

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

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

1
2 *Adult drive-in theatre* shall mean an open lot or part thereof, with appurtenant
3 facilities, devoted primarily to the presentation of films, motion pictures, theatrical
4 productions, and other forms of visual productions, for any form of consideration, to
5 persons in motor vehicles or on outdoor seats in which a preponderance of the total
6 presentation time is devoted to the showing of materials distinguished or characterized
7 by an emphasis on matter depicting, describing or relating to specified sexual activities or
8 specified anatomical areas for observation by patrons.

9
10 *Adult establishments* shall mean an adult bookstore, adult cabaret, adult drive-in
11 theatre, adult live entertainment arcade, adult mini-motion pictures theatre, adult motel,
12 adult motion picture arcade, adult motion picture theatre, or adult services establishment.

13
14 *Adult live entertainment arcade* shall mean any building or structure which contains
15 or is used for commercial entertainment where the patron directly or indirectly is charged
16 a fee to view from an enclosed, screened area, or booth a series of live dance routines
17 or strip performances or other gyrational choreography, which choreography,
18 performances, or routines are distinguished or characterized by an emphasis on specified
19 sexual activities or by exposure to specified anatomical areas.

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

28
29 *Adult motel* shall mean a hotel, motel, or similar establishment offering public
30 accommodations, for any form of consideration, that offers a sleeping room for rent for a
31 period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping
32 room to sub-rent the room for a period of time that is less than ten (10) hours and that
33 provides patrons, upon request, with closed-circuit television transmissions, films, motion
34 pictures, slides, video cassettes, or other photographic reproduction that are
35 distinguished or characterized by an emphasis upon the depiction or description of
36 specified sexual activities or specified anatomical areas.

37
38 *Adult motion picture arcade* shall mean any place to which the public is permitted or
39 invited wherein coin or slug-operated or electronically, electrically or mechanically
40 controlled still or motion picture machines, projectors, or other image-producing devices
41 are maintained to show images to five or fewer persons per machine at any one time, and
42 where the images displayed are distinguished or characterized by an emphasis on
43 depicting or describing specified sexual activities or specified anatomical areas.

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

8
9 *Adult service establishment* shall mean any building, premises, structure or other
10 facility, or part thereof, under common ownership or control which provides a
11 preponderance of services involving specified sexual activities, display of specified
12 anatomical areas, or massage of specified anatomical areas, not performed or operated
13 by a medical practitioner, professional physical therapist, or massage therapist licensed
14 or registered by the State of Wisconsin.

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

22 ***

23
24
25 *Establishing an Adult Establishment* shall mean and include any of the following: (a)
26 the opening or commencement of any such business as a new business; (b) the
27 conversion of an existing business, whether or not an adult establishment, to any of the
28 adult establishments defined herein; (c) the relocation of any such business.

29 ***

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31
32 *Sensitive land use shall mean any of the following:*

- 33 a. Property zoned or used for residential purposes;
- 34 b. Property zoned or used for religious institutional purposes;
- 35 c. An educational institution for students in twelfth grade or below;
- 36 d. A library or museum
- 37 e. A public or private park, recreation area, or playground
- 38 f. A day care center;
- 39 g. A historic district;
- 40 h. A facility predominantly serving individuals with a "developmental disability,"
41 as that term is defined in sec. 51.01(5)(a) and (b), Wis. Stats., and subsequent
42 amendments thereto;
- 43 i. A private youth development organization such as, but not limited to, YMCA,
44 Junior Achievement, Boys Club of America and Campfire Girls.

Specified anatomical areas shall mean:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; anus
 - c. Female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified sexual activities shall mean:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain
- (6) Erotic touching, fondling or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as a part of or in connection with any of the activities set forth in subsections (1) through (6) above.

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

DIVISION 22. - B-7 ADULT ESTABLISHMENT USES

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

(a) Intent:

- (1) The intent of this Ordinance is to regulate Adult Establishments and related activities to protect the health, safety, morals, and general welfare of the citizens of Racine County, to further preserve the quality of family life as well as the rural and urban characteristics of its neighborhoods in Racine County, to prevent adverse and deleterious effects contributing to the blight and downgrading of neighborhoods, to avoid the effects of adult entertainment upon minors and the violation of civil rights of many persons partaking in such entertainment, mitigate criminal activity and disruption of public peace associated with such establishments, and also to prevent the unsanitary and unhealthful conditions

1 associated with such establishments. The intent is to establish reasonable and
2 uniform provisions to regulate Adult Establishments within Racine County. It is
3 not the intent or effect to restrict or deny access by the distributors or exhibitors
4 of sexually oriented entertainment to their intended market. Additionally, it is not
5 the intent or effect to limit or restrict the lawful activities permitted under
6 Wisconsin Statutes Chapter 125, "Alcohol Beverages" and Racine County Code
7 of Ordinances. By the enactment of this ordinance, the Racine County Board of
8 Supervisors does not intend to give any explicit, implicit, or tacit approval or
9 condone any activity relating to adult entertainment.

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

16 (b) Findings of fact: Premised on evidence showing the adverse secondary effects of
17 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. 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*,

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

3
4 1. Adult business establishments can and do impair the character and quality of
5 surrounding neighborhoods, the value of surrounding properties, the economic
6 welfare of communities, and the quality of life of residents.

7 2. Adult Establishments lend themselves to ancillary unlawful and unhealthy
8 activities that are not presently effectively controlled by the operators of the
9 establishments.

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

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

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

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

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

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

2 (a) Principal Uses. The First Amendment and other provisions of the United States
3 Constitution, as interpreted by the United States Supreme Court and other courts,
4 require that adult establishments, as defined in this chapter, are entitled to certain
5 protections, including the opportunity to locate in towns governed by the county
6 zoning code. Therefore, an adult establishment shall be an allowed principal use
7 in the B-3 and B-5 zoning districts and shall be a prohibited use in any other zoning
8 district. The adult establishment may locate in the specified districts only if an adult
9 establishment license has been granted by a town within the county which is
10 subject to this zoning code if required by the town, and all the requirements of this
11 chapter and the applicable zoning district's regulations are met.

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

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

17 **Sec. 20-638. - General requirements and restrictions governing Adult**
18 **Establishments.**

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

21
22 (a) *Hours of operation:* The hours of operation of Adult Establishments shall be limited
23 to the same hours of operation for bars and taverns within that community within
24 which the Adult Establishment is located.

25 (b) *Animals:* No animals, except only for seeing-eye dogs required to assist the blind,
26 shall be permitted at any time at or in any adult establishment or permitted premises.

27 (c) *Restricted access:* No adult establishment patron shall be permitted at any time to
28 enter into any of the non-public portions of any adult establishment, including
29 specifically, but without limitation, any storage areas or dressing or other rooms
30 provided for the benefit of adult establishment employees. This subsection shall not
31 apply to persons delivering goods and materials, food and beverages, or performing
32 maintenance or repairs to the permitted premises; provided, however, that any such
33 persons shall remain in such non-public areas only for the purposes and to the extent
34 and time necessary to perform their job duties.

35 (d) *Exterior display:* No adult establishment shall be maintained or operated in any
36 manner that causes, creates, or allows public viewing of any adult material, or any
37 entertainment depicting, describing, or relating to "specified sexual activities" or
38 "specified anatomical areas," from any sidewalk, public or private right-of-way, or any
39 property other than the lot on which the permitted premises is located. No portion of
40 the exterior of an adult establishment shall utilize or contain any flashing lights, search

1 lights, or spotlights, or any other similar lighting systems, or any words, lettering,
2 photographs, silhouettes, drawings, or pictorial representations of any manner except
3 to the extent specifically allowed by this chapter with regard to signs. This subsection
4 shall apply to any advertisement, display, promotional material, decoration, or sign;
5 to any performance or show; and to any window, door, or other opening.

6 (e) *Sign limitations:* All signs for adult establishments shall be flat wall signs. The
7 business may have only one (1) non-flashing business sign which may only indicate
8 the name of the business and identify it as an adult establishment and which shall not
9 be larger than four (4) feet by four (4) feet. Temporary signs shall not be permitted in
10 connection with any adult establishment.

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

20 (g) *Adult booths prohibited:* Adult booths shall be prohibited in all adult establishments.

21 (h) *No loitering policy:* The adult establishment shall clearly post and enforce a no
22 loitering policy.

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

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

31 (k) *Spacing requirement:* No more than one (1) adult establishment may be located on
32 any one (1) parcel and the location of any one (1) adult establishment shall be at least
33 one thousand (1,000) feet from the establishment of any other adult establishment.
34 This distance shall be measured from the public entrance of one (1) adult
35 establishment to the public entrance of the other adult establishment.

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

39 (m) *Location requirement:* No permit shall be granted where the public entrance of the
40 proposed adult establishment is within six hundred (600) feet of a sensitive land use.
41 In the case of an area zoned residential, the distance shall be measured from the
42 nearest point on the residential district zoning boundary line. From an area not zoned

1 residential but used for residential purposes, the measurement shall be taken from
2 the public entrance of the adult establishment to the nearest entrance of the building
3 in residential use. From schools, houses of worship, day care centers, libraries, and
4 museums and applicable facilities and youth development organizations, the distance
5 shall be measured from the public entrance of the adult establishment to the main
6 public entrance of the protected use. From playgrounds, public parks, recreation
7 areas, and schools, houses of worship and day care centers with playgrounds or
8 recreation areas, the distance shall be measured from the public entrance of the adult
9 establishment to the nearest property line of the playground, public park, or recreation
10 area.

11 (n) *Residential quarters not allowed:* No residential quarters shall be allowed on a
12 premises with an adult establishment.

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

18 2. Additional Restrictions and Requirements Applicable to Adult Establishments. Adult
19 establishments shall comply with certain additional restrictions and requirements as
20 set forth below:

21 (a) Adult Cabarets

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

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

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

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

32 (a) *Demographics.*

33 (1) *Individuals.*

34 a. Applicant's legal name, all of the applicant's aliases, and the applicant's age;

35 b. Applicant's business address.

36 (2) *Corporations.*

37 a. Applicant corporation's complete name and official business address;

- 1 b. Legal names, all aliases, the ages, and business addresses of all of the
2 directors, officers, and managers of the corporation and of every person
3 owning or controlling more than twenty-five (25) percent of the voting shares
4 of the corporation;
- 5 c. Applicant corporation's date and place of incorporation and the objective for
6 which it was formed;
- 7 d. Proof that the corporation is a corporation in good standing and authorized
8 to conduct business in the State of Wisconsin;
- 9 e. Name of the registered corporate agent and the address of the registered
10 office for service of process.
- 11 (3) Partnerships (general or limited), joint ventures, or any other type of
12 organization where two (2) or more persons share in the profits and liabilities of
13 the organization.
- 14 a. Applicant organization's complete name and official business address;
- 15 b. Legal name, all aliases, the ages, and business addresses of each partner
16 (other than limited partners) or any other person entitled to share in the profits
17 of the organization, whether or not any such person is also obligated to share
18 in the liabilities of the organization.
- 19 (4) *Land trusts.*
- 20 a. Applicant land trust's complete name;
- 21 b. Legal name, all aliases, and the business address of the trustee of the land
22 trust;
- 23 c. Legal name, all aliases, the ages, and business addresses of each
24 beneficiary of the land trust and the specific interest of each such beneficiary
25 in the land trust;
- 26 d. The interest, if any, that the land trust holds in the permitted premises.
- 27 (b) If a corporation or partnership is an interest holder that shall be disclosed pursuant
28 to subsections (a)(2) and (3), then such interest holders shall disclose the information
29 required in said subsections with respect to their interest holders.
- 30 (c) The general character and nature of the applicant's business.
- 31 (d) The length of time that the applicant has been in the business of the character
32 specified in response to subsection (c) above.
- 33 (e) The location (including street address and legal description) and telephone number
34 of the premises for which the adult establishment permit is sought.
- 35 (f) The specific name of the business that is to be operated under the adult
36 establishment permit.
- 37 (g) The identity of each fee simple owner of the permitted premises.

1 (h) A diagram showing the internal and external configuration of the permitted
2 premises, including all doors, windows, entrances, exits, the fixed structural internal
3 features of the permitted premises, plus the interior rooms, walls, partitions, stages,
4 performance areas, and restrooms.

5 [A professionally prepared diagram in the nature of an engineer's or architect's
6 blueprint shall not be required, provided, however, that each diagram shall be
7 oriented to the north or to some designated street or object and shall be drawn to a
8 designated scale or with marked dimensions to an accuracy of plus or minus six (6)
9 inches and sufficient to show clearly the various interior dimensions of all areas of the
10 permitted premises and to demonstrate compliance with the provisions of this
11 chapter. The approval or use of the diagram required pursuant to this subsection shall
12 not be deemed to be, and may not be interpreted or construed to constitute, any other
13 county approval otherwise required pursuant to applicable County ordinances and
14 regulations.]

15 (i) The specific type(s) of adult establishment(s) that the applicant proposes to operate
16 on the permitted premises.

17 (j) A copy of each adult establishment's permit, liquor license, and gaming license
18 currently held by the applicant, or any of the individuals identified in the application
19 pursuant to subsection (a) or (b) above.

20 (k) The application fee, site plan review fee, and zoning permit fee in the amount as
21 adopted by resolution or in the annual county budget.

22 (l) Any other information the zoning administrator may reasonably require to apply the
23 requirements of this chapter.

24 (m) The zoning administrator reserves the right to require a survey from a surveyor
25 licensed by the State of Wisconsin to determine the spacing requirements under this
26 chapter.

27 (n) A site plan, landscaping plan, zoning permit application, and letter of agent status, if
28 necessary, as required by site plan review application requirements adopted by the
29 planning and development department.

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

31 **Sec. 20-640. - Incomplete applications returned.**

32 Any application for an adult establishment that does not include all of the information
33 and documents required pursuant to this chapter, as well as the required fees, shall be
34 deemed to be incomplete and shall not be acted on by the zoning administrator who shall
35 give the applicant a written notification and explanation of such action pursuant to this
36 section.

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

1 **Sec. 20-641. - Applicant cooperation required.**

2 An applicant for an adult establishment permit shall cooperate fully in the inspections
3 and investigations conducted by Racine County. The applicant's failure or refusal to:

- 4 (1) Give any information reasonably relevant to the investigation of the application;
- 5 (2) Allow the permitted premises to be inspected;
- 6 (3) Appear at any reasonable time and place, or
- 7 (4) Otherwise cooperate with the investigation and inspection required by this
8 chapter;

9 shall constitute an admission by the applicant that the applicant is ineligible for an adult
10 establishment permit and shall be grounds for denial of the permit by the zoning
11 administrator.

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

13 **Sec. 20-642. - Time for issuance or denial.**

14 The zoning administrator shall, within thirty (30) days after submittal of a completed
15 application, or within such other period of time as the county and the applicant shall
16 otherwise agree, either issue or deny an adult establishment permit pursuant to the
17 provisions of this chapter.

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

19 **Sec. 20-643. - Standards for issuance or denial of permit.**

20 (a) *Issuance:* The zoning administrator shall issue an adult establishment permit to an
21 applicant if the zoning administrator finds and determines all of the following:

- 22 (1) All information and documents required by this chapter for issuance of an adult
23 establishment permit have been properly provided.
- 24 (2) No person identified in the application may:
 - 25 a. Have been denied an adult establishment permit within twelve (12) months
26 immediately preceding the date of the application;
 - 27 b. Be a person whose adult establishment permit has been revoked within
28 twelve (12) months immediately preceding the date of the application; or
 - 29 c. Be a person whose adult establishment permit is under suspension at the
30 time of application.
- 31 (3) The adult establishment and the permitted premises comply with all
32 requirements under this chapter and the applicant has obtained a license
33 required for the adult establishment by the town, if any.

- 1 (4) The applicant has signed the permit he or she has received indicating his or her
2 acceptance of the conditions of the permit.
- 3 (b) *Denial:* If the zoning administrator determines that the applicant has not met any
4 one (1) or more of the conditions set forth in this section, then the zoning administrator
5 shall deny issuance of the adult establishment permit and shall give the applicant a
6 written notification and explanation of such denial.
- 7 (c) *License deemed to be issued:* If the zoning administrator does not issue or deny the
8 adult establishment permit within thirty (30) days after the properly completed
9 application is submitted, then the adult establishment permit applied for shall be
10 deemed to have been issued.

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

12 **Sec. 20-644. - Enforcement.**

- 13 (a) A violation of any conditions or an adult establishment permit is a violation of this
14 chapter.
- 15 (b) Notwithstanding any other remedy, a violation of any conditions or an adult
16 establishment permit shall be grounds for revocation of the adult establishment
17 permit.

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

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

20 An adult establishment lawfully operating as a conforming use is not rendered a
21 nonconforming use by the location, subsequent to the grant of the adult establishment
22 permit, if a protected use is located within six hundred (600) feet of the adult
23 establishment.

24 **Sec. 20-646 – Severability.**

25 If any section, subsection, sentence, clause or phrase of this ordinance is for any
26 reason held to be invalid or unconstitutional by reason of any decision of any court of
27 competent jurisdiction, such decision shall not affect the validity of any other section,
28 subsection, sentence, clause or phrase or portion thereof. This ordinance shall take effect
29 and be in force from and after its passage and publication, as provided by law.

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

31 **Secs. 20-647-20-655. – Reserved.**

32

Respectfully submitted,

1st Reading _____

2nd Reading _____

BOARD ACTION _____

Adopted _____

For _____

Against _____

Absent _____

**ECONOMIC DEVELOPMENT AND LAND USE
PLANNING COMMITTEE**

Tom Hincz, Chairman

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

