

AN ORDINANCE RELATING TO DEFINING AND REGULATING ADULT ESTABLISHMENTS; PROVIDING FOR DISTANCING REQUIREMENTS, DEFINITION, AND RESTRICTIONS OF SUCH ESTABLISHMENTS FROM RESIDENTIAL DISTRICTS AND OTHER USES.

THE COUNTY BOARD OF STEELE COUNTY, MINNESOTA, DO ORDAIN:

Section 100 Adult Establishments.

Section 200 Findings and Purpose. Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. Based on these studies and findings, the County Board concludes:

- (a) Adult establishments have adverse secondary impacts of the types set forth above.
- (b) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by geographic, licensing, and health requirements.
- (c) It is not the intent of the County Board to prohibit adult establishments from having a reasonable opportunity to locate in the county.
- (d) Minn. Stat. § 394, allows the county to adopt regulations to promote the public health, safety, morals and general welfare.
- (e) The public health, safety, morals, and general welfare will be promoted by the county adopting regulations governing adult establishments.

Section 300 Definitions. For purposes of this section, the following terms have the meanings given them.

Subd. 1. Adult Establishment. A business engages in any of the following activities or which utilizes any of the following business procedures or practices:

- (a) A business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business;
- (b) Any business that has (1) at least twenty-five percent (25%) of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) devoted to items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas or at least twenty-five percent (25%) of any month's gross sales is derived from the sale or rental of items, merchandise or material

distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”; or

- (c) Any adult use as defined.

Subd. 2. Adult Use. Any adult use is any of the activities and businesses:

- (a) Adult Body Painting Studio: an establishment or business which provides the service of applying paint or other service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such person is nude.
- (b) Adult Bookstore: An establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if (1) at least twenty-five percent (25%) of the inventory, stock and trade or publicly displayed merchandise, or (2) at least twenty-five percent (25%) of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to items, merchandise or other material distinguished and characterized by an emphasis on the depiction or description of "specified sexual activities" or “specified anatomical areas”, or at least twenty-five (25%) of any month’s gross sales is derived from the sale or rental of items, merchandise or material distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- (c) Adult Cabaret: A business or establishment that provides dancing or other live entertainment to patrons if the dancing and live entertainment is distinguished and characterized by an emphasis on the presentation, display, depiction of matter that seeks to evoke, arouse or excite the patrons’ sexual or erotic feelings or desire.
- (d) Adult Companionship Establishment: A business or establishment that excludes minors by reason of age, and 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 “specified sexual activities” or “specified anatomical areas”.
- (e) Adult Conversation / Rap Parlor: A business or establishment that excludes minors by reason of age, and which provides the services of engaging in or listening to conversation, talk, or discussion, if such service is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- (f) Adult Health / Sport Club: A health / sport club which excludes minors by reason of age, if such club is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- (g) Adult Hotel or Motel: A hotel or motel from which minors are specifically excluded from the patronage and where material is presented which is distinguished and characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”.

Subd. 4. Specified Sexual Activities:

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- (b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- (d) Fondling or touching of the nude human genitals, pubic region, buttocks, or female breast(s); or
- (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in the actives involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; 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.

Section 400 General Provisions. Adult establishment as defined in this Ordinance shall be subject to the following general provisions:

Subd. 1. Adult uses shall be restricted to the following zones: B (general business) pursuant to section 1203.6 of the Steele County Zoning Ordinance, subject to the following:

Subd. 2. Adult use establishments shall be located at least one thousand feet (1000), as measured in a straight line, from the main public entrance of the adult establishment to the nearest boundary line of the following:

- (a) Residentially zoned or used property;
- (b) A licensed daycare center;
- (c) Any school;
- (d) Any church;
- (e) Any hotel or motel;
- (f) Any public park;
- (g) Any cemetery;
- (h) Any hospital;
- (i) Any nursing home;
- (j) Any youth facility;
- (k) Another adult establishment;

Subd. 3. Adult establishments shall adhere to the following signing regulations:

- (a) Signs shall be generic in nature and shall only identify the type of business which is being conducted. Signs shall not be pictorial.

(b) Sign messages shall comply with the requirements of size and number for the district in which they are located.

Subd. 4. Each adult establishment is a separate use and no two adult establishments shall be located in the same building or upon the same property.

Subd. 5. Adult establishments shall be prohibited in establishments where alcoholic beverages are served.

Subd. 6. Adult establishments shall be prohibited at any place or event where minors are permitted.

Section 500            Hours of Operation. An adult establishment may not be open between the hours of 10:00 p.m. and 9:00 a.m.

Section 600            Additional Adult Cabaret Regulations.

Subd. 1. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid adult establishment license.

Subd. 2. An adult cabaret licensee shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired or employed as dancers or performers by the licensee.

Subd. 3. An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.

Subd. 4. No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.

Subd. 5. No dancer, live entertainer, performer, patron, or any other person shall be nude in an adult cabaret.

Subd. 6. No dancer, live entertainer, or performer shall be under 18 years old.

Subd. 7. All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet from the level of the floor.

Subd. 8. No dancer or performer shall perform or dance closer than ten (10) feet to any patron.

Subd. 9. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

Subd. 10. No patron shall directly pay or give any gratuity to any dancer or performer.

Subd. 11. No dancer or performer shall solicit any pay or gratuity from any patron.

Subd. 12. No person under the age of eighteen (18) years shall be admitted to an adult cabaret.

Subd. 1. No person shall own or operate an adult establishment without having first secured a license.

Subd. 2. Application:

The application for an adult establishment license shall be submitted on a form provided by the County and shall include:

- (a) If the application is an individual, the name, residence, phone number, and birthdate of the applicant. If the applicant is a partnership, the name, residence, phone number, and birthdate of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birthdates of all those persons holding more than five (5) percent of the issued outstanding stock of the corporation.
- (b) The name, address, phone number, and birthdate of the operator and manager of such operation, if different from the owners.
- (c) The address and legal description of the premises where the adult establishment is to be located.
- (d) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in other communities. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five (5) percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in other communities.
- (e) The activities and types of business to be conducted.
- (f) The hours of operation.
- (g) The provisions made to restrict access by minors.
- (h) A building plan of the premises detailing all internal operations and activities.
- (i) The license shall expire on December 31 of the year it is issued.

Subd. 3. License Fees:

- (a) Each application for a license shall be submitted to the County Auditor. Each application for a license shall be accompanied by payment in full of the required fee for the license. Upon rejection of any application for a license, the County shall refund the license fee.
- (b) All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one (1) year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a prorated fee. In computing such fee, any unexpired fraction of a month shall be counted as one (1) month.
- (c) The annual fee for an adult establishment license shall be \$1,000.00.

- (d) No part of the fee paid by any license issued under this Ordinance shall be refunded except in the following instances upon application to the County Auditor within thirty (30) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases no less than one (1) month before expiration of the license because of:
  - (i) Destruction or damage of the licensed premises by fire or other catastrophe.
  - (ii) The licensee's disabling illness.
  - (iii) The licensee's death.
  - (iv) A change in the legal status making unlawful for a licensed business to continue.

Subd. 4. Granting a License:

- (a) The Steele County Sheriff shall investigate all facts set out in the application and the Planning Commission shall hold a public hearing and report their findings to the Board within thirty (30) days after the County Auditor receives that application. Opportunity shall be given to any person to be heard for or against the granting of the license.

After such investigation and hearing, the County Board shall grant or refuse the application. The County Board shall grant or refuse the application thirty (30) days after the public hearing has closed.

- (b) Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premise without the approval of the County Board. If the licensee is a partnership or corporation, a change in the partnership or corporation, a change in the identity of any of the principals of the partnership or corporation shall be deemed a transfer of the license.

Subd. 5. Persons Ineligible for License:

No license shall be granted to or held by any person:

- (a) Under twenty-one (21) years of age.
- (b) Who is overdue or whose spouse is overdue in payments to a city, county, state, or federal government of taxes, fees, fines or penalties, or charges or liens for municipal services and utilities assessed against them or imposed upon them.
- (c) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offences, obscenity offenses, or adult establishments.
- (d) Who is not the proprietor of the establishment for which the license is issued.
- (e) Who is residing with a person who has been denied a license by any other Minnesota jurisdiction to operate an adult establishment, or residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding twelve (12) months.

- (f) Who has not paid the license and investigative fees required by this subsection.

Subd. 6. Places Ineligible for License.

- (a) No license shall be granted for adult establishments on any premises where 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) No license shall be granted for any adult establishment which is not in compliance with the County's zoning regulations, or fire, building and health and safety codes and all provisions of federal and state law.

Subd. 7. Conditions of License:

- (a) All licensed premises shall have the license posted in a conspicuous place at all times.
- (b) No Minor shall be permitted on the licensed premises.
- (c) Any designated inspection officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (d) No adult goods or material services shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
- (e) In granting a license for an adult establishment, the County Board may impose additional conditions to protect the best interest of the surrounding area or the county as a whole.
- (f) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the county upon request.
- (g) The licensee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the licensed premises from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas.

Subd. 8. Penalty:

- (a) Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty of a misdemeanor as prescribed by state law.
- (b) Any violation of this Ordinance shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the County Board proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The County Board shall hold a public hearing for the purpose of determining whether to revoke or suspend the license, which public hearing shall be within forty-five (45) days of the date of the notice. The County Board shall determine whether to suspend or revoke

the license within forty-five (45) days after the close of the hearing and shall notify the licensee of its decision within that forty-five (45) day period.


Subd. 9. Right of Appeal:

Any applicant whose application for an adult establishment license is denied, or any licensee whose license is revoked or suspended, may appeal such denial, revocation, or suspension to a court of competent jurisdiction within thirty (30) days after the denial, revocation, or suspension of such license.


Section 800 Effective Date.

This Ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted this 23<sup>rd</sup> day of March, 1999, with the following vote: Aye 4; No 0; Absent 1.  
Approved and signed this 23<sup>rd</sup> day of March, 1999.

  
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Board Chairman

ATTEST:

  
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County Auditor