

CHAPTER 37

ADULT-ORIENTED BUSINESS

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37.01 AUTHORITY

This Chapter is adopted pursuant to authority granted by the Wisconsin Statutes, including, without limitation, Wis. Stat. §§62.11 and 66.0415(1).

37.02 PURPOSE

The purpose of this chapter is to regulate, prevent, combat, control and mitigate the harmful secondary effects of adult-oriented uses and establishments operated within the City, in a manner that is fully consistent with the First Amendment of the United States Constitution.

37.03 DEFINITIONS

- (1) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “Specified Sexual Activities” or “Specified Anatomical Areas.”
- (2) Adult Bookstore, Adult Novelty Store or Adult Video Store means:
 - (A) “Adult Bookstore”, “Adult Novelty Store”, or “Adult Video Store” means a commercial establishment which has a significant or substantial portion of its stock-in-trade or a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business to advertising to 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, or photographs, films, motion pictures, video cassettes or video reproductions slides, or other visual representations which are characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas”; or
 2. Instruments, devices, or paraphernalia which are designed for use in connection with “Specified Sexual Activities.”
 - (B) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas” and still be categorized as an “Adult Bookstore”, “Adult Novelty Store”, or “Adult Video Store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an “Adult Bookstore”, “Adult Novelty Store”, or “Adult Video Store” so long as one of its principal business purposes is the offer for sale or rental for consideration the specified materials which are characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas.”
 - (C) Video stores that sell and/or rent only video tapes or other photographic or computer generated reproductions, and associated equipment shall come within this definition if 20% or more of its stock-in-trade or revenues comes from the rental or sale of video tapes or other photographic reproductions or associated equipment which are characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas”.
- (3) Adult Cabaret means a nightclub, bar, restaurant, or similar commercial “Establishment” at which on 20 or more days in any 12-month period:

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- (A) Persons appear in a “State of Nudity” or “Semi-Nude”; or
 - (B) Live performances occur which are characterized by the exposure of “Specified Anatomical Areas” or by “Specified Sexual Activities;” or
 - (C) Films, motion pictures, video cassettes, slides or other photographic reproductions are shown which are characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas,” and, without limitation where adult entertainment is typically available or available on a frequently recurring basis, including, verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “exotic entertainment,” “strippers,” “showgirls,” “exotic dances,” “gentleman’s club,” or similar terms relating to either or both sexes.
- (4) Adult Bookstore means a use or establishment that sells at retail adult-oriented printed or graphic materials, provided that 40% or more of the store’s inventory of printed or graphic materials that are displayed and offered for sale in the store (either in terms of the number of items or in terms of the aggregate retail value of such items) consists of adult-oriented printed or graphic materials, or that 40% or more of the display space or floor area devoted to printed or graphic materials for sale in the store is devoted to adult-oriented printed or graphic materials, or that 40% or more of the store’s gross receipts from the sale of printed or graphic materials during any calendar month with the past 12 calendar months are attributable to the sale of adult-oriented printed or graphic materials, or that the store holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult bookstore or as a substantial source of adult-oriented materials including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult books,” “adult entertainment,” “exotic entertainment” or similar terms.
- (5) Adult Club means a use or establishment that would be classified as an adult cabaret, adult dry cabaret or adult viewing facility except that it is operated as a private club that is open only to members and their guests.
- (6) Adult Dry Cabaret means a use or establishment, open to member of the public, that does not serve or sell alcoholic beverages, and which typically or on a frequently recurring basis provides or allows the provision of adult live entertainment to its customers, or which holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult dry cabaret or an establishment where adult live entertainment is typically available or available on a frequently recurring basis including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “exotic entertainment,” “strippers,” “showgirls,” “exotic dances,” “gentleman’s club,” or similar terms relating to either or both sexes.
- (7) Adult Live Entertainment means seminude dancing or any other form of live entertainment performed by seminude entertainers.
- (8) Adult Motel means a hotel, motel or similar commercial Establishment which:
- (A) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description 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; or
 - (B) Offers a sleeping Room for rent for a period of time that is less than 10 hours; or
 - (C) Allows a tenant or occupant of a sleeping Room to subrent the Room for a period of time that is less than 10 hours.
- (9) Adult Motion Picture Theater means an enclosed “Establishment” with a capacity of 50 or more persons where, for any form of consideration, films, motion pictures, video cassettes,

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- slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas.”
- (10) Adult Mini-Motion Picture Theater means an enclosed “Establishment” with a capacity of less than 50 persons used for presenting materials having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas,” for observation by patrons therein.
 - (11) Adult Movie Theater means a use or establishment open to the public, that typically or on a frequently recurring basis shows movies which have as their dominant subject or theme, or which are distinguished or characterized by their primary emphasis on, the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas,” or that holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult movie theater or a movie theater where adult-oriented motion-picture materials are typically shown or shown on a frequently recurring basis including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult entertainment,” “exotic entertainment” or similar terms.
 - (12) Adult-Oriented Establishment means a business, private club or other use conducted at a particular location, which constitutes or includes one or more adult-oriented uses, and the building or portion of a building where it is operated.
 - (13) Adult-Oriented Materials means adult-oriented printed or graphic materials and/or adult-oriented motion-picture materials.
 - (14) Adult-Oriented Motion-Picture Materials means motion-picture materials which have as their dominant subject or theme, or which are distinguished or characterized by their primary emphasis on, the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas.”
 - (15) Adult-Oriented Printed or Graphic Materials means printed or graphic materials that have as their dominant subject or theme, or which are distinguished or characterized by their primary emphasis on, the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas.”
 - (16) Adult-Oriented Use means an adult bookstore, adult cabaret, adult club, adult movie theater, adult dry cabaret, adult video store, adult video rental store or adult viewing facility.
 - (17) Adult Theater means a theater, concert hall, auditorium, or similar commercial Establishment which regularly features persons who appear in a “State of Nudity” or “Semi-Nude,” or live performances which are characterized by the exposure of “Specified Anatomical Areas” or by “Specified Sexual Activities.”
 - (18) Adult Video Store means a use or establishment that sells at retail adult-oriented motion-picture materials, provided that 40% or more of the store’s inventory of motion-picture materials that are displayed and offered for sale in the store (either in terms of the number of items or in terms of the aggregate retail value of such items) consists of adult-oriented motion-picture materials, or that 40% or more of the display space or floor area devoted to motion-picture materials for sale in the store is devoted to adult-oriented motion-picture materials, or that 40% or more of the store’s gross receipts from the sale of motion-picture materials during any calendar month within the past 12 calendar months are attributable to the sale of adult-oriented motion-picture materials, or that the store holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult video store or as a substantial source of adult-oriented materials including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to “adult videos,” “adult entertainment,” “exotic entertainment” or similar terms.
 - (19) Adult Video-Rental Store means a use or establishment that rents at retail adult-oriented motion-picture materials, provided that 40% or more of the store’s inventory of motion-picture

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materials that are displayed and offered for rent in the store (either in terms of the number of items or in terms of the aggregate retail value of such items) consists of adult-oriented motion-picture materials, or that 40% or more of the display space or floor area devoted to motion-picture materials for rent in the store is devoted to adult-oriented motion-picture materials, or that 40% or more of the store's gross receipts from the rental of motion-picture materials during any calendar month within the past 12 calendar months are attributable to the sale of adult-oriented motion-picture materials, or that the store holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult video store or as a substantial source of adult-oriented materials including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to "adult videos," "adult entertainment," "exotic entertainment" or similar terms.

- (20) Adult Viewing Facility means a use or establishment, open to members of the public, that allows individuals to view adult-oriented motion-picture materials on site, provided that 40% or more of the motion-picture materials available for such on-site viewing consist of adult-oriented motion-picture materials, or that 40% or more of the display space or floor area devoted to motion-picture materials that can be viewed in the establishment is devoted to adult-oriented motion-picture materials, or that 40% or more of the motion-picture materials actually viewed in the establishment in any calendar month within the past 12 calendar months are adult-oriented motion-picture materials, or that 40% or more of the establishment's gross receipts from on-site viewing of motion-picture materials during any calendar month within the past 12 months are attributable to the viewing of adult-oriented materials during any calendar month within the past 12 months are attributable to the viewing of adult-oriented motion-picture materials, or that the establishment hold itself out or identifies itself to the public by its name, its signs and/or its advertising as an adult viewing facility or as a substantial source of adult-oriented materials including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to "adult videos," "adult entertainment," "exotic entertainment" or similar terms.
- (21) Booth, Room or Cubicle means such enclosures as are specifically offered to the public or members of a Sexually Oriented Business for hire or for a fee as a part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "Booth," "Room," or "Cubicle" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the "Establishment" for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any persons other than Employees; nor shall this definition apply to hotels, motels or other similar Establishments licensed by the State of Wisconsin - pursuant to Wis. State. Ch. 50.
- (22) Customer means an individual who:
- (A) Is allowed to enter an adult-oriented use or establishment in return for the payment of an admission fee or other form of consideration or gratuity;
 - (B) Enters an adult-oriented use or establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
 - (C) Is a member of (or the guest of such a member) and on the premises of an adult-oriented use or establishment that is operated as a private club.
- (23) Employee means a "Person" who performs any service on the premises of a "Sexually Oriented Business" on a full-time, part-time or contract basis, whether or not the "Person" is denominated an Employee, independent contractor, agent or otherwise and whether or not said "Person" is paid a salary, wage or other compensation by the operator of said business.

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Employee does not include a “Person” exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

- (24) Entertainer means any individual who provides live entertainment in an adult-oriented use or establishment, and without regard to the nature of such individual’s relationship with the operator.
- (25) Escort means a “Person” who, for consideration, agrees or offers to act as a companion, guide or date for another “Person,” who agrees or offers to privately model lingerie or to privately perform a strip-tease for another “Person.”
- (26) Escort Agency means a “Person” or business association who furnishes, offers to furnish, or advertises to furnish “Escorts” as one of its primary business purposes for a fee, tip or other consideration.
- (27) Establishment means and includes any of the following:
 - (A) The opening or commencement of any “Sexually Oriented Business” as a new business;
 - (B) The conversion of an existing business, whether or not a “Sexually Oriented Business,” to any “Sexually Oriented Business;”
 - (C) The additions of any “Sexually Oriented Business” to any other existing “Sexually Oriented Business.”
 - (D) The relocation of any “Sexually Oriented Business.”
- (28) Frequently Recurring means occurring on six or more occasions within a period of six consecutive calendar months, provided that such six or more occasions occur within at least three separate calendar weeks (i.e., the period of seven consecutive days beginning with Monday and ending with Sunday.)
- (29) Indoor Accessory means an accessory use conducted inside a building, e.g., not including outdoor parking, fencing, landscaping, etc.
- (30) Members of the Public means individuals who are neither employees nor entertainers in an adult-oriented use or establishment.
- (31) Licensee means a “Person” in whose name a license to operate a “Sexually Oriented Business” has been issued, as well as the individual listed as a applicant on the application for a license; and in the case of an “Employee,” a “Person” in whose name a license has been issued authorizing employment in a “Sexually Oriented Business.”
- (32) Minor Modification means a modification of the physical layout of the physically separate defined area of a building occupied by an adult-oriented use or of the operation of an adult-oriented use, as approved by the Zoning Administrator in approving an application for an adult-oriented use license (or in approving an application for renewal or amendment of such a license), or as approved by the Zoning Administrator in approving the issuance of a minor modification to such a license, or a modification of the terms of an adult-oriented use license, which:
 - (A) Is minor in scope;
 - (B) Has no potential to create or increase the risk of harmful secondary effects of the adult-oriented use(s) in question;
 - (C) Is not contrary to any requirement of this chapter, Chapter 37, Chapter 17, Zoning or any other City Ordinance.
 - (D) Does not involve the addition of any new use within the applicable physically separate defined area; and
 - (E) Does not involve an expansion of any adult-oriented use or any related indoor accessory use or of the approved physically separate defined area occupied by such use(s).

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- (33) Motion-Picture Materials means videotapes, films, disks, slide shows, or other recording of visual images from which motion pictures or a series of still pictures can be projected or reproduced and viewed, with or without audio accompaniment.
- (34) Nonconforming Use means an existing use that was lawful in its inception, but that has subsequently become either a prohibited use under Chapter 17, Zoning, or a use requiring a conditional use permit which has not been granted, and that was active and actual at the time the use became nonconforming (as distinguished from being merely casual, occasional, incidental or accessory), and that has been continuous with no gap of 12 or more consecutive months since it became a nonconforming use, and that has not been physically expanded or extended to occupy a greater area since the use became nonconforming, and that does not occupy a building or other structure that has been structurally altered or repaired to the extent of 50% or more of its assessed value since the use became nonconforming.
- (35) Nude Model Studio means any place where a “Person” who appears “Semi-Nude,” in a “State of Nudity,” or who displays “Specified Anatomical Areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. “Nude Model Studio” shall not include a proprietary school licensed by the State of Wisconsin or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:
- (A) 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
 - (B) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (C) Where no more than one nude or “Semi-Nude” model is on the premises at any one time.
- (36) Nudity or State of Nudity means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of the entire nipple and areola, or the showing of the covered male/female genitals in a discernibly turgid state.
- (37) Sexual Encounter Center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (B) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a “State of Nudity” or “Semi-Nude.”
- (38) Sexually Oriented Business means an “Adult Arcade,” “Adult Bookstore,” “Adult Novelty Store,” “Adult Video Store,” “Adult Cabaret,” “Adult Motel,” “Adult Motion Picture Theater,” “Adult Theater,” “Escort Agency,” “Nude Model Studio,” or “Sexual Encounter Center.”
- (39) Special Licensed Use means any use requiring a special City license, e.g., an adult-oriented use license, a cabaret license or a liquor license. A special licensed use can only be conducted pursuant to and in accordance with a required City license, and the granting of such a license is not assured either by permitted use zoning status or by the granting of a conditional use zoning permit or of any other City permit or approval. A special licensed use may require other City permits or approvals.
- (40) Specified Anatomical Areas means less than completely covered human genitals, pubic region, anus, buttocks and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

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- (41) Specified Sexual Activities means stipulated or actual acts of human sexual intercourse, fellatio, cunnilingus, sodomy, masturbation, sadomasochistic abuse, bestiality or necrophilia; or simulated or actual physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, anus or buttocks or with a female person's breast; or a person's simulated or actual use of an inanimate object in an apparent sexual stimulation or gratification.
- (42) Substantial Enlargement of a "Sexually Oriented Business" means the increase in floor areas occupied by the business by more than 25 percent, as the floor area exists on the date this chapter takes effect.
- (43) Open to the Public means the hours during which members of the public or customers are invited onto or permitted to remain on the premises of an adult-oriented use or establishment.
- (44) Operator means any person that owns, operates or conducts an adult-oriented use or establishment; also, the person that is required to apply for an adult-oriented use license and the person to whom or to which an adult-oriented use license is issued.
- (45) Person means an individual, proprietorship, partnership, joint venture, trust, association or other legal entity.
- (46) Physically Separate Defined Area means the area of a principal building or of a unit of a principal building occupied by one or more specified uses (such as an adult-oriented use) which area is defined in an approved site and operational plan, conditional use permit or special City license (such as an adult-oriented use license and is physically separated from other portions of the building or other portions of a particular unit of the building by walls, doorways, floor stripes, signs and/or other approved means which individually or collectively make it readily apparent that one is entering or leaving the defined area.
- (47) Principal Building means a building occupied by or used for one or more principal uses [and, if applicable, occupied by or used for one or more accessory uses related to such principal use(s)].
- (48) Principal Use means a primary use of real property, including any use that is not an accessory use to a principal use conducted on the same lot or site.
- (49) Printed or Graphic Materials means books, magazines, newspapers, periodicals, calendars, posters, cards, photographs, pictures, drawings, covers or other packaging for merchandise or any similar printed or graphic materials.
- (50) Proposed (Use Development, Structure, Alteration, Modification, Etc. means any use, development, structure, alteration, modification, etc., for which a license, permit or approval is required by this chapter or Chapter 17, Zoning, which has not yet been issued or granted, regardless of whether or not the permit or approval has been requested, and regardless of whether or not the use of development, structure, alteration, modification, etc., is existing or has been commenced, constructed, installed or completed.
- (51) Public Indecency means a "Person" knowingly or intentionally, in a "Public Place:"
 - (A) Engages in sexual intercourse;
 - (B) Engages in deviant sexual conduct;
 - (C) Appears in a "State of Nudity;" or
 - (D) Fondles the genitals of self or another person.
- (52) Public Place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. "Public Places" include, but are not limited to: streets, sidewalks, parks, beaches, business and commercial "Establishments" (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), bottle clubs, hotels, motels, restaurants, night clubs, country clubs, cabarets and

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meeting facilities utilized by religious, social fraternal or similar organizations. Premises used solely as a private residence whether permanent or temporary in nature shall not be deemed to be a "Public Place." "Public Place" shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, portions of hospitals and similar places in which "Nudity" or exposure is necessarily customarily expected outside of the home and the sphere of privacy constitutionally protected therein. "Public Place" does not include a private facility which has been formed as a family-oriented clothing optional facility, property licensed by the state.

- (53) Semi-Nude or in a Semi-Nude Condition means 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 exposes in whole or in part.
- (54) Store means a use devoted exclusively or primarily to the retail sale or rental of goods or products.
- (55) Transfer of Ownership or Control of a "Sexually Oriented Business" means and includes any of the following:
 - (A) The sale, lease, or sublease of the business;
 - (B) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
 - (C) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (56) Unit of a Building means the specified area of a building in which a tenant or other person has a right of use and occupancy for nonresidential purposes, e.g., a store space in a shopping center building or a suite of offices in an office building.
- (57) Use means the employment and/or occupancy of particular real property for a particular purpose or purposes; or a particular use of real property that is specifically recognized by Chapter 17, Zoning. (Note: "use" is intended to be sufficiently elastic to refer simultaneously to the most limited possible hypothetical use, e.g., the retail sale of books, and to an actual use of which such hypothetical use is a component, e.g., a combined bookstore/coffeehouse.)
- (58) Uses Conducted Together in the Same Building means uses conducted in the same building by the same owner or operator as part of the same business, company, firm or organization.
- (59) Uses Located Together in the Same Building means uses conducted in the same building by the same owner or operator as part of the same business, company, firm or organization.
- (60) Valid Adult - Oriented Use License means an adult-oriented use license that has not been approved by the City Zoning Administrator and issued to an operator pursuant to this chapter, and which has not expired, or been terminated, or been adjudged to be invalid by a court of competent jurisdiction, and which is not currently suspended.

37.04 CLASSIFICATION OF REGULATED USES

- (1) All "Sexually Oriented Businesses" are subject to the regulations in this chapter, and are classified as follows:
 - (A) Adult Arcades;
 - (B) Adult Bookstores, Adult Novelty Stores or Adult Video Stores;

- (C) Adult Cabarets;
- (D) Adult Motels;
- (E) Adult Motion Picture Theaters, Adult Mini-Motion Picture Theater;
- (F) Adult Theaters;
- (G) Escort Agencies;
- (H) Nude Model Studios; and
- (I) Sexual Encounter Centers.

37.05 LICENSE REQUIRED: DISPLAY

- (1) After the effective date of this Chapter 37:
 - (A) The operator of a proposed new or relocated adult-oriented use or establishment in the City shall obtain from the City and possess a valid adult-oriented use license issued pursuant to this chapter before commencing the operation of such use or establishment.
 - (B) The operator of an adult-oriented use or establishment already existing in the City on the effective date of this chapter which proposes to expand or shift the area occupied by its operations, or to which a new or additional adult-oriented use is proposed to be added, shall obtain from the City and possess a valid adult-oriented use license issued pursuant to this chapter before commencing the operation of such new or additional use or before expanding or shifting the area occupied by its operations; and
 - (C) The operator of an adult-oriented use or establishment to whom a valid adult-oriented use license has been issued shall obtain and possess a valid amendment or minor modification of such license issued pursuant to this chapter before making any change or modification to the nature, operation or physical layout of the use(s) provided for in such license; and
 - (D) The operator of an adult-oriented use or establishment to whom a valid adult-oriented use license has been issued shall obtain and possess a valid renewed or new adult-oriented use license before continuing to operate such use or establishment after the expiration of the issued license.
- (2) The operator of an adult-oriented use or establishment in the City licensed pursuant to this chapter shall prominently display at all times a valid adult-oriented use license within the physically separately defined area of the building occupied by the adult-oriented use. Possession of a valid adult-oriented use license shall not entitle the operator of an adult-oriented use or establishment to operate an adult-oriented use or establishment in violation of applicable requirements of Chapter 17, Zoning Ordinance, or any other City Ordinance.
- (3) It is unlawful:
 - (A) For any Person to operate a “Sexually Oriented Business” without a valid “Sexually Oriented Business” license issued by the City of Reedsburg pursuant to this section.
 - (B) For any Person who operates a “Sexually Oriented Business” to permit a Person to be employed by, work for or perform in a “Sexually Oriented Business” who is not a licensed as a “Sexually Oriented Business” Employee by the City of Reedsburg pursuant to this chapter.
 - (C) For any Person who is required under this ordinance to obtain employment with a Sexually Oriented Business Employee License to be employed to work for or to perform in a Sexually Oriented Business without having secured a Sexually Oriented Business Employee license pursuant to this section.

37.05 License Required: Display

- (4) A license may be issued only for one adult oriented Establishment located at a fixed and certain place. Any Person who desires to operate more than one adult oriented Establishment must have a license for each.
- (5) A Licensee shall not transfer his/her license to another, nor shall a Licensee operate a “Sexually Oriented Business” under the authority of a license at any place other than the address designated in the application.
- (6) All “Sexually Oriented Businesses” existing at the time of the passage of this section must submit an application for a license within 45 days of the passage of this section.

37.06 PRE-APPLICATION STAFF CONFERENCE

Prior to filing an application for an initial or amended (or amended and renewed) adult-oriented use license, or for a minor modification of an adult-oriented use license, the operator with the City’s Zoning Administrator to discuss the proposed adult-oriented use(s), the requirements of this chapter and how the requirements of this chapter may interface with the requirements of Chapter 17, Zoning, and any other applicable City ordinances, for the purpose of ensuring an efficient application review and decision-making process. The requirement of a pre-application staff conference shall be deemed to be waived by the City if the operator has participated during the past 180 days in a pre-application conference pursuant to this section, regarding the same proposed adult-oriented use(s) and the same other use(s) in the same physically separate defined area of a building. The Zoning Administrator may waive in writing the requirement of a pre-application staff conference whenever such requirement is determined to be not necessary to achieve an efficient application review and decision making process.

37.07 ACTIVITIES NOT SUBJECT TO A LICENSE REQUIREMENT

- (1) This chapter shall not be construed to restrict or prohibit the following activities or products:
 - (A) Plays, operas, musicals or other dramatic works that are not obscene;
 - (B) Classes, seminars or lectures which are held for a serious scientific or educational purpose and that are not obscene; and
 - (C) Exhibitions, performances, expressions or dances that are not obscene.
- (2) The provisions of this chapter are not intended to and do not prohibit the simulation of sex acts which are part of a non-obscene expression.
- (3) Whether or not an activity is obscene shall be judged by consideration of the below factors:
 - (A) Whether the average person, applying contemporary community standards, would find that the activity taken as a whole appeals to the prurient interest in sex; and
 - (B) Whether the activity depicts or describes sexual conduct in a blatantly offensive way, as measured against community standards; and
 - (C) Whether the activity is taken as a whole lacks serious literary, artistic, political or scientific value.

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- (1) Filing. An application for an adult-oriented use license, or for any renewal, amendment or minor modification of such a license, shall be filed with the City’s Zoning Administrator, on a form provided by the City and dated and signed by the operator, together with the application fee provided for in this chapter.

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- (2) Contents. An application shall only deal with the adult-oriented use(s) and any other use(s) that are proposed by the operator to be located and conducted together in a single physically separate defined area of a building. The application for an initial adult-oriented use license shall contain or have attached to it the following information and documents or shall explain why any such particular requirement is not applicable to the application. (For the required contents of a renewal, amendment or minor modification application, see §§ 37.14 to 37.16, of this Chapter):
- (A) Name (and any aliases), street address (a post office box without a street address is not sufficient) and telephone number of the operator (and, at the option of the operator, the operator's fax number and/or e-mail address if the operator consents to receive notices or other communications relating to the application or license by such means), and any other name under which the operator is currently doing business or has done business at any time during the five years immediately preceding the date of application;
 - (B) If the operator is an individual, his or her date of birth, sex, race, and state of residence currently and at any time during the five years immediately preceding the date of the application;
 - (C) If the operator is not an individual, the type of entity it is (e.g., corporation, general partnership, limited partnership, limited liability company, joint venture, etc.), the state in which it was formed, each state in which it is currently doing business or has done business during the five years immediately preceding the date of application, and the name and address of its registered agent;
 - (D) If the operator is not an individual, the name and the information specified in Subsection 2(B) or (C) above, whichever is applicable, for each of the following:
 - 1. If the operator is a corporation, for each officer and director and for each shareholder owning at least a 25% interest in the operator;
 - 2. If the operator is a partnership, for each general partner;
 - 3. If the operator is a limited partnership, for any general partner, and for any limited partner owning at least a 25% interest in the operator;
 - 4. If the operator is a joint venture, for each joint venturer;
 - 5. If the operator is a limited liability company managed by one or more managers, for each manager and for each member owning at least a 25% interest in the operator; if the operator is a limited liability company managed by the members, for each member;
 - 6. If the operator is any other type of entity, for each person who or which exercises or is authorized to exercise any control over the operations of the entity;
 - (E) If the operator is not the sole owner of the real property on which the proposed adult-oriented use(s) or establishment are proposed to be located or operated, the name, street address and telephone number of each such owner;
 - (F) If the operator is not the sole and record owner of the real property on which the proposed adult-oriented use(s) or establishment are proposed to be located or operated, attach proof of the operator's right to conduct the proposed adult-oriented use(s) or establishment on such real property (e.g., copy of deed or lease);
 - (G) If the operator or any person required to be listed in response to Subsection 2(A) above has been convicted during the five years immediately preceding the date of the application of obscenity, sexual assault, prostitution, keeping a place of prostitution, pandering, soliciting prostitutes, lewd and lascivious behavior, public sexual gratification or other similar crimes of a sexual nature, or of the manufacture, distribution or delivery of a controlled substance or of a controlled substance analog, or of possession of a controlled substance or a controlled substance analog with intent to manufacture, distribute or deliver, or of other similar crimes relating to the distribution or delivery of

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controlled substances or controlled substance analogs, identify the person so convicted and state the crime, the date of conviction and identify the court and jurisdiction in which the conviction occurred (e.g., Circuit Court, Sauk County, Wisconsin);

- (H) If the operator or any person required to be listed in response to Subsection 2(a) above has been adjudicated guilty during the five years immediately preceding the date of application of any ordinance violations occurring in or relating to the operation of an adult-oriented use or establishment, identify the person so adjudicated, state the nature of the ordinance violation, the date of the adjudication and identify the court and jurisdiction in which the adjudication occurred;
- (I) Name and street address of any other adult-oriented use(s) or establishment(s) owned and/or operated by the operator or by any person required to be listed in response to Subsection 2(a) above currently or within the five years immediately preceding the date of application, and the name, street address and telephone number of each local governmental entity which has issued or granted any permit or license for or with respect to each such use or establishment;
- (J) If a permit or license for an adult-oriented use or establishment owned or operated by the operator or by any person required to be listed in response to Subsection 2(A) above has been terminated or suspended during the five years immediately preceding the date of the application, state the name and address of the business, the type of permit or license terminated or suspended, the date and reason(s) for the termination or suspension and the name, street address and telephone number of the governmental entity that terminated or suspended the permit or license;
- (K) Location of the proposed adult-oriented use(s) or establishment (legal description of the real property, street address of the building, and the floor and/or building unit designation, if applicable);
- (L) List and describe all proposed adult-oriented use(s) [e.g., adult bookstore, adult cabaret, adult club, adult dry cabaret, adult movie theater, adult video-rental store, adult video store and/or adult viewing facility] to be located and conducted together in the same physically separate defined area of a building;
- (M) List and describe all proposed indoor accessory uses related to and to be located and conducted together with the listed adult-oriented use(s) in the same physically separate defined area of a building;
- (N) List and describe all other proposed principal uses and related accessory uses to be located and conducted together with the listed adult-oriented use(s) in the same physically separate defined area of a building;
- (O) Name of the business or establishment which the proposed adult-oriented use(s) will constitute or be a part of;
- (P) Whether the entire building where the proposed adult-oriented use(s) will be located will be the physically separate defined area occupied by the proposed adult-oriented use(s) and any related indoor accessory use(s), and if not, attach a scale drawing showing the boundaries of the physically separate defined area to be occupied by such use(s) [see Subsection B(28) below], and describe in detail the means by which such area will be physically separated from the remainder of the building or, if applicable, from the remainder of the building unit;
- (Q) Whether site and operational plan approval has been issued or applied for with respect to the proposed adult-oriented use(s) and any other use(s) to be located and conducted together in the same physically separate defined area of a building, and if so, the date of issuance of such approval or, if not issued, the date of the application for such approval;
- (R) Whether a conditional use permit has been issued or applied for with respect to any of the use(s) proposed to be located and conducted together with the proposed adult-oriented use(s), and if so, the date of issuance of such permit or, if not issued, the date of the

- application for such permit, and the type of conditional use involved;
- (S) Whether any existing conditional use permit will be automatically terminated upon issuance of the requested adult-oriented use license;
 - (T) Whether a zoning ordinance amendment is necessary to accommodate the proposed adult-oriented use(s) or establishment, and if so, whether the required zoning ordinance has been adopted or denied, or if pending, the date of the rezoning application;
 - (U) If the building in which the proposed adult-oriented use(s) is proposed to be located is not existing, or if such building is proposed to be modified, attach a copy of detailed building plans that satisfy the plan requirements for a building permit;
 - (V) A detailed description of how the operator will ensure that individuals who are less than 18 years of age will be excluded from the physically separate defined area to be occupied by any proposed adult-oriented use(s);
 - (W) A detailed description of how the operator will ensure that any seminude individual appearing live and publicly in an adult-oriented use or establishment will only so appear on a stage or raised platform which is raised not less than 23 inches above the surrounding floor areas;
 - (X) A detailed description of how the operator will ensure that no seminude individual appearing live in an adult-oriented use or establishment will be visible to anyone outside the physically separate defined area of the building occupied by such use;
 - (Y) A detailed description of how the operator will ensure that no adult-oriented printed or graphic materials displayed in an adult-oriented use or establishment will be visible to anyone outside the physically separate defined area of the building occupied by such use or establishment;
 - (Z) A detailed description of how the operator will ensure that no adult-oriented movie or other adult-oriented motion-picture materials shown in an adult-oriented use or establishment will be visible to anyone outside the physically separate defined area of the building occupied by such use or establishment;
 - (AA) Attach a scale drawing of the layout of the interior of the building in which the proposed adult-oriented use(s) and any proposed related indoor accessory use(s) will be conducted (or of the floor or building unit thereof to which the proposed adult-oriented use(s) will be limited, if applicable, but in any event showing enough of the building interior to include the boundaries of the physically separate defined area of the building to be occupied by such use(s), showing:
 1. The boundary of the physically separate defined area within which the proposed adult-oriented use(s) and any related indoor accessory uses will be conducted, with dimensions, and showing any physical means by which the required physical separation of such area will be achieved, and if the adult-oriented use(s) will involve the retail sale or rental of merchandise, the location where the checkout counter and cash register will be located within such area;
 2. The location, dimensions and function of each room, cubicle or other enclosed space to which customers or members of the public will have access;
 3. The location, dimensions and function of each room or other enclosed space from which customers or members of the public will be excluded, and the means of accomplishing such exclusion;
 4. The location, height and other dimensions, type and purpose of any interior movable or non-floor-to-ceiling walls, partitions, screens or other barriers; and the function of

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any spaces created by such barriers, and whether customers or members of the public, customers, club members or guests will be admitted to or excluded from such spaces;

5. The location and dimensions of each doorway, entryway or passageway through which customers or members of the public will be permitted to pass and whether the doorway, entryway or passageway will be open and unobstructed or closed (only exterior entrances/exits and rest rooms can be closed or obstructed);
 6. The location and dimensions of each doorway, entryway or passageway through which members of the public, customers, club members or guests will not be permitted to pass and the means of accomplishing such exclusion;
 7. The location and dimensions of any raised platform or stage on which any seminude employees or entertainers will appear live and publicly and the height thereof above the surrounding floor areas;
 8. The location and dimensions of the required minimum six-foot separation zone between any raised platform or stage where seminude employees or entertainers will appear live and publicly and any area where customers or members of the public will be permitted to sit, stand, move about or dance, and the location, type, materials and dimensions of the required physical separation barrier at the outer periphery of such separation zone;
 9. The location and dimensions of any bar and of any related service area;
 10. The location and dimensions of any dance floor;
 11. The location and dimensions of any customer seating areas;
 12. The location and dimensions of any merchandise racks;
 13. The location and dimensions of any cubicles, booths, small rooms or other small partially enclosed spaces to be used by customers or members of the public for private viewing of videos or any other similar purpose;
 14. The location and dimensions of any movie screen, projection equipment, or viewing equipment;
 15. A certification that the operator has reviewed this chapter;
 16. A certification that the operator has reviewed the information contained in or submitted with the application and that such information is up to date, accurate and complete as of the date of the application.
- (3) Incomplete applications. The Zoning Administrator may decline to accept an adult-oriented use application for filing if it is obviously incomplete. With respect to any filed application that is determined upon review to be incomplete, the Administrator shall issue a written notice to the operator, within five business days after the date of filing, stating that the application is incomplete and listing the specific items required to complete the application. If no such notice is issued within such five-day period, the application shall be deemed to be complete for purposes of processing. Upon completion of the application, the Administrator shall notify the operator in writing within three business days that the application was completed as of a specified date. In the event the application is not completed within 60 days after the initial filing of the application, the Administrator shall deny the application as incomplete and shall notify the operator in writing of the reason for the denial within three business days.
- (4) Waiver of application requirements. The Zoning Administrator may waive in writing any application requirement that the Administrator determines is not necessary for the effective review and determination of the application. Such waivers may be issued at a pre-application staff conference or at any time during the application review process.
- (5) Background check. Upon the filing of an application for an adult-oriented use license, the Zoning Administrator shall immediately request the Police Department to conduct a background check on the operator and on each person identified in response to Subsection 2(d) of this section. The Police Department shall promptly forward the results of such background

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check(s) to the Zoning Administrator, which shall present the results of such background check(s) for the five years immediately preceding the date of the application to the Ordinance Committee as part of its staff report.

- (6) Staff report. The Zoning Administrator shall prepare a staff report on the application, which shall include the relevant results of any background checks conducted pursuant to Subsection 5 above and present such report to the Ordinance Committee . A copy of such staff report shall be made available to the operator prior to the meeting at which the Ordinance Committee will consider the application.

37.09 APPLICATION FEES

- (1) License. The application fee for an initial adult-oriented use license shall be \$500. The application fee for an amendment of such a license or for a renewal and amendment of such license shall be \$300. The application fee for a renewal of such a license without change shall be \$200. The application fee for an informal minor modification of such a license shall be \$100.
- (2) Work permit. The application fee for an adult-oriented use work permit shall be \$25.

37.10 DECISION ON LICENSE APPLICATION

- (1) Time limit.
 - (A) The Ordinance Committee shall decide each application for an initial adult-oriented use license, or for an amendment or renewal of such a license, within 45 days after a complete application and the applicable fee for such application are filed with the Zoning Administrator, unless the operator or an authorized representative of the operator agrees to an extension of time at a Ordinance Committee meeting, which extension is contained in the minutes of such meeting, or is memorialized in a writing signed by the operator or an authorized representative of the operator; provided, however, that notwithstanding the foregoing time limit, the Ordinance Committee may toll the remaining time for decision until the next regularly scheduled meeting that is conducted by the Ordinance Committee if:
 1. A required site and operational plan approval (including the determination of the applicable physically separate defined area), has not yet been issued with respect to the proposed adult-oriented use(s) and any other use(s) to be located and conducted together with such adult-oriented use(s) in the same physically defined separate area of a building; or if
 2. The operator or a knowledgeable representative of the operator authorized to speak for and bind the operator fails to appear at a meeting of the Ordinance Committee at which consideration of the application is duly scheduled, and if the Ordinance Committee has any questions about the application or the proposed use(s) to which it reasonably requires answers before deciding the application, or if the operator or the operator's authorized representative are unable to answer such questions without an adjournment.
 - (B) If the Ordinance Committee fails to decide an application for an adult-oriented use license within the time limits established by this chapter, the license shall be deemed to be issued on the basis of the information provided in the application.
- (2) Notice and opportunity to be heard. The Ordinance Committee shall cause a written notice to be issued to the operator, not less than 10 days prior to the date of the Ordinance Committee meeting at which the operator's application is proposed to be considered, stating the date, time and place of the meeting, the operator's obligation to be present in person or by knowledgeable representative authorized to speak for and bind the operator, and optionally, any additional

37.10 Decision on License Application

information that the Ordinance Committee or staff believes is necessary or desirable to decide the application. The operator shall be given an opportunity to present its application and to respond to any concerns that members of the Ordinance Committee have which might be the basis for denial or the imposition of any special limiting condition.

- (3) Approval. The Ordinance Committee shall approve an application for an adult-oriented use license if the application and the proposed adult-oriented use(s) and establishment satisfy all of the requirements of this chapter and if the Ordinance Committee does not find that there is a reasonable probability that the operator will fail to comply with the requirements of this chapter or of a license issued pursuant to this chapter, based on a substantial pattern of noncompliant behavior during the five years immediately preceding the date of the application or other clear and convincing information.
- (4) Conditions. The Ordinance Committee may impose reasonable requirements and conditions to ensure compliance by the operator with the requirements of this chapter or of a license issued pursuant to this chapter, and for such purposes may incorporate by reference in its decision all or portions of the operator's application or other documents. The Ordinance Committee shall specify whether any condition imposed on its approval is a condition precedent (must be satisfied before the license takes effect) or a condition subsequent (must be satisfied after the license takes effect to avoid a subsequent suspension and possible termination) and may specify a reasonable period of time within which to satisfy any such condition. For existing adult-oriented uses or establishments that are allowed uses pursuant to Chapter 17, the Zoning Ordinance, conditions precedent shall be avoided unless they are required to remedy serious health or safety problems or serious adverse secondary effects in the surrounding area.
- (5) Physically separate defined area. In the event that the physically separate defined area to be occupied by an existing allowed adult-oriented use and any related interior accessory use(s) involved in the adult-oriented use license application has not been determined and will not be determined pursuant to Chapter 17, Zoning, in connection with a then-currently-required site and operational plan approval, the Ordinance Committee shall determine the physically separate defined area of such use(s) as part of the license decision.
- (6) Denial. The Ordinance Committee shall deny the license application if it finds that the proposed adult-oriented use(s) or establishment fail to satisfy the requirements of this chapter, or if it finds that there is a reasonable probability that the operator will fail to comply with the requirements of this chapter or of a license issued pursuant to this chapter, based on a substantial pattern of noncompliant behavior during the five years immediately preceding the date of the application or other clear and convincing information. The Ordinance Committee may deny a license application for lack of specific information, which it reasonably needs to decide the application, if the operator has been given a reasonable opportunity to supply such information. The Ordinance Committee shall specifically state its reasons for denying any adult-oriented use license application.
- (7) Minor modifications. Applications for minor modifications of adult-oriented use licenses may be informally granted in writing by the Zoning Administrator.

37.11 LICENSE

The Zoning Administrator shall issue an adult-oriented use license within five business days after Ordinance Committee approval of the application, if there are no conditions precedent (or that such conditional have been satisfied). If the Zoning Administrator fails to act timely pursuant to this section, the license shall be deemed to be issued for purposes of the operator's right to operate, but a subsequently issued license shall be valid and binding. Notwithstanding any other provision of this chapter, no violation of this chapter shall result from an operator of an existing adult-oriented use or establishment that is an allowed use pursuant to Chapter 17, Zoning, continuing to operate such use

or establishment during the period between Ordinance Committee's approval of an adult-oriented use license for such use or establishment, which is not subject to any conditions precedent, and the issuance of such license to the operator. An adult-oriented use license shall be personal to the operator and site-specific to the approved location, shall not run with the land, shall not be transferable or assignable and shall not be applicable to an adult-oriented use or establishment at a location different than the approved location. A transfer or assignment of an adult-oriented use license shall automatically terminate such license. (A simple name change by an operator shall not be deemed to involve an assignment and require a new license, but the merger or acquisition of an operator shall be deemed to involve an assignment and shall require a new license.) Except as provided in 12 below, any initial, renewed or amended adult-oriented use license shall automatically expire one year after the date of issuance unless it is sooner invalidated or terminated.

37.12 SATISFACTION OF LICENSE CONDITIONS

- (1) Conditions precedent. The operator of a proposed adult-oriented use or establishment shall satisfy all conditions precedent imposed by the Ordinance Committee on its approval of an application for an adult-oriented use license within the time specified by the Ordinance Committee in its decision, or if the time was not specified by the Ordinance Committee, within 270 days after the date of approval. The operator shall notify the Zoning Administrator, in writing, within the time prescribed, of the satisfaction of any conditions precedent and shall either provide proof of satisfaction with such notice or request in such notice an inspection of the premises. The Zoning Administrator shall make any requested inspection within three business days after receipt of such notice and shall certify to the Ordinance Committee satisfactory compliance with any condition precedent and issue the license (or notify the operator in writing why a condition has not been satisfied) within three business days after receiving such proof or after making an inspection. In the event that the operator fails to satisfy a condition precedent within the time prescribed, the Ordinance Committee's approval shall be automatically suspended. If the operator thereafter satisfies the condition precedent within one year after the Ordinance Committee's approval, and files with the Zoning Administrator an updated application in which the operator certifies that the updated information is accurate and complete, together with the fee required for a renewal application, the Zoning Administrator shall certify to the Ordinance Committee satisfactory compliance with the condition(s) precedent and issue the license within three business days, unless facts have changed materially or the requirements of this chapter have changed materially in the interim, in which event the Zoning Administrator shall issue a notice to the operator within three business days that the updated application is being treated as an application for renewal. If the Zoning Administrator fails to act timely pursuant to this Subsection (1), the action in favor of the operator shall be deemed to have been taken timely.
- (2) Conditions subsequent. The operator shall satisfy any conditions subsequent to the license and obtain the Zoning Administrator's certification of such satisfaction within the time specified in the license or, if such time is not specified, within 60 days after the date of issuance. The operator shall notify the Zoning Administrator in writing, within the time prescribed, of satisfaction of any conditions subsequent and provide proof of satisfaction with such notice or request in such notice an inspection of the premises. The Zoning Administrator shall inspect the premises within three business days after receiving notice and a request for inspection. The Zoning Administrator shall certify the satisfaction to the Ordinance Committee (or notify the operator in writing why the condition has not been satisfied) within three business days after receiving such proof or conducting such an inspection. In the event that an operator fails to satisfy a condition subsequent and obtain the Zoning Administrator's certification of such satisfaction within the time prescribed, the license shall be automatically suspended. During

37.12 Satisfaction of License Conditions

any such suspension, operations shall be prohibited. Any such suspension shall be automatically lifted upon the Zoning Administrator's certification to the Ordinance Committee of satisfactory compliance with the condition(s) subsequent. If the Zoning Administrator fails to act timely pursuant to this Subsection (2), the action in favor of the operator shall be deemed to have been taken on the last day of the time prescribed for such action.

37.13 LICENSE RENEWAL

An operator wishing to renew a valid adult-oriented use license shall file a complete renewal application with the Zoning Administrator, together with the renewal license application fee specified above, not later than 60 days prior to the expiration of the existing license. The timely filing of a complete renewal application and the required application fee shall entitle an operator to continue operating an adult-oriented use or establishment during the pendency of the application, even if the application is not decided until after the expiration of the existing license, and until the license is issued if the Ordinance Committee approves the application without conditions precedent. Any amendments to this chapter that are enacted before the Ordinance Committee's decision shall be applicable to a renewal application. The application for renewal of an adult-oriented use license shall contain all of the information and documents required for an initial adult-oriented use license. Such an application may incorporate by reference specific information filed by the operator in or attached to the most recent application on the basis of which an adult-oriented use license was approved by the Ordinance Committee, provided that such previous application and any applicable attachments thereto are attached to the renewal application or are on file with the City and readily available to the Zoning Administrator, if the operator specifies the date of such prior application and certifies that such information has not changed and is up to date, accurate and complete as of the date of the application. Any information that has changed since the previous application or which was incorrectly stated in the previous application shall be updated and corrected by the operator so that all of the information filed with the City is accurate and complete as of the date of the application.

37.14 LICENSE AMENDMENT

An operator desiring to amend a valid adult-oriented use license shall file an application for amendment of the license with the Zoning Administrator, together with the amended license application fee specified above, after requesting and participating in any pre-application staff conference. Any amendments to this chapter that are enacted before the Ordinance Committee's decision shall be applicable to an amendment application. The application for amendment of an adult-oriented use license shall contain all of the information and documents required for an application for an initial adult-oriented use license and shall contain a complete and detailed description of any proposed changes in use, operation, physical layout or license provisions and a scale drawing showing any physical changes in layout. Such an application may incorporate by reference specific information filed by the operator in the most recent application on the basis of which an adult-oriented use license was approved by the Ordinance Committee, provided that such previous application and any applicable attachments thereto are attached to the application, or that such documents are on file with the City and is readily available to the Zoning Administrator, if the operator specifies the date of such application and certifies that such information has not changed and is up to date, accurate and complete as of the date of the application. Any information that has changed since the date of the previous application or which was incorrectly stated in the previous application shall be updated and corrected by the operator so that all of the information filed with the City is accurate and complete as of the date of the application.

37.15 MINOR MODIFICATION OF LICENSE

An operator desiring a minor modification of a valid adult-oriented use license shall file an application for minor modification with the Zoning Administrator, together with the minor modification application fee specified in § 108-7 of this chapter, after requesting and participating in any pre-application staff conference required by § 108-5 of this chapter. The Zoning Administrator shall be authorized but not obligated to grant a minor modification, and if practicable, the Zoning Administrator shall give guidance to the operator during the pre-application staff conference whether an application for a minor modification is advisable. The application for minor modification shall contain a complete, detailed and accurate description of the proposed minor modification(s) of the operation, physical layout or license provisions and a scale drawing showing any proposed physical modification(s) in layout, any information required to update or correct any changes or inaccuracies or incomplete statements in the information filed with the most recent application on the basis of which the Ordinance Committee approved an adult-oriented use license so that all of the information filed with the City is accurate and complete as of the date of the application, together with the certification by the operator that all such information is accurate and complete as of the date of the application, and any other information reasonably required by the Zoning Administrator to determine whether any proposed modification is a minor modification. Any application for a minor modification of an adult-oriented use license which the Zoning Administrator declines or fails to issue in writing within 10 business days after the filing of the application shall be deemed to be denied. If the operator still desires to effect the proposed modification(s) in the license, the operator shall file an application for an amended license.

37.16 SUSPENSION, ADJUSTMENT OR TERMINATION OF LICENSE

- (1) Upon receipt of information providing a reasonable basis to believe that a serious violation of this chapter or of a license issued pursuant to this chapter has occurred (for purposes of this section, "serious violation" shall include any violation which involves criminal activity, involves the presence of an individual of less than 18 years of age inside the physically separate defined area of a building within which an adult-oriented use is located, or is of a type reasonably likely to result in harmful secondary effects in the surrounding area) or that a pattern of violations of this chapter or of a license issued pursuant to this chapter has occurred which reasonably suggests intentional violation by the operator or a lack of concern about compliance on the part of the operator or that materially false, misleading or incomplete information was provided by the operator in or with an adult-oriented use application; the Ordinance Committee may schedule a hearing to determine whether such violations occurred (unless a court has already made such determination), whether the operator committed or was responsible for such violation(s), and whether adjustments in the operation, supervision, layout or other aspects of the licensed adult-oriented use(s) or establishment are required, or whether adjustments in the adult-oriented use license provisions are required, to prevent similar violations in the future, and with respect to materially false, misleading or incomplete information provided in or with a license application, what the accurate and complete information is and whether, how and to what extent any such false, misleading or incomplete information affected the Ordinance Committee's decision to approve the license application and whether the license should be adjusted or terminated in light of such information.
- (2) The Ordinance Committee shall cause a written notice of any such hearing to be served upon the operator or upon the individual apparently in charge of the adult-oriented use or establishment in the manner of serving a summons under §§ 801.10 and 801.11(1), Wis. Stats., not less than 10 days before the date of the hearing. The notice shall specify the alleged violation(s), state the reason for the hearing, and state the date, time and place of the hearing.

37.16 Suspension, Adjustment or Termination of License

- (3) If the Ordinance Committee finds that adjustments in the adult-oriented use license provisions are required to ensure that further similar violations are prevented, or in light of complete and accurate information, it may impose such additional or further requirements or conditions on the license as are reasonably designed to prevent further similar violations or to deal with the situation presented by complete and accurate information, and may suspend such license for a reasonable period of time while such adjustments are being made and while related requirements or conditions are being implemented or satisfied. If the Ordinance Committee finds that the operator has intentionally committed, authorized, approved or knowingly acquiesced in a serious violation of the provisions of this chapter or of a license issued pursuant to this chapter, or if a felony has been committed at the adult-oriented use or establishment for which the operator is responsible, or if the Ordinance Committee finds, based on a substantial pattern of violations of this chapter or of a license issued pursuant to this chapter committed by the operator or for which the operator is responsible, that a reasonable probability exists that violations will continue, it may terminate the license. If the Ordinance Committee finds, in a situation where the operator provided materially inaccurate, misleading or incomplete information in or with a license application, that it would not grant an adult-oriented use license based on the current information (or lack thereof) that it has, or if the license it would grant would have different provisions in light of such information or the lack thereof, it may terminate or adjust the license, and may suspend the license until satisfactory information is provided and/or for a reasonable period of time while such adjustments are being made and while related requirements or conditions are being implemented or satisfied.
- (4) The operator may be represented by legal counsel at such a hearing and may make legal arguments, present evidence and call, examine and cross-examine witnesses. The proceedings shall be recorded by a recording device or stenographer. Exhibits shall be marked and preserved. The Ordinance Committee shall make findings of fact and conclusions of law to support any decision to suspend, adjust or terminate a license. If a license is terminated pursuant to this section, the operator shall not file an application for a new license within one year after the date of termination.
- (5) The procedures of this section shall be in addition to any other remedies that the City may have in the event of violations of this chapter or of a license issued pursuant to this chapter.

37.17 APPEAL

At the option of the operator, any denial by the Ordinance Committee of an initial adult-oriented use license application or of an application to renew or amend such a license, or any adjustment, suspension or termination of such a license by the Ordinance Committee, or the imposition of any requirement or condition by the Ordinance Committee, or any determination by the Zoning Administrator that a condition of approval has not been satisfied, may be appealed by the operator to the City Zoning Board of Appeals in accordance with the procedure and with the effect set out in Chapter 17, section 17.06, Zoning Board of Appeals, but if the operator wishes to challenge any such denial, condition or determination directly in court, the Ordinance Committee shall waive any defense based on the operator's failure to exhaust administrative remedies. Any denial by the City Clerk of an adult-oriented use work permit may similarly be appealed by the applicant to the City Zoning Board of Appeals, but if the applicant wishes to challenge such denial directly in court, the City shall waive any defense based on the applicant's failure to exhaust administrative remedies.

37.18 INSPECTION

- (1) The portions of any adult-oriented use or establishment open or proposed to be open to any customers or members of the public shall be subject to inspection by City inspectors or police officers at any time such use or establishment is open to the public to determine compliance with the requirements of this chapter or of any license issued pursuant to this chapter. The filing of an application for an adult-oriented use license (or for the renewal, amendment or minor modification of such license) shall constitute consent to any such inspection.
- (2) A person who operates an adult-oriented business or his agent or employee commits a violation of this Chapter if he or she refuses to permit such lawful inspection of the premises at any time it is open for business.

37.19 REQUIREMENTS OF PROHIBITIONS

- (1) The following requirements or prohibitions shall apply to licensed adult-oriented uses and establishments:
 - (A) The operator (if the operator is an individual), all individuals identified in response to 37.08 of this chapter, and all employees and entertainers working, providing services or entertaining in an adult-oriented use or establishment shall be at least 18 years of age.
 - (B) Any adult-oriented use shall be conducted entirely within a principal building.
 - (C) All adult-oriented uses located and conducted together in the same principal building, and all related indoor accessory uses, shall be located within the same physically separate defined area of a principal building, and no other uses shall be permitted in such defined area except as expressly approved in an adult-oriented use license.
 - (D) Any adult-oriented use license shall either designate an entire principal building as the physically separate defined area or shall precisely designate the location of the boundary of such defined area and specify the approved means of physically separating such defined area from other portions of the building or, if applicable, from other portions of the applicable unit of a building. In the event that an adult-oriented use license fails to designate the applicable physically separate defined area, however, any designation of such defined area made pursuant to Chapter 17, Zoning Ordinance, shall be deemed to be controlling, and in the absence of such a designation, the entire building shall be deemed to be included in such area.
 - (E) An adult-oriented use license shall not be issued for any adult-oriented use or establishment if the operator, use(s) or related operation or layout in question fail to satisfy any applicable requirements of this Chapter, Chapter 17, Zoning, or any other City ordinance.
 - (F) An individual shall not appear live and publicly in an adult-oriented use or establishment while completely nude. A female individual shall not appear live and publicly in an adult-oriented use or establishment without wearing at least opaque pasties and an opaque G-string. A male individual shall not appear live and publicly in an adult-oriented use or establishment without wearing at least an opaque G-string. An individual appearing live and publicly in an adult-oriented use or establishment shall not uncover or expose to view his or her genitals or anus, and a female individual appearing live and publicly in an adult-oriented use or establishment shall not uncover or expose to view the areola or nipple of her breast. The operator shall not permit an individual appearing live and publicly in an adult-oriented use or establishment to violate this Subsection (F).
 - (G) A seminude individual shall not appear live and publicly in any adult-oriented use or establishment other than on a raised platform or stage that is at least 23 inches above the surrounding floor areas. A seminude individual shall not appear live and publicly in an adult-oriented use or establishment in an area that is not open to and viewable by

37.19 Requirements of Prohibitions

customers and members of the public generally who are within the physically separate defined area occupied by the adult-oriented use in which such individual is appearing. The operator shall not permit a seminude individual appearing live and publicly in an adult-oriented use or establishment to violate this Subsection (G).

- (H) The raised platform or stage on which any seminude individual appears live and publicly in an adult-oriented use or establishment shall be separated from any area of such use or establishment where any members of the public or customers are permitted to sit, stand, move about or dance by a separation zone consisting of not less than six feet of space (measured horizontally from the closest edge of the raised platform or stage), and a rigid physical barrier not less than 30 inches high at the outer periphery of such separation zone. A customer or member of the public shall not sit, stand, move about or dance within such six-foot separation zone while a seminude individual is appearing live and publicly in such adult-oriented use or establishment. The operator shall not permit a customer or member of the public in an adult-oriented use or establishment to so occupy such six-foot separation zone while a seminude individual is appearing live and publicly in such use or establishment.
- (I) Without respect to Subsections (G) and (H) above, a seminude individual shall not appear live and publicly in any adult-oriented use or establishment within six feet of any customers or members of the public.
- (J) An individual less than 18 years of age shall not enter or remain in the physically separate defined area of a building in which an adult-oriented use is located. The operator of an adult-oriented use or establishment shall not permit any individual less than 18 years of age to enter or remain in the physically separate defined area of a building in which an adult-oriented use is located. The age limit shall be prominently and clearly posted at all entrances to the physically separate defined area of a building in which an adult-oriented use is located.
- (K) A seminude individual appearing live in an adult-oriented use or establishment shall not be visible to anyone outside the physically separate defined area of a building occupied by such use.
- (L) Adult-oriented printed or graphic materials (including, without limitation, any advertising or packaging materials that are themselves adult-oriented printed or graphic materials) that are displayed within an adult-oriented use or establishment shall not be visible to anyone outside the physically separate defined area of a building occupied by such use.
- (M) An adult-oriented movie or other adult-oriented motion-picture materials being shown in an adult-oriented use or establishment shall not be visible to anyone outside the physically separate defined area of a building occupied by such use.
- (N) An adult-oriented use or establishment shall comply with all applicable requirements of Chapter 17, Zoning, and of all other City ordinances.
- (O) An adult-oriented use license shall not be granted for the operation of an adult-oriented use or establishment in the same building as a residential use or a motel or hotel use, unless both the adult-oriented use or motel or hotel use and the residential use are existing allowed uses pursuant to Chapter 17, Zoning, and the only way to access the residential use or motel or hotel use is by an exterior entrance that is completely separate from the adult-oriented use(s) or establishment.
- (P) An individual who appears live and publicly in a seminude condition in an adult-oriented use or establishment shall not socialize or mingle with customers or members of the public or customers in such use or establishment, and shall not work as a bartender, waitress, waiter, hostess or host, or in any other capacity in such use or establishment that involves direct contact with customers or members of the public in such use or

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establishment, during the eight hours immediately before or after so appearing.

- (Q) An operator shall not permit any criminal activity in an adult-oriented use or establishment.
- (R) A seminude individual appearing live and publicly in an adult-oriented use or establishment shall not touch any customer or member of the public in such use or establishment, or voluntarily allow himself or herself to be touched by a customer or member of the public in such use or establishment. A customer or member of the public in an adult-oriented use or establishment shall not touch a seminude individual appearing live and publicly in such a use or establishment and shall not voluntarily allow himself or herself to be touched by a seminude individual appearing live and publicly in such a use or establishment. These restrictions on touching shall be applicable, without limitation, to any touching in connection with the acceptance or giving a tip or other gratuity. The operator shall not permit a customer, member of the public or seminude individual appearing live and publicly in an adult-oriented use or establishment to violate this Subsection (R).
- (S) A customer or member of the public in an adult-oriented use or establishment shall not be directly and physically involved in any entertainment involving the live public appearance of a seminude individual. The operator shall not permit a customer or member of the public to violate this Subsection S.
- (T) A seminude individual appearing live and publicly in an adult-oriented use or establishment shall not fondle or otherwise touch in an erotic or indecent manner any other entertainer or employee in an adult-oriented use or establishment or voluntarily permit herself or himself to be fondled or otherwise touched in an erotic or indecent manner by any other entertainer or employee in such a use or establishment.
- (U) Any cubicle, booth or small room or other small enclosed space having a floor area less than 100 square feet in an adult use or establishment, which is used by customers or members of the public for private viewing of adult-oriented materials or other similar purposes (but not including a rest room), shall be completely open at one end to the main room or to an interior aisle, shall be situated and arranged so as to be easily inspected, shall contain seating for not more than one individual, shall have walls not less than six feet high without any openings separating it from any adjoining cubicles, booths or small rooms or enclosed spaces. No more than one customer, member of the public, employee or entertainer shall occupy any such cubicle, booth, small room or other small enclosed space at any one time. The operator shall not permit more than one individual to occupy any such cubicle, booth, small room or other small enclosed space at any one time.
- (V) The hours that an adult-oriented use or establishment may be open to the public shall only be 10 a.m. to 2:00 a.m. the next day.
- (W) An individual shall not perform or engage in any actual specified sexual activities in an adult-oriented use or establishment. The operator shall not permit any individual to perform or engage in any such activities in an adult-oriented use or establishment.
- (X) Except as otherwise specifically provided in this chapter:
 1. Each employee or entertainer working, performing any services or entertaining in an adult-oriented use or establishment shall possess a valid adult-oriented use work permit issued by the City Clerk;
 2. The operator shall not permit any employee or entertainer to work, perform any services or entertain in an adult-oriented use or establishment without possessing a valid adult-oriented use work permit; and
 3. Each employee or entertainer shall have a valid adult-oriented use work permit on his or her person or readily accessible at all times when working, performing any services or entertaining in an adult-oriented use or establishment and shall display

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such permit upon reasonable request by a City inspector or police officer.

- (Y) Any cubicle, booth or small room or other small enclosed space having a floor area of less than 100 square feet, which is used by customers or members of the public for private viewing of adult-oriented materials or other similar purposes (but not including a rest room) shall have interior surfaces that are light-colored, nonabsorbent and easily cleaned. Such surfaces shall be maintained in a clean and sanitary condition at all times.
- (Z) All doorways, entryways or passageways within the physically separate defined area of a building occupied by an adult-oriented use through which any customers or members of the public are permitted to pass, except exterior entrances/exits and rest rooms, shall not be closed, or obstructed, or off limits to other customers or members of the public unless specifically provided for in an adult-oriented use license.
- (AA) Every act or omission of an employee or entertainer working, providing any services or entertaining in an adult-oriented use or establishment, and every act or omission of a customer or member of the public present in an adult-oriented use or establishment, which violates this chapter or a license issued pursuant to this chapter shall be deemed to be the act or omission and violation of the operator if such act or omission occurred with the authorization, approval or knowing acquiescence of the operator, or as a result of the operator's negligent failure to supervise the conduct of the employee, entertainer, customer or member of the public and diligent supervision by the operator would reasonably have prevented the violation, and the operator shall be punishable for such act or omission to the same extent as if the operator committed or caused the act or omission.
- (BB) The operator shall be responsible for advising employees, entertainers, customers and members of the public in an adult-oriented use or establishment of applicable requirements of this chapter and of any license issued pursuant to this chapter. The operator shall be responsible for closely supervising the activities and conduct of all employees, entertainers, customers and members of the public in an adult-oriented use or establishment in order to prevent violations of this chapter and of any license issued pursuant to this chapter, and to terminate any violations that do occur as rapidly as possible, and to take such actions as may reasonably be required to prevent any recurrence of any such violations.
- (CC) Any adult-oriented use or establishment shall comply with the requirements of Chapter 17, Zoning, and all other applicable City ordinances.

37.20 EMPLOYEE AND ENTERTAINER PERMITS

- (1) After the effective date of this chapter any employee or entertainer desiring to work, provide services or entertain within the physically separate defined area of a building in which an adult-oriented use or establishment licensed pursuant to this chapter is located, while such use or establishment is open to customers or the general public, shall obtain and possess a valid adult-use work permit before commencing or continuing such work, services or entertaining. The City Clerk is authorized to issue such permits for periods of 30 days or one year, depending on the work plans of the applicant.
- (2) An application for an adult-oriented use work permit shall be filed with the City Clerk, on a form provided by the City and dated and signed by the applicant. The application shall include the following information:
 - (A) Name of the applicant and any aliases used within the five years immediately preceding the date of the application;
 - (B) Name and address of the adult-oriented use or establishment where the applicant proposes to work, perform services or entertain, the nature of the work, services or entertainment to be provided, and the anticipated duration of the work, services or

- entertainment;
 - (C) The street address and telephone number at which the applicant can be contacted regarding the application and permit;
 - (D) Applicant's date of birth;
 - (E) Applicant's sex;
 - (F) Applicant's race;
 - (G) Applicant's state of residence currently and at any time during the five years immediately preceding the date of the application;
 - (H) Whether the applicant has been convicted during the five years immediately preceding the date of the application of any of the crimes specified in 37.08(2)(g) of this chapter, and if so, the information about such conviction(s) required by that subsection; and
 - (I) Whether the applicant has been adjudicated guilty during the five years immediately preceding the date of application of any ordinance violation occurring in or relating to the operation of an adult-oriented use or establishment, and if so, the nature of the ordinance violation, the date of the adjudication, and the court and jurisdiction in which the adjudication occurred.
- (3) Upon the filing of an application, the City Clerk shall request that the City Police Department conduct a background check on the applicant. Any information obtained by the City Police Department regarding the applicant shall be promptly provided to the City Clerk. If the application as filed is incomplete, the City Clerk shall notify the applicant, in writing, within three business days after the date of filing, what additional information is required.
- (4) The City Clerk shall deny the license if the applicant is not at least 18 years of age or if the Clerk finds that a reasonable probability exists that the applicant will violate the provisions of this chapter or of a license issued pursuant to this chapter, based on a substantial pattern of noncompliant behavior during the five years immediately preceding the date of the application or other clear and convincing information. The City Clerk shall state the reason(s) for denial and notify the applicant of such reasons in writing within five business days after the filing of a complete application and the application fee.
- (5) If the applicant is at least 18 years of age, and the City Clerk does not find that a reasonable probability of future violations exists, the Clerk shall issue the license, within five business days after a complete application and the application fee required by this chapter is filed. If the City Clerk fails to act within the time provided in this section, a thirty-day license shall be deemed to be issued.

37.21 VIOLATIONS

- (1) After the effective date of this chapter, except as otherwise specifically provided in this chapter, it shall be unlawful to, and no person shall:
- (A) Operate an adult-oriented use or establishment without possessing a valid adult-oriented use license;
 - (B) Operate an adult-oriented use or establishment other than in accordance with the requirements of this chapter and of a valid adult-oriented use license;
 - (C) Violate any provision of this chapter or of any license issued pursuant to this chapter; or
 - (D) Provide materially false, misleading or incomplete information in or with an application for an initial license pursuant to this chapter, or for a renewal, amendment or minor modification of such a license.
 - (E) Work, provide services or entertain in an adult-oriented use or establishment without a valid work permit required by 37.01 of this Chapter.

37.22 ENFORCEMENT

- (1) Legal actions. The City may institute any appropriate legal actions or proceedings to enforce the provisions of this chapter or of any license issued pursuant to this chapter by means of forfeitures or penalties, injunction of violations, abatement or nuisances, or otherwise as provided by law.
- (2) Forfeitures; penalties. Any person who violates the provisions of this chapter shall, upon conviction, forfeit not less than \$250 nor more than \$1,000 for each violation, plus the costs of prosecution. Each day that a violation exists or continues shall constitute a separate violation. The penalty for default of payment of any such forfeiture and costs shall be imprisonment in the Sauk County Jail until payment thereof, but not exceeding six months.
- (3) Adjustment, suspension, termination of license. The Ordinance Committee may adjust, suspend or terminate a license issued pursuant to this Chapter in accordance with this chapter for violations of this chapter or of any license issued pursuant to this chapter that are committed by the operator or for which the operator is responsible pursuant to 37.16 of this Chapter.

37.23 AUTHORIZED REPRESENTATIVES

Any individual representing and appearing or speaking for an operator in any dealings with the Ordinance or with the Zoning Administrator shall be deemed to be an authorized representative of the operator unless the operator has specifically advised the City in writing that such individual is not to be regarded as an authorized representative or is only to be regarded as an authorized representative with respect to certain specified matters.

37.24 DISCREPANCIES

In the event of any discrepancy between a requirement imposed by the Ordinance Committee pursuant to this chapter and a requirement imposed pursuant to any other City ordinance, the more stringent requirement shall control.

37.25 OTHER LICENSES, PERMITS AND APPROVALS

Possession by an operator of a valid adult-oriented use license shall not eliminate the need to obtain any other license, permit or approval required by any Village ordinance. Notwithstanding any other provision of a Village ordinance to the contrary, any complete application for a Village license, permit or approval needed by an adult-oriented use or establishment shall be deemed to be automatically granted if the application is not decided within 45 days after the date of filing (or the date of completion, if later than the date of filing) and the payment of any applicable application fee, and the Village shall issue a written notice to the operator of any required additional information needed to complete any such application within 10 business days after the date of filing.