

CHAPTER 118: ADULT ESTABLISHMENTS

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§ 118.01 DEFINITIONS

For purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

Adult Establishment.

(1) Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”; or

(2) Any business that engages in any “Adult Use” as defined herein.

Adult Use. Any of the activities and businesses described below.

(1) ***Adult Body Painting Studio.*** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

(2) ***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, movies, DVD or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”.

(3) **Adult Cabaret.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, “Specified Sexual Activities” or “Specified Anatomical Areas”; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) **Adult Companionship Establishment.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(5) **Adult Conversation/Rap Parlor.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(6) **Adult Health/Sport Club.** A health/sport club that is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(7) **Adult Hotel or Motel.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “Specified Sexual Activities” or “Specified Anatomical Areas”.

(8) **Adult Massage Parlor/Health Club.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(9) **Adult Mini-Motion Picture Theater.** A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(10) **Adult Modeling Studio.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in “Specified Sexual Activities” or display “Specified Anatomical Areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

(11) **Adult Motion Picture Arcade.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are

distinguished or characterized by an emphasis on depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas”.

(12) **Adult Motion Picture Theater.** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas” for observation by patrons.

(13) **Adult Novelty Business.** An establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing “Specified Sexual Activities” or “Specified Anatomical Areas”, or items, merchandise or devices that simulate “Specified Sexual Activities” or “Specified Anatomical Areas”, or are designed for sexual stimulation.

(14) **Adult Sauna.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

(15) **Adult Steam Room/Bathhouse Facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “Specified Sexual Activities” or “Specified Anatomical Areas”.

Nude or Specified Anatomical Areas.

(1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and

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

Specified Sexual Activities.

(1) 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; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zoerastia;

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

(4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

(6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or human excretion, urination, menstruation, or vaginal or anal irrigation.

Substantial or Significant Portion. 25% or more.

§ 118.02 FINDINGS, PURPOSE AND INTENT

(A) *Findings of the City Council.* Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minneapolis and Rochester, Minnesota; Indianapolis, Indiana; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; St. Croix County, Wisconsin, have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Cambridge makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by city staff. Based on these studies and findings, the City Council concludes:

(1) Adult establishments have adverse secondary impacts of the types set forth above.

(2) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, site design and operational regulations, and health requirements.

(3) It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.

(4) M.S. § 462.357, as it may be amended from time to time, allows the city to adopt regulations to promote the public health, safety, morals and general welfare.

(5) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments.

(6) Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.

(7) Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such

businesses can, however, minimize this risk, provided such facilities are governed by operational regulations.

(8) Adult establishments can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

(9) Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(10) The risk of criminal activity and/or public health problems can be minimized through location requirements and a regulatory scheme as prescribed herein.

(B) *Purpose.* It is the purpose of this chapter, and the related provisions of Chapter 156, to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to:

(1) Prevent additional criminal activity within the city;

(2) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;

(3) To locate adult establishments away from residential areas, schools, churches, libraries, parks, and playgrounds;

(4) Prevent concentration of adult establishments within certain areas of the city.

(C) *Intent.* The provisions of this chapter and Chapter 156 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 these provisions to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

§ 118.03 APPLICATION

(A) 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 chapter and Chapter 156.

(B) No adult establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the 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 chapter shall be construed as authorizing or permitting conduct that 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.

§ 118.04 LICENSE REQUIRED

It is unlawful for any person or entity to own, lease, rent, manage, or operate an adult establishment without a valid license issued by the City pursuant to this chapter.

§ 118.05 LICENSE APPLICATION

(A) An application for a license must be made on a form provided by the City. The completed application must contain the following information:

(1) *All applicants.* For all applicants:

(a) Whether the applicant is a natural person, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed, along with a sketch or diagram showing the floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(c) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by M.S. § 333.01, as it may be amended from time to time, shall be submitted.

(d) The name and street address of other adult establishments operated by the applicant and whether the applicant has had a previous adult establishment license suspended or revoked.

(2) *Applicants who are natural persons.* If the applicant is a natural person:

(a) The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.

(b) Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.

(c) The street and city addresses at which the applicant has lived during the preceding two (2) years.

(d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

(e) Whether the applicant has ever been convicted of a misdemeanor, gross misdemeanor or felony relating to sex offenses, obscenity offenses, or adult establishments.

(3) *Applicants that are partnerships.* If the applicant is a partnership:

(a) The name(s) and address(es) of the partnership, the name(s) and address(es) of all partners and all of the information concerning each partner that is required of applicants in subsection (2) of this section.

(b) Whether the partnership is general or limited.

(c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to M.S. § 333.01, as it may be amended from time to time, a certified copy of the certificate shall be attached to the application.

(4) *Corporate or other applicants.* If the applicant is a corporation or other organization:

(a) The name of the corporation or business form, and if incorporated, the date and state of incorporation.

(b) A true copy of the certificate of incorporation, articles of incorporation or association agreement and bylaws shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, as it may be amended from time to time, shall be attached. If the entity is a limited liability company, then true and accurate copies of the articles of organization and any membership agreements shall be attached to the application.

(c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of the applicants in subsection (2) of this section.

(d) Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.

(e) The name of the registered corporate agent and the address of the registered office for service of process.

(B) Changes in the information provided on the application or provided during the investigation must be promptly reported in writing to the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City Administrator in writing before action is taken on the application. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.

(C) A background investigation form must be completed and will be reviewed by the Police Department.

(D) The Police Chief or his/her designee shall review the license application and background investigation form for full disclosure and accurate information. The City Council shall review and will

approve all qualified Adult Business license applications within 60 days of receipt of the license application and background investigation form.

§ 118.06 DISQUALIFICATIONS AND REQUALIFICATION

(A) No license will be issued if one (1) or more of the following conditions exist:

- (1) The applicant is under twenty-one (21) years old;
- (2) The applicant failed to supply all of the information requested on the license application;
- (3) The applicant gives false, fraudulent, or untruthful information on the license application;
- (4) The applicant has been convicted of a misdemeanor, gross misdemeanor, or felony relating to sex offenses, obscenity offenses, or adult establishments, except as provided in § 118.06(B);
- (5) The adult establishment is not in full compliance with the City code and all provisions of state and federal law;
- (6) The applicant has not paid the required license fee;
- (7) The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment or such license has been suspended or revoked, except as provided in § 118.06(B);
- (8) The applicant is not the proprietor of the establishment for which the license is sought.

(B) An applicant may qualify for a license:

- (1) After the suspension period has expired, upon proof from the applicant that the conditions giving rise to the suspension have been remedied;
- (2) After one (1) year has elapsed in the case of a previous license denial or revocation;
- (3) After two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor or gross misdemeanor offense;
- (4) After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or
- (5) After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two (2) or more misdemeanor or gross misdemeanor offenses or combination of misdemeanor or gross misdemeanor offenses occurring within any twenty-four (24) month period.

§ 118.07 EXPIRATION AND RENEWAL

(A) *Expiration.* An adult establishment license expires at the end of the calendar year.

(B) *Renewal.* A licensee may renew a license by completing an application as provided in § 118.05. Upon a timely application, the applicant will be allowed to continue business until the City determines whether the applicant meets the criteria for renewal of the license. If the City denies the renewal, the applicant shall not be issued a license for one (1) year from the date of denial.

§ 118.08 SUSPENSION

(A) *Causes of suspension.* The City may suspend a license if it determines that the licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any provision of this chapter;
- (2) Refused to allow an inspection of the adult establishment as authorized by this chapter; or
- (3) Knowingly permitted unlawful gambling by any person on the adult establishment premises.

(B) *Duration.* The suspension shall continue until the condition or offense giving rise to the suspension has been remedied, as demonstrated by the licensee, and may be continued by the City Council for a period determined reasonable and appropriate under the circumstance to deter future offenses, not to exceed 30 days.

§ 118.09 REVOCATION

(A) *Suspended licenses.* The City may revoke a license if a cause of suspension in § 118.08 occurs and the license has been suspended at least once before within the preceding twelve (12) months.

(B) *Causes of revocation.* The City may revoke a license if it determines that:

(1) A licensee gave false or misleading information in the material submitted to the City during the application process;

(2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(3) A licensee or an employee has knowingly allowed prostitution on the premises;

(4) A licensee or an employee knowingly operated the adult establishment during a period of time when the licensee's license was suspended;

(5) A licensee has been convicted of an offense listed in § 118.06 (A) (4), regardless of whether the conviction is being reviewed on appeal; or

(6) Except in the case of an adult hotel or motel, 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.

(C) *Duration.* Revocation of a license shall continue for one (1) year. After the revocation period, the licensee may apply for an adult establishment license as provided in § 118.05, the issuance of which will be controlled by § 118.06.

§ 118.10 PROCEDURES FOR ACTION AGAINST LICENSE

Non-renewals, suspensions, and revocations of an adult establishment license are governed by the following procedures:

(A) *Notice and hearing.* In the event that the City proposes to non-renew, suspend, or revoke a license, the City will notify the licensee in writing and hold a hearing on the proposed non-renewal, suspension, or revocation of the license. The notice to the licensee must state the basis for the proposed action and the date, time, and location of the hearing. The notice may be served upon the licensee personally or by leaving the notice at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on the license application.

The hearing must be held by the City Council within thirty (30) days of the date of the notice. The City Council must determine whether to non-renew, suspend, or revoke a license and provide notice of its decision to the licensee within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner.

(B) *Effect of Decision.* If the Council determines to non-renew, suspend or revoke a license, the decision becomes effective fifteen (15) days after notice of the decision is provided to the licensee, at which point the licensee must cease operating the adult establishment. If, within that fifteen (15) days, the licensee files and serves an action in state or federal court challenging the Council's decision, the decision is stayed until the conclusion of such action, unless otherwise ordered by the court.

§ 118.11 POSTING

The license, if granted, must state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the adult establishment. The license must be posted in a conspicuous place at or near the entrance to the adult establishment.

§ 118.12 FEES

The annual license fee and investigation fee for adult establishments shall be an amount set by the City Council from time to time.

§ 118.13 LOCATION

Adult establishments shall be a permitted land use as prescribed by Chapter 156.

§ 118.14 OPERATION

The owner and operator of an adult establishment must demonstrate to the city that the operation requirements in this subsection have been and are continually met.

- (A) *Off-site viewing.* Any business operating as an adult establishment shall prevent off-site viewing of its merchandise or materials, which if viewed by a minor, would be in violation of M.S. Chapter 617, as it may be amended from time to time, or other applicable federal or state statutes or local ordinances. Covering or otherwise making window areas opaque shall be prohibited.
- (B) *Entrances.* All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.
- (C) *Layout.* The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can clearly observe all patrons while they have access to any merchandise or material offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
- (D) *Motion picture booths.* Individual motion picture viewing booths must be designed and operated as follows:
- (1) Booths must be without doors and the booth interiors and occupant must be visible from the rooms in which they are located;
 - (2) Only one person at a time shall be allowed in a viewing booth;
 - (3) Walls separating booths must be such that occupants cannot engage in sexual activity;
 - (4) Each booth must be clean and sanitary;
 - (5) Minimum lighting requirements as set forth in § 118.14(E) must be maintained.
- (E) *Illumination.* Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises. Illumination of the building interior shall be adequate to observe the location and activities of all persons in the premises.
- (F) *Signs.* Signs for adult establishments shall not contain representational depiction of specified anatomical areas, specified sexual activities, or obscene words or pictures that would offend public morals or decency. Signs for adult establishments shall comply with the city's ordinances for signs and the additional regulations as stated below.

(1) Window signs shall be prohibited. No signs shall be placed in any window other than a one square foot sign on the door.

(2) All signs shall be flat wall signs. No signs shall be freestanding or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

(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 establishment is located.

(G) *Access by minors.* No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.

(H) *Additional conditions for adult cabarets.* The following additional conditions apply to adult cabarets:

(1) No dancer, live entertainer or performer shall be under 18 years old.

(2) 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.

(3) No dancer or performer shall perform any dance or live entertainment closer than six feet to any patron.

(4) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.

(5) No patron shall pay or give any gratuity to any dancer or performer.

(6) No dancer or performer shall solicit or receive any pay or gratuity from any patron.

(I) *Hours of operation.* No adult establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m. weekdays and Saturdays, nor at any time on Sundays or national holidays.

(J) *Alcohol.* No alcohol shall be sold, provided, or consumed on the licensed premises.

§ 118.15 INSPECTION

(A) *Access.* The property owner, business owner, on-site manager or any employee or agent shall permit health officials, representatives of the Police Department, Fire Department, and building inspector, to inspect the premises of an adult establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The property owner, business owner and manager are at all times responsible for the conduct, activity and operation of the business.

(B) *Exceptions.* The provisions of this section do not apply to areas of an adult hotel or motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

§ 118.16 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 chapter is guilty of a misdemeanor under Minnesota law. Each day such violation occurs, exists or continues shall constitute a separate offense. The city may also enforce any provision of this chapter by mandamus, injunction, or any other appropriate civil remedy in any court of competent jurisdiction.