

CHAPTER 29 - SEXUALLY ORIENTED USES

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29.01: PURPOSE.

The purpose of this Chapter is to establish provisions for the opportunity as well as controls of sexually oriented uses within the City.

29.02: DEFINITIONS.

The following words and phrases, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

- A. **Sexually Oriented Uses:** Sexually oriented uses include adult bookstores, adult motion picture theaters, adult motion picture sales/rentals, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes 617.241, as may be amended, are not included.

1. Specified Anatomical Areas:

- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. 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, zooerasty; 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 nude human genitals, pubic region, buttocks, or female breast; or
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments Chapter 29, or in sexually revealing costumes, and who are engaged in activities 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.
3. **Sexually Oriented Uses, Accessory:** The offering of retail goods for sale which are classified as sexually oriented uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.
4. **Sexually Oriented Uses, Principal:** The offering of goods and/or services which are classified as sexually oriented uses as a primary or sole activity of a business or establishment and include but are not limited to the following:
- a. **Sexually Oriented Use, Body Painting Studio:** An establishment or business which 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".
 - b. **Sexually Oriented Use, Bookstore:** A building or portion of a building uses for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public extending any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
 - c. **Sexually Oriented Use, Cabaret:** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".
 - d. **Sexually Oriented Use, Companionship Establishment:** A companionship establishment which excludes minors by reason 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 "specified sexual activities" or "specified anatomical areas".
 - e. **Sexually Oriented Use, Conversation/Rap Parlor:** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
 - f. **Sexually Oriented Use, Health/Sport Club:** A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
 - g. **Sexually Oriented Use, Hotel or Motel:** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexually activities" or "specified anatomical areas".
 - h. **Sexually Oriented Use, Massage Parlor, Health Club:** A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

- i. **Sexually Oriented Use, Mini-Motion Picture Theater:** A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- j. **Sexually Oriented Use, Modeling Studio:** An establishment whose major business is the provision, to customers, of figure models who are so 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.
- k. **Sexually Oriented Use, Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained 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".
- l. **Sexually Oriented Use, Motion Picture Theater:** A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- m. **Sexually Oriented Use, Novelty Business:** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- n. **Sexually Oriented Use, Sauna:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- o. **Sexually Oriented Use, 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, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or 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".

29.03: GENERAL PROVISIONS.

"Sexually oriented uses" as defined in this Chapter shall be subject to the following general provisions:

- A. Activities classified as "obscene" as defined by Minnesota Statutes, Section 617.241 are not permitted and are prohibited.
- B. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
- C. Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.
- D. A sexually oriented use which does not qualify as an accessory use shall be classified as a sexually oriented use, principal.

29.04: SEXUALLY ORIENTED USES, PRINCIPAL.

- A. Sexually oriented uses, principal shall be located at least five hundred (500) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the sexually oriented use, principal is located to the property line of:
 - 1. Residentially zoned property.
 - 2. A licensed day care center.
 - 3. A public or private educational facility classified as a pre-school, elementary, junior high or senior high.
 - 4. A public library.
 - 5. A public park.
 - 6. Another sexually oriented use, principal.
 - 7. An on/off sale liquor establishment.
- B. "Sexually oriented use, principal" activities, as defined by this Chapter, shall be classified as one use. No two (2) sexually oriented uses, principal shall be located in the same building or upon the same property and each use shall be subject to Sub-section A. of this Section.
- C. Sexually oriented uses, principal shall, in addition to other sign requirements established by the City's Sign Ordinance, also adhere to the following signing regulations:
 - 1. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.
 - 2. Shall not contain material classified as advertising.
 - 3. Shall comply with the requirements of size and number for the district in which they are located.

29.05: SEXUALLY ORIENTED USES, ACCESSORY.

- A. Sexually oriented uses, accessory shall:
 - 1. Comprise no more than five (5) percent of the floor area of the establishment in which it is located.
 - 2. Comprise no more than ten (10) percent of the gross receipts of the entire business operation.
 - 3. Not involve or include any activity except the sale or rental of merchandise.
- B. Sexually oriented uses, accessory shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:
 - 1. Movie Rentals: Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.
 - 2. Magazines: Publications classified or qualifying as sexually oriented uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

3. Other Use: Sexually oriented uses, accessory not specifically cited shall comply with the intent of this Chapter subject to the approval of the Zoning Administrator.
- C. Sexually oriented uses, accessory shall be prohibited from both internal and external advertising and signing of sexually oriented materials and products.
- D. Sexually oriented uses, accessory activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.