adult establishment only) shall mean an increase in size
21 of the building, structure or premises in which the adult establishment is conducted by
22 either construction or use of an adjacent building or any portion thereof whether located
23 on the same or an adjacent lot or parcel of land.

24
25 ***

26
27 Establishing an Adult Establishment shall mean and include any of the following: (a)
28 the opening or commencement of any such business as a new business; (b) the
29 conversion of an existing business, whether or not an adult establishment, to any of the
30 adult establishments defined herein; (c) the relocation of any such business.

31
32 ***

33
34 Sensitive land use shall mean any of the following:

- 35 a. Property zoned or used for residential purposes;
- 36 b. Property zoned or used for religious institutional purposes;
- 37 c. An educational institution for students in twelfth grade or below;
- 38 d. A library or museum
- 39 e. A public or private park, recreation area, or playground
- 40 f. A day care center;
- 41 g. A historic district;
- 42 h. A facility predominantly serving individuals with a "developmental disability,"
43 as that term is defined in sec. 51.01(5)(a) and (b), Wis. Stats., and subsequent
44 amendments thereto;

- 1 i. A private youth development organization such as, but not limited to, YMCA,
2 Junior Achievement, Boys Club of America and Campfire Girls.

3
4 ***

5 *Specified anatomical areas* shall mean:

6 (1) Less than completely and opaquely covered:

- 7 a. Human genitals, pubic region;
8 b. Buttock; anus
9 c. Female breast below a point immediately above the top of the areola; or

10 (2) Human male genitals in a discernibly turgid state even if completely and
11 opaquely covered.

12 *Specified sexual activities* shall mean:

13 (1) Human genitals in a state of sexual stimulation or arousal;

14 (2) Acts of human masturbation, sexual intercourse, or sodomy;

15 (3) Fondling or other erotic touching of human genitals, pubic region, buttock,
16 or female breast.

17 (4) Flagellation or torture in the context of a sexual relationship;

18 (5) Masochism, erotic or sexually oriented torture, beating or the infliction of
19 pain

20 (6) Erotic touching, fondling or other such contact with an animal by a human
21 being; or

22 (7) Human excretion, urination, menstruation, vaginal or anal irrigation as a
23 part of or in connection with any of the activities set forth in subsections (1)
24 through (6) above.

25
26 Chapter 20, Article VI, Division 22 of the Racine County Code of Ordinances relating to
27 Adult Establishment Uses is hereby amended to read as follows:

28 **DIVISION 22. - B-7 ADULT ESTABLISHMENT USES**

29 **Sec. 20-636. – Intent and Findings of fact.**

30 (a) Intent:

- 31 (1) The intent of this Ordinance is to regulate Adult Establishments and related
32 activities to protect the health, safety, morals, and general welfare of the citizens
33 of Racine County, to further preserve the quality of family life as well as the rural
34 and urban characteristics of its neighborhoods in Racine County, to prevent
35 adverse and deleterious effects contributing to the blight and downgrading of

1 neighborhoods, to avoid the effects of adult entertainment upon minors and the
2 violation of civil rights of many persons partaking in such entertainment, mitigate
3 criminal activity and disruption of public peace associated with such
4 establishments, and also to prevent the unsanitary and unhealthful conditions
5 associated with such establishments. The intent is to establish reasonable and
6 uniform provisions to regulate Adult Establishments within Racine County. It is
7 not the intent or effect to restrict or deny access by the distributors or exhibitors
8 of sexually oriented entertainment to their intended market. Additionally, it is not
9 the intent or effect to limit or restrict the lawful activities permitted under
10 Wisconsin Statutes Chapter 125, "Alcohol Beverages" and Racine County Code
11 of Ordinances. By the enactment of this ordinance, the Racine County Board of
12 Supervisors does not intend to give any explicit, implicit, or tacit approval or
13 condone any activity relating to adult entertainment.

14 (2) The Racine County Board of Supervisors seeks to improve the effectiveness of
15 existing and previously adopted regulations for purposes of limiting the
16 secondary effects of Adult Establishments and related activities. Where
17 developments in the law have subsequently rendered prior regulations
18 ineffective, the intent of this ordinance is to effectuate zoning regulations to
19 accomplish the intent outlined in § (a)(1) above.

20 (b) Findings of fact: Premised on evidence showing the adverse secondary effects of
21 Adult Establishments on the community¹, this ordinance recognizes and seeks to

¹ The adverse secondary effects of adult establishments as presented in hearing(s) and in studies
by other communities and in findings in cases included but not limited to the following studies:
Phoenix, Arizona (1979); Tucson, Arizona (1990); Garden Grove, California (1991); Los Angeles,
California (1977); Whittier, California (1978); Adams County, Colorado (1998); Denver, Colorado
(1998); Manatee County, Florida (1987); Indianapolis, Indiana (1984); Kansas City, Kansas
(1998); Minneapolis, Minnesota (1980); St. Paul, Minnesota (1988); Las Vegas, Nevada (1978);
Ellicottville, New York (1998); Islip, New York (1980); New York, New York (1994); Syracuse,
New York (1999); New Hanover, North Carolina (1989); Cleveland, Ohio (1977); Oklahoma City,
Oklahoma (1986); Amarillo, Texas (1977); Austin, Texas (1986); Beaumont, Texas (1982);
Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); Fort Worth, Texas (1986);
Houston, Texas (1983 & 1997); Newport News, Virginia (1996); Bellevue, Washington (1988);
Des Moines, Washington (1984); Seattle, Washington (1989); St. Croix County, Wisconsin
(1993); the following cases: *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425, 122 S.Ct.
1728, 152 L.Ed.2d 670 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382, 146
L.E.2d 265 (2000); *Barnes v. Glen Theatre Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504
(1991); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29
(1986); *Young v. American Mini Theatres, Inc.*, 427 U.S. 50, 96 S.Ct. 2440, 49 L.E.2d 310 (1976);
Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); *Schultz v. City of Cumberland*,
228 F.3d 831 (7th Cir. 2000); *DiMa Corp. v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *North*
Avenue Novelties, Inc. v. City of Chicago, 88 F.3d 441 (7th Cir. 1996); *Matney v. County of*
Kenosha, 86 F.3d 692 (7th Cir. 1996); *United States v. Marren*, 890 F.2d 924 (7th Cir. 1989); *Tee*
& Bee, Inc. v. City of West Allis, 936 F.Supp. 1479 (E.D. Wis. 1996); *Suburban Video, Inc. v. City*
of Delafield, 694 F.Supp. 585 (E.D. Wis. 1988); *Urmanski v. Town of Bradley*, 237 Wis.2d 545,
613 N.W.2d 905 (Wis. App. 2000); *Jake's Ltd., Inc. v. City of Coates*, 284 F.3d 884 (8th Cir. 2002);
Déjà vu of Nashville, Inc. v. Nashville, 274 F.3d 377 (6th Cir. 2001); *Artistic Entertainment, Inc. v.*

1 reduce the following impacts of Adult Establishments while fully protecting the
2 constitutional rights of citizens:

3 ~~(1) The board finds that adult establishments as defined in this chapter require~~
4 ~~special zoning in order to protect and preserve the health, safety, and welfare of~~
5 ~~the county.~~

6 ~~(1) Based on its review of report to the American Center for Law and Justice on the~~
7 ~~Secondary Impacts of Sexual Oriented Businesses; and based on its review of~~
8 ~~National Law Center Summaries of SOB Land Use Studies; and based on studies~~
9 ~~conducted in St. Croix County, Wisconsin; New Hanover County, North Carolina;~~
10 ~~Town and Village of Ellicottville, Cattaraugus County, New York; City of Garden~~
11 ~~Grove, California; Newport News, Virginia; and based on the findings~~
12 ~~incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986);~~
13 ~~Golman A. Young v. American Mini Theaters, Inc., 427 U.S. 50 (1976), the board~~
14 ~~finds that there is convincing evidence that the secondary effects of adult~~
15 ~~establishments include an increased risk of prostitution, high risk sexual~~
16 ~~behavior, crime, and other deleterious effects upon existing business and~~
17 ~~surrounding residential areas, and decreased property values.~~

18 ~~(2) Based on its review of "Playing for Keeps," 2002 Racine County Economic~~
19 ~~Development Study, the board finds that Interstate 94 and State Trunk Highway~~
20 ~~36 corridors are two (2) areas that are very important to the economic~~
21 ~~development of Racine County and should be protected from the secondary~~
22 ~~effects of adult establishments for the benefit of the health, safety and welfare of~~
23 ~~the community.~~

24 1. Adult business establishments can and do impair the character and quality of
25 surrounding neighborhoods, the value of surrounding properties, the economic
26 welfare of communities, and the quality of life of residents.

27 2. Adult Establishments lend themselves to ancillary unlawful and unhealthy
28 activities that are not presently effectively controlled by the operators of the
29 establishments.

City of Warner Robbins, 223 F.3d 1306 (11th Cir. 2000); Wise Enterprises, Inc., et al. v. Unified Government of Athensclarke County, Georgia, 217 F.3d 1360 (11th Cir. 2000); Stringfellow's of New York, Ltd. V. City of New York, 91 N.Y.2d 382, 694 N.E.2d 407, 671 N.Y.2d 406 (N.Y. 1998); Colacurcio v. City of Kent, 163 F.3d 545 (9th Cir. 1998); Ben Rich Trading, Inc. v. City of Vineland, 126 F.3d 155 (3rd Cir. 1997); DLS , Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); ILQ Investments, Inc. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); TK's Video, Inc. v. Denton County, Texas, 24 F.3d 705 (5th Cir. 1994); LLEH, Inc. v. Wichita County, Tex., 289 F.3d 358 (5th Cir. 2002); Star Satellite, Inc. v. City of Biloxi, 779 F.2d 1074 (5th Cir. 1986); Mitchell v. Commission on Adult Entertainment Establishments of Delaware, 10 F.3d 123 (3rd Cir. 1993); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986), and statistics from the U.S. Department of Health and Human Services and Centers for Disease Control and Prevention.

1 3. Adult Establishments contribute to the physical deterioration and blight of
2 nearby neighborhoods, with greater adverse impacts on residential than on non-
3 residential properties and have other adverse secondary effects on property up
4 to at least six hundred (600) feet from the adult establishments.

5 4. Neighborhoods where adult business establishments are located have
6 increased levels of criminal activities, especially sex-related crimes.

7 5. Prostitution, sexual assaults, and other criminal activity occur at Adult
8 Establishments and persons frequent certain adult theaters or other Adult
9 Establishments for the purpose of engaging in sex within the premises.

10 6. Video viewing booths are often used by patrons of adult business
11 establishments for engaging in sexual acts, including masturbation, intercourse,
12 sodomy, and oral copulation, resulting in unsafe and unsanitary conditions in the
13 booths. Bodily fluids, including semen and urine, are often found in such booths.
14 These fluids, prostitution, and other activities that occur in Adult Establishments
15 may spread communicable diseases, including, but not limited to, syphilis,
16 gonorrhea, genital chlamydia trachomatic, human immunodeficiency virus
17 infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis,
18 salmonella infections, and shigella infections.

19 ~~(b) — The board intends to control the impact of these secondary effects in order to protect~~
20 ~~the health, safety, and welfare of the citizenry; protect the citizens from increased~~
21 ~~crime; preserve the quality of life; and preserve the property values and character of~~
22 ~~surrounding neighborhoods and areas.~~

23 ~~(c) — It is not the board's intent to suppress any speech activities protected by the First~~
24 ~~Amendment, but to enact a content neutral ordinance which addresses the~~
25 ~~secondary effects of adult establishments while providing an outlet for First~~
26 ~~Amendment protected activities.~~

27 ~~(d) — In order to minimize and control the secondary effects of adult establishments upon~~
28 ~~the county, it is the board's intent to prevent the concentration of adult establishments~~
29 ~~within a certain distance of other specified locations which are incompatible with and~~
30 ~~would suffer from the secondary effects of adult establishments.~~

31 (Ord. No. 2003-132, 11-18-03)

32 **Sec. 20-637. - Uses.**

33 (a) Principal Uses. The First Amendment and other provisions of the Unites States
34 Constitution, as interpreted by the United States Supreme Court and other courts,
35 require that adult establishments, as defined in this chapter, are entitled to certain
36 protections, including the opportunity to locate in towns governed by the county
37 zoning code. Therefore, an adult establishment shall be an allowed principal use
38 in the B-3 and B-5 zoning districts and shall be a prohibited use in any other zoning
39 district. The adult establishment may locate in the specified districts only if an adult
40 establishment license has been granted by a town within the county which is

1 subject to this zoning code if required by the town, and all the requirements of this
2 chapter and the applicable zoning district's regulations are met.

3 (b) Accessory Uses. Any accessory use authorized by the underlying zoning district
4 may be an accessory use to an adult establishment. In no case shall an adult
5 establishment be an accessory use to any principal use designed by any section
6 of this ordinance.

7 (Ord. No. 2003-132, 11-18-03)

8 **Sec. 20-638. - Regulations applicable to all adult establishments. General**
9 **requirements and restrictions governing Adult Establishments.**

10 1. Except as provided below, all Adult Establishments shall comply with the following
11 requirements and restrictions:

12
13 (a) ~~Hours of operation: No adult establishment shall be open for business at any time~~
14 ~~between the hours of 2:00 a.m. and 12:00 noon. The hours of operation of Adult~~
15 Establishments shall be limited to the same hours of operation for bars and taverns
16 within that community within which the Adult Establishment is located.

17 ***

18 (f) ~~Noise: No loudspeakers or sound equipment audible beyond the adult establishment~~
19 ~~shall be used at any time.~~

20 (gf) *Manager's stations:* Each adult establishment shall have one (1) or more manager's
21 stations. The interior of each adult establishment shall be configured in such a
22 manner that there is a direct and substantially unobstructed view from at least one
23 (1) manager's station to every part of each area, except restrooms, of the
24 establishment to which any adult establishment patron is permitted access for any
25 purpose. The cashier's or manager's station shall be located so that someone working
26 there can quickly move to physically halt any attempted or accidental entry by a minor.
27 An employee shall occupy the station at all times when patrons are in and on the
28 premises.

29 (hg) *Adult booths prohibited:* Adult booths shall be prohibited in all adult establishments.

30 (ih) *No loitering policy:* The adult establishment shall clearly post and enforce a no
31 loitering policy.

32 (ji) *Age limit restrictions:* The adult establishment shall clearly post and enforce age-
33 limit restrictions. A one-square-foot sign shall be placed on each public entrance
34 which shall state "Admittance to adults only" and may include other pertinent business
35 information.

36 (kj) *Measuring disbursement distances:* The distances in this section shall be measured
37 by following a straight line, without regard to intervening structures, from the public
38 entrance (existing or proposed) of an adult establishment to the nearest point of the
39 protected use as described below.

1 (~~l~~) ~~Adequate parking: One (1) parking space per one hundred fifty (150) square feet of~~
2 ~~total gross floor area shall be provided in a lighted area on the permitted premises of~~
3 ~~an adult establishment.~~

4 (~~m~~k) *Spacing requirement:* No more than one (1) adult establishment may be located
5 on any one (1) parcel and the location of any one (1) adult establishment shall be at
6 least one thousand (1,000) feet from the establishment of any other adult
7 establishment. This distance shall be measured from the public entrance of one (1)
8 adult establishment to the public entrance of the other adult establishment.

9 (~~n~~) *Display windows prohibited:* All points of access into structures containing adult
10 establishments and all windows or other openings shall be located, constructed,
11 covered, or screened in a manner which will prevent a view into the interior.

12 (~~o~~m) *Location requirement:* No permit shall be granted where the public entrance of the
13 proposed adult establishment is within ~~one thousand (1,000)~~ six hundred (600) feet
14 of a sensitive land use, a residential use, residential district, house of worship, school,
15 day care center, playground, public park, recreation area, library, museum, Interstate
16 94, or State Trunk Highway 36. In the case of an area zoned residential, the distance
17 shall be measured from the nearest point on the residential district zoning boundary
18 line. From an area not zoned residential but used for residential purposes, the
19 measurement shall be taken from the public entrance of the adult establishment to
20 the nearest entrance of the building in residential use. From schools, houses of
21 worship, day care centers, libraries, and museums and applicable facilities and youth
22 development organizations, the distance shall be measured from the public entrance
23 of the adult establishment to the main public entrance of the protected use. From
24 playgrounds, public parks, recreation areas, and schools, houses of worship and day
25 care centers with playgrounds or recreation areas, the distance shall be measured
26 from the public entrance of the adult establishment to the nearest property line of the
27 playground, public park, or recreation area. ~~Along Interstate 94 and State Trunk~~
28 ~~Highway 36, this distance is measured from the outside highway right-of-way line,~~
29 ~~including frontage road(s).~~

30 (~~p~~n) *Residential quarters not allowed:* No residential quarters shall be allowed on a
31 premises with an adult establishment.

32 (o) The owner and/or operator of the Adult Establishment shall agree to comply with all
33 State, Federal and Local laws and ordinances, including obscenity, liquor, and
34 cabaret laws. Solicitation for purposes of prostitution shall be strictly prohibited.
35 Conduct in violation of sec. 944.21, Wis. Stats., or sec. 20.1357 of the Racine County
36 Code of Ordinances shall be strictly prohibited.

37 2. Additional Restrictions and Requirements Applicable to Adult Establishments. Adult
38 establishments shall comply with certain additional restrictions and requirements as
39 set forth below:

40 (a) Adult Cabarets

41 a. Adult cabarets shall comply with all applicable noise restrictions
42 contained in the Racine County Code of Ordinances.

1 b. All live performers in an adult cabaret shall perform only on a stage
2 elevated no less than thirty-six (36) inches above floor level. There shall
3 be a metal railing attached to the floor by bolts surrounding the stage
4 which shall keep patrons at least forty-eight (48) inches from the stage.
5 There shall also be a metal railing attached to the floor by bolts at the
6 end of the stage.

7 (Ord. No. 2003-132, 11-18-03)

8 **Sec. 20-639. - Required information and documents.**

9 ***

10 ~~(k)~~ The name of the individual(s) who shall be the day-to-day, on-site manager(s) of the
11 proposed adult establishment.

12 ~~(l)~~ The application fee, site plan review fee, and zoning permit fee in the amount as
13 adopted by resolution or in the annual county budget.

14 ~~(m)~~ Any other information the zoning administrator may reasonably require to apply the
15 requirements of this chapter.

16 ~~(n)~~ The zoning administrator reserves the right to require a survey from a surveyor
17 licensed by the State of Wisconsin to determine the spacing requirements under this
18 chapter.

19 ~~(o)~~ A site plan, landscaping plan, zoning permit application, and letter of agent status, if
20 necessary, as required by site plan review application requirements adopted by the
21 planning and development department.

22 (Ord. No. 2003-132, 11-18-03)

23 ***

24 **Sec. 20-645. - Continued conforming status.**

25 An adult establishment lawfully operating as a conforming use is not rendered a
26 nonconforming use by the location, subsequent to the grant of the adult establishment
27 permit, if a protected use is located within ~~one thousand (1,000)~~ six hundred (600) feet of
28 the adult establishment.

29 **~~Sec. 20-646. - Moratorium.~~**

30 ~~(a)~~ Findings to establish a moratorium. A public hearing was held on December 16,
31 2019 and based upon that hearing, the Racine County Board of Supervisors does
32 find as follows:

33 ~~(1)~~ Studies in other communities indicate that adult establishments and certain
34 activities that frequently occur in or around adult establishments, have tended to

- 1 further the increase of criminal and other offensive activity, to disrupt the peace
2 and order of communities, to depreciate the value of real property, to harm the
3 economic welfare of communities, to encourage or facilitate the spread of
4 sexually transmitted diseases, and to affect the quality of life of the communities;
5 and
- 6 (2) ~~These secondary effects of adult establishments are detrimental to the public
7 health, safety and general welfare of Racine County residents, businesses and
8 visitors; and~~
- 9 (3) ~~The Racine County Board of Supervisors has previously adopted regulations to
10 limit the secondary effects of adult establishments within the county, including
11 Racine County Code of Ordinances Chapter 20, Zoning, Division 22. B-7 Adult
12 Establishment Uses, sections 20-636 through section 20-655; and~~
- 13 (4) ~~Developments in the law subsequent to the adoption of those regulations may
14 impair or impact those regulations, including without limitation the constitutional
15 effect; and~~
- 16 (5) ~~Kenosha County, which has a substantially similar ordinance, has declared a
17 moratorium to study and enact a revised ordinance for these very reasons; and~~
- 18 (6) ~~A moratorium on consideration and/or issuance of zoning permits, certificates
19 of compliance, site plan review, and zoning approvals for adult entertainment
20 establishments is necessary to allow the Racine County Economic Development
21 and Land Use Planning Committee to study how the zoning ordinance should be
22 changed to address developments in the law while still protecting the public
23 health, safety and general welfare of Racine County residents, businesses and
24 visitors.~~
- 25 (b) ~~Declaration of moratorium and exclusions. Based upon the findings of section 20-
26 640(a), a moratorium is hereby declared with respect to the acceptance of
27 applications for and the issuance of any zoning permits, certificates of compliance,
28 site plan review, and zoning approvals as described in the Racine County Code of
29 Ordinances, chapter 20, Zoning, division 22. B-7 Adult Establishment Uses. This
30 moratorium excludes those services provided by medical practitioners, professional
31 physical therapists, professional occupational therapists, or licensed massage
32 therapists officially licensed and registered by the State of Wisconsin.~~
- 33 (c) ~~Duration of moratorium. This moratorium shall be in effect for nine (9) months
34 following the effective date of this section or until such time as a revised adult
35 establishment uses ordinance is adopted and takes effect, whichever is earlier.~~
- 36 (d) ~~Direction to develop revised ordinance. During the period of this moratorium, the
37 economic development and land use planning committee is directed to draft a revised
38 ordinance providing comprehensive regulation of adult establishments to protect
39 health, safety and general welfare of the public and aligns with current legal
40 requirements as part of the county's comprehensive plan which shall be presented to
41 the Racine County Board of Supervisors on the earliest possible date. It is the~~

1 intention of the board of supervisors to adopt a revised ordinance prior to the
2 expiration of this moratorium.

3 ~~(e) Subjects for consideration. In preparing a revised ordinance, the economic
4 development and land use planning committee shall review and evaluate division 22.
5 B-7 Adult Establishment Uses found in chapter 20, Zoning, of the Racine County
6 Code of Ordinances, consider available studies and information concerning the
7 secondary effects of adult establishments in Racine County and elsewhere, consult
8 with legal counsel, solicit input from appropriate county staff, and interested members
9 of the general public, and review any other information the economic development
10 and land use planning committee deems appropriate. The economic development
11 and land use planning committee shall consider including, but not limited to, the
12 following:~~

13 ~~(1) The under-inclusiveness or over-inclusiveness of Racine County Ordinances,
14 chapter 20, Zoning, division 7. Adult Establishment Uses.~~

15 ~~(2) The appropriateness of current separation requirements between different adult
16 establishments and between adult establishments and other land uses.~~

17 ~~(3) The secondary effects of different kinds of adult establishments and the need
18 to treat the establishments differently.~~

19 ~~(4) The extent to which some kinds of adult establishments may be banned entirely
20 and the extent to which such a ban would reflect community standards.~~

21 ~~(5) The need for a licensing ordinance governing the ongoing operation of adult
22 establishments.~~

23 ~~(6) The availability of sites for the location of adult establishments.~~

24 ~~(f) Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this
25 section is declared unconstitutional or invalid for any reason by any court of
26 competent jurisdiction, such decision shall not affect the validity of the remaining
27 portions of this section.~~

28 ~~(g) Construction. If the provisions of this section are found to be inconsistent with other
29 provisions of the Racine County Code of Ordinances, this section is deemed to
30 control.~~

31 ~~(Ord. No. 2019-110, pt. 1, 1-28-20)~~

32 **Secs. 20-647—20-655. - Reserved.**

33
34
35 1st Reading _____

36
37 2nd Reading _____

38
39 BOARD ACTION

Respectfully submitted,

**ECONOMIC DEVELOPMENT AND LAND USE
PLANNING COMMITTEE**

Tom Hincz, Chairman

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Adopted _____
For _____
Against _____
Absent _____

Robert D. Grove, Vice Chairman

VOTE REQUIRED: Majority

Brett Nielsen, Secretary

Prepared by:
Corporation Counsel

Tom Kramer

Mike Dawson

Jason Eckman

The foregoing legislation adopted by the County Board of Supervisors of Racine County, Wisconsin, is hereby:

Approved: _____

Vetoed: _____

Date: _____,

Jonathan Delagrave, County Executive