

## 6.16 Adult Oriented Establishments

### a. Purpose and Findings

1. Purpose. It is the purpose of this Ordinance to regulate Adult Oriented Establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
  - (a) Prevent additional criminal activity within the City;
  - (b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
  - (c) To locate Adult Oriented Establishments away from residential areas, schools, churches, parks, and playgrounds;
  - (d) Prevent concentration of Adult Oriented Establishments within certain areas of the City.

The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including Adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First and Fourteenth Amendments to the Constitution of the United States or to deny access by distributors and exhibitors of Adult oriented entertainment to their intended market.

2. Findings. The City Council makes the following findings about the effect adult oriented establishments have on the character of the City's neighborhoods.

In making these findings, the City Council accepts the recommendations of staff who have reviewed the many reports, studies, judicial decisions and experiences of other cities around the state and country concerning the "secondary effects" on the areas in which such activities are located or take place, including: The Report of the Attorney General Working Group on Regulation of Sexually Oriented Businesses, dated June 6, 1989, prepared by then Minnesota State Attorney General Hubert H. Humphrey, III; the City of St. Cloud, MN; the City of St. Paul, MN; the City of Los Angeles, CA; the City of Austin, TX; and, various other cities throughout the Country that have studied the impact of adult oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies the City Council concludes:

- (a) Adult uses and sexually oriented business can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the City crime prevention programs and law enforcement services.
- (b) Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are located. This situation could reduce the amount of desirable housing and cause residents to flee the neighborhood.

- (c) The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and results in other businesses and residents moving or fleeing from the area. Lower property values that can result from the concentration of such businesses, erode the City's tax base and contribute to blight.
- (d) Adult uses and sexually oriented businesses can have a dehumanizing and destructive influence on young people and students attending schools and can diminish or destroy the enjoyment and family atmosphere of persons using parks, playgrounds, and other public recreational areas. They can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and similar facilities.
- (e) It is necessary to provide for the special and express regulations of business establishments or commercial enterprises that operate as adult body painting studios, adult book stores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect public health, safety and welfare, and to guard against inception and transmission of disease.
- (f) Businesses such as the types described in paragraph (e) above, and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training, are susceptible to operations contravening, subverting, or endangering the morals of the City by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, and thus requiring close inspection, permitting and regulations.
- (g) Control and regulation of businesses of these types, in view of the abuses often perpetrated, require intensive efforts by the Police Department and other departments of the City. It is necessary for the City to provide services to all of the City without concentrating the public services in one area. The concentrated use of City services detracts from and reduces the level of services available to the rest of the City. Thus, these types of establishments can diminish the ability of the City to protect and promote the general health, welfare, morals and safety of the City.
- (h) The limitation on the hours of operation and the regulation of exterior appearance, including signage, of adult oriented business activities is necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts associated with those activities, and otherwise address, mitigate and, if possible, eliminate the adverse impacts and secondary effects of sexual oriented business activities on the areas in which such activities are located or taking place.
- (i) The City Council adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the City's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of the City.

b. **Definitions**

The following words shall have the following meanings:

1. **Adult Uses:** Adult body painting studios, adult book stores, adult cabaret, adult car wash, adult hotels or adult motels, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation of display, depiction or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities defined as obscene by Minnesota Statutes § 617.241 are not lawful and are not included in the definitions of adult uses.
2. **Adult Uses (Accessory):** The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like. Accessory uses that use less than 200 square feet or ten percent (10%) of the total floor area (square footage), whichever is less, are exempted from obtaining a license under this ordinance and, the requirement of being located in the I Industrial zoning district.
3. **Adult Uses (Principal):** The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

**Adult Body Painting Studio:** An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “Specified anatomical areas”.

**Adult Book Store:** An establishment, building or business engaging in the barter, rental or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than 200 square feet or ten (10) percent of the useable floor area of the establishment, building, or business, whichever is less, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to “specified sexual activities” or “specified anatomical areas”.

**Adult Cabaret:** An establishment, building or business that provides dancing or other live entertainment if such establishment excludes minors by virtue of age and if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of “specified sexual activities” or “specified anatomical area”.

**Adult Car Wash:** A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of “specified anatomical areas”.

Adult Companionship Establishments: An establishment or business, if such establishment excludes minors because of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specific sexual activities” or “specified anatomical areas”.

Adult Entertainment Facility: A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”.

Adult Establishment: An establishment, building or business engaged in any of the following activities or which uses any of the following procedures or practices, either:

- a. Any business conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage either by law or by the operators of such business; or
- b. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas”.

Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

Adult Hotel or Motel: A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specific anatomical areas”.

Adult Massage Parlor, Health/Sport Club: A massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

Adult Mini-Motion Picture Theater: A business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age or law, or if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult Modeling Studio: An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

Adult Motion Picture Arcade: Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, computers, or other production devices that show images to five or fewer persons per machine at once, and characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.

Adult Motion Picture Theater: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons.

Adult Novelty Business: A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or related to “specified sexual activities” or “specified anatomical areas”.

Adult Sauna/Steam Room/Bathhouse: A business that excludes minors because of age, and which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, and which utilizes steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

4. Licensed Family Daycare, Licensed Group Family Daycare, Licensed Child Care Center: A facility holding a license from St. Louis County or Minnesota pursuant to Minnesota Statutes, Chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.
5. Minor: Any person under the age of eighteen (18) years.
6. Nudity: The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.
7. Public Library: Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.
8. Public Park: A park, reservation, playground, beach, or recreation or community center in the City owned, leased, or used wholly or in part by a city, county, state, school district, or federal government for recreational purposes.
9. Place of Worship: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.
10. School: A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of the Ordinance.

11. Sexually Oriented Business: Any adult body painting studios, adult book stores, adult cabaret, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouse, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities defined as obscene by Minnesota Statutes § 617.241 are not lawful and are not included in the definitions of adult uses.
12. Specified Anatomical Areas:
  - a. Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
13. Specified Sexual Activities:
  - a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zoerasty; or
  - b. Human genitals in the state of sexual stimulation, arousal, or tumescence; or
  - c. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
  - d. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, female breasts; or
  - e. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
  - f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
  - g. Human excretion, urination, menstruation, vaginal or anal irrigation; or
  - h. Any combination of the above.

c. **Application of this Ordinance**

Except as may otherwise be permitted in this Ordinance, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

No Adult Oriented Business shall engage in any activity or conduct, or permit any other person to engage in any activity or conduct, in or about an establishment which is prohibited by any ordinance of the City, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

d. **Licensing**

1. **License Required:**

No person, firm, or corporation shall own or operate an adult oriented business in the City without having first secured a license as provided herein.

2. **Exemption:** Access uses that use less than 200 square feet or ten (10) percent of the total floor area (square footage), whichever is less, of the establishment, space, structure or building in which it is located are exempted from obtaining a license.

3. **Applications:**

An application for a license shall be made on a form provided by the City.

This application shall include:

- (a) The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, partnership, limited liability corporation (LLC), or similar entity, the names, residences, phone numbers and birth dates of those owners holding more than five (5) percent of issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.
- (b) The names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as the same have furnished or extended credit for the purposes of constructing, equipping, maintaining, operating, furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
- (c) The name, address, phone number and date of birth of all employees, and of the operator, manager, or lessee of such operation, if different from the owner(s).
- (d) A statement detailing each misdemeanor, gross misdemeanor or felony relating to a sex related offense and/or the operation of adult uses and related activities of which the manager, operator, lessee, employees and/or applicant and, for a corporation, the owners of more than five (5) percent of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other counties or cities.

- (e) The activities and type of business to be conducted.
- (f) The address and legal description of the building, establishment or premises where the adult oriented business is to be located.
- (g) A building plan of the premises detailing internal operations and activities, including a statement of total floor space occupied by the business.
- (h) A description or building plan that details all proposed interior and exterior changes to an existing building or structure.
- (i) Intended hours of operations.
- (j) Provisions made to restrict access by minors.
- (k) The license fee required by this ordinance must accompany the application.
- (l) Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the City Clerk by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the City Council. Failure to report said changes by the applicant(s) or the licensee may result in the denial or revocation of a license.

4. License Fees:

- (a) The annual fee, investigative fee, and late fees for and Adult Business license shall be established by resolution of the City Council.
- (b) Each application for a license shall be accompanied by payment in full of the required application and investigation fees for the license. All fees shall be paid at the time of application.
- (c) All permits/licenses shall expire on the last day of December in each year. The City shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made, the City may issue a license for the remainder of the year for a prorated fee. In computing such fee, the City shall count any unexpired fraction of a month as one (1) month. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
- (d) No part of any annual fee, investigative fee, and/or late fee paid as required by this Ordinance shall be refunded.

5. Granting of License:

The City shall investigate all facts set out in the application, including a background check by the Police Chief of the applicant or licensee, the manager, operator and each cabaret dancer. The City Council shall act to approve or disapprove the license application within sixty (60) days from the date the application was submitted. If the

application is deficient, the Council shall act on the application within one hundred and twenty (120) days from the date that the deficiency has been corrected.

6. Persons Ineligible for License:

The City shall not grant a license to nor may one be held by any person who:

- (a) Is under twenty-one (21) years of age;
- (b) Has been convicted of a felony or any obscenity crime as defined by Minnesota Statutes § 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith;
- (c) Is not the proprietor of the establishment for which the license is issued;
- (d) Has not paid the license and investigative fees required by this Ordinance;
- (e) Is not a citizen of the United States;
- (f) Has had an adult use or similar permit or license revoked under an ordinance or statute similar to this Ordinance.

7. Place Ineligible for License:

- (a) No license shall be granted for adult oriented business on any premises where a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for cause until one (1) year has elapsed after such conviction or revocation.
- (b) Except uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult oriented business that does not meet all City Ordinance requirements, all building and fire codes requirements, and all provisions of State and Federal law.

8. Non-Conforming Uses:

- (a) No such adult oriented business shall be expanded or enlarged except in conformity with the provisions of this Ordinance;
- (b) A non-conforming adult oriented business shall be required to apply for and receive an adult oriented establishment license from the City. The City does not require a public hearing before issuing a license for the non-conforming adult oriented business.

9. Conditions of License Generally:

- (a) The City shall issue the license to the applicant. The license shall not be transferred to another holder.
- (b) The license shall be issued only for the premises or location described in the application. No license may be transferred to another location or place without the approval of the City Council.

- (c) Every license shall be granted subject to the conditions of the following subdivisions and all other provisions of this Ordinance and of any applicable city, state and federal law.
- (d) The license, if granted, shall state on its face the name of the licensee, the expiration date, and the address of the business. All licensed premises shall have the license posted in a conspicuous place at or near the entrance of the business so that it may be easily read at any time.
- (e) No minor shall be allowed in or on the premises of an Adult Oriented Business.
- (f) Every licensee shall be responsible for the conduct of its place of business and shall maintain conditions consistent with this Ordinance and all federal, state and local rules and regulations generally.

10. Additional Conditions for Adult Cabarets:

- (a) Dancer's License. No person shall dance at an adult cabaret without a valid dancer's license issued by the City.
- (c) Dancer's License Application and Issuance.
  - (1) Application for dancers' licenses shall be made to the City.
  - (2) An application for dancers' licenses shall be verified and shall contain or set forth the following information:
    - (a) The applicant's names, home addresses (current and former), home telephone number, date of birth, and aliases (past and present); and
    - (b) The business name and address where the applicant intends to dance.
  - (3) Application shall be accompanied by a nonrefundable fee of five dollars (\$5.00).
  - (4) Within five (5) days of receipt of an application for dancer's license, the City shall issue the license.
  - (5) A dancer's license shall entitle a dancer to dance only at the business indicated on the dancer's license application.
- (c) Dancer's license – renewal, revocation. A dancer's license may be renewed by following the application procedure in Section g.
- (d) Additional conditions.
  - (1) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
  - (2) No dancer, live entertainer, or performer, patron or any other person shall be nude in an adult cabaret.
  - (3) No dancer, live entertainer, or performer shall be under 18 years old.

- (4) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- (5) No dancer or performer shall perform any dance or live entertainment closer than ten feet to any patron.
- (6) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (7) No patron shall pay or give any gratuity to any dancer or performer.
- (8) No dancer or performer shall solicit any pay or gratuity from any patron.

e. Inspection.

- (1) **Access.** An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- (2) **Refusal to Permit Inspections.** A person who operates an Adult Oriented Business or their agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension, revocation or non-renewal of the license as provided in Section g.
- (3) **Exceptions.** The provisions of this section do not apply to areas of an adult motel, which are currently being rented by a customer for use as a permanent or temporary habitation.

f. **Location Conditions of License**

The City shall permit adult oriented establishments to be located only in the **I – Industrial Zoning District**, with a Conditional Use Permit, and subject to the following conditions:

- (1) No adult oriented establishment shall be located closer than 300 feet from any other adult use principal or sexually oriented business in the City. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest point of the actual business premises of any other adult use or sexually oriented business.

- (2) No adult oriented establishment shall be located closer than 500 feet from any residential lot line, place of worship, school, public park, licensed family daycare home, public library, or licensed child care or daycare center in the city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, licensed family daycare home, licensed group family daycare home, public library or licensed child care or daycare center.
- (3) No adult oriented establishments shall be located closer than 500 feet from any residential lot line, any residential zoning district or any residential planned unit development (P.U.D.). Measurements shall be a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult oriented establishment to the nearest property line of the premises or building use as a dwelling or residence, residential zoning district or P.U.D.
- (4) No adult oriented establishments shall be located closer than 500 feet from any state or federal trunk highway or any major city thoroughfare.
- (5) The City prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structures:

Adult body painting studio; Adult book store; Adult cabaret; Adult car wash; Adult companionship establishment; Adult entertainment facility; Adult hotel or motel; Adult modeling studio; Adult sauna/steam room/bathhouse; Adult motion picture theater; Adult mini-motion picture theater; Adult massage parlor; Adult health/sports club; Adult novelty business; Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas” that the public can see.
- (6) An adult oriented establishment shall not sell or dispense non-intoxicating or intoxicating liquors, nor shall it be located within 500 feet of a building that contains a business that sells or dispenses 3.2% malt liquor beverage or intoxicating liquors. An adult use oriented establishment shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business.
- (7) No adult oriented establishment’s entertainment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of City, the laws of the State of Minnesota or the United States of America. Nothing in the Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- (8) No adult use oriented establishment shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

- (9) All adult use oriented establishments shall prominently display a sign at the entrance and located within two (2) feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter".
- (10) No adult oriented establishments (principal) shall be open to the public between the hours of 10:00 p.m. and 10:00 a.m. on the days of Monday through Saturday. No adult oriented establishments (principal) shall be open to the public on Sunday.
- (11) Adult use accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.
- (12) An adult oriented establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor would be in violation of Minnesota Statutes Chapter 617 or other applicable federal or state statutes or local ordinances.
- (13) All entrances to the establishment with the exception of the emergency fire exits which are not useable by patrons to enter the business shall be visible from a public right-of-way.
- (14) The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material.
- (15) Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
- (16) No Adult Oriented Establishment may be granted a conditional use permit under this section unless it is applied for and received a license pursuant to this Ordinance. Applications for an Adult Oriented Establishment license and a conditional use permit may happen concurrently or a special use permit may be granted under the section subject to the applicant receiving a license pursuant to this Ordinance. An applicant for a special use permit under this section shall also include a copy of the application for the license under Section d. with the application under this article.

g. **Expiration, Suspension, Revocation, or Non-Renewal of License**

- (1) **Expiration.** Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section d. Applications for renewal must be made at least sixty (60) days before the expiration date.
- (2) **Suspension, Revocation, or Non-Renewal.** The City may revoke, suspend, or not renew a license upon recommendation of the City Police Chief that shows that the licensee, its owners, managers, operator, employees, agents or any other interested parties have engaged in any part of the following conduct:
  - (a) Fraud, deception, or misrepresentation about securing the license.

- (b) Licensee or employees has or have knowingly allowed possession, use, or sale of alcohol or controlled substances on the premises.
  - (c) Knowing permitted gambling by any person on the Adult Oriented Establishment premises. Knowingly operated the Adult Oriented Establishment during a period of time when the licensee's license was suspended.
  - (d) Demonstrated inability to operate or manage an Adult Oriented Establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
  - (e) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
  - (f) Refused to allow an inspection of the Adult Oriented Establishment Premises as authorized by this chapter.
  - (g) Conviction of a felony or any offensive involving moral turpitude.
- (3) **Notice.** A suspension, revocation or non-renewal by the City shall be preceded by written notice to the licensee and a public hearing before the City Council. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.
- (4) **Decision.** At the conclusion of the hearing the City Council may order:
- (a) That the revocation, suspension or non-renewal be affirmed;
  - (b) That the revocation, suspension or non-renewal be lifted and that the license be returned to the certificate holder.
- (5) **Appeals.** After denial of an application, or denial of renewal of an application or suspension or revocation of any license, the applicant of licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

h. **Sign Restrictions**

The following sign regulations shall apply to all adult oriented establishments in the City. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult oriented establishments. These regulations are aside from any other provisions of the City's regulations.

- (1) All signs shall be flat wall mounted signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements or electronically or mechanical changing messages. No signs shall contain any message or image which ideas "specified sexual activities" or "specified anatomical areas" as defined herein.
- (2) The amount of allowable sign area shall be one (1) square foot of sign area per foot of lot frontage on a street, not to exceed fifty (50) square feet.

- (3) No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
- (4) No signs shall be placed in any window. A two (2) foot square sign may be placed on the door to state the hours of operation and admittance to adults only.

i. **Penalty**

Any person who violates, neglects, refuses to comply with, or assists or participates in any way in the violation of any of the provisions or requirements of this ordinance is guilty of a misdemeanor and for each such violation is subject to the maximum penalty prescribed by state law for a misdemeanor. Each day such violation continues shall constitute a separate offense.

j. **Severability**

In the event any section, subsection, clause, phrase, or portion of this ordinance is for any reason held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the City Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

This ordinance shall become effective upon its adoption and publication according to law. (Added by Ordinance 163.)