

SECTION 3A. ANTI-BLIGHT REGULATIONS

3A.01 Purpose:

The purpose of this Chapter of the City Code is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the City's residential and commercial neighborhoods.

3A.02 Findings of the City Council.

A. Preamble: In adopting this Ordinance, the City Council of Detroit Lakes has reviewed and considered the following:

- a. Adult Entertainment, A 40 acre Study, St. Paul, MN Division of Planning (1987);
- b. Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses, the Office of Hubert H. Humphrey, III, Attorney General of the State of Minnesota (1989)
- c. Adult Entertainment Businesses in Indianapolis, Indiana (1984);
- d. Adult Entertainment Perspectives, Rochester, Minnesota/
Olmstead County Planning Department, (1988);
- e. Study of the Effects of the Concentration of Adult Entertainment Establishments, Los Angeles, CA Department of City Planning (1977) :
- f. Relation of Criminal Activity and Adult Businesses, City of Phoenix, AZ, Planning Department (1979);
- g. Adams County (Colorado) Nude Entertainment Study, (1991);
- h. Land Use Study, Amarillo, TX (1977);
- i. Report on Adult Oriented Businesses, Austin, TX (1986);
- j. Findings of Fact related to Adult Oriented Entertainment Within the City of Alexandria, Minnesota, (1994);

k. Regulating Sex Businesses

(all of the above reports and studies, and the studies referenced by the reports are hereafter collectively referred to as “Reports”); and

The City Council of the City of Detroit Lakes makes the following findings regarding the effect of adult, sexually-oriented, businesses on the character of the City's neighborhoods. In making the findings, the City Council has considered the recommendations of its Ordinance Committee and Planning Commission which, along with the City Council, has reviewed and considered the experiences of other urban areas in the nation where sexually oriented businesses have located.

Based upon the City Council's review, consideration and study, and having considered the recommendations of the City's Ordinance Committee and Planning Commission, the Council of the City of Detroit Lakes makes and adopts the following FINDINGS:

1. The Reports considered evidence from studies conducted in Minnesota and other parts of this country relating to adult, sexually oriented business.
2. Adult, sexually-oriented businesses are associated with high crime rates and depression of property values.
3. The character of a neighborhood can dramatically change when there is a concentration of sexually-oriented businesses adjacent to residential property.
4. Sexually oriented uses have an impact on neighborhoods surrounding them which is distinct from the impact caused by other commercial uses.
5. Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increased

crime rates, lowered property values, increased transiency and decreased stability of ownership.

6. Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship; children attending state-licensed family day care homes, state-licensed group family day care homes, and state licensed child care centers; students attending schools; and people using public parks and libraries.
7. Crimes which tend to increase within or near adult uses include rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior.
8. Adult, sexually oriented, uses can contribute to an increase in criminal activity in areas in which such businesses are located, thereby taxing city crime prevention programs and law enforcement services; and
9. Many members of the public perceive areas within which adult uses are located as less safe than other areas which do not have such uses.
10. Values of both commercial and residential properties are either diminished or fail to appreciate at the rate of comparable properties when located in proximity to adult, sexually oriented, uses.
11. Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.
12. Concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life.
13. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating--other businesses move out of the

vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the City's tax base and contribute to overall urban blight.

14. Citizens have expressed support for the following ordinance at meetings of the City Council, its Ordinance Committee and the Planning Commission.
15. The impacts of Sexually Oriented Businesses, including those covered in this ordinance, on the City's citizens and properties would be similar to those of the cities cited in the Reports.
16. That the City needs to provide space and siting for the location of Sexually Oriented Businesses in appropriately zoned districts of the City to protect the health, safety and welfare of its citizens and the value of its properties and structures; and
17. The adverse impacts of adult, sexually oriented, uses have on surrounding areas may diminish as the distance from adult uses increases.
18. The City Council of the City of Detroit Lakes, Minnesota adopts this ordinance recognizing that the City has real and substantial goals and responsibilities for public health, safety and welfare and has a great interest in the promotion of health and prevention of criminal activities.
19. It is in the best interests of the public health, safety and general welfare of the people of the City of Detroit Lakes that this ordinance be enacted.
20. It is in the best interests of the City to protect existing property values and protect adjacent owners and or businesses from undesirable impacts of adult, sexually oriented businesses.
21. It is in the best interests of the City to protect its citizens through appropriate ordinances from the secondary effects of adult, sexually oriented businesses and conduct.

22. It is in the best interests of the City to protect children and other persons who are vulnerable to crimes and increased criminal activity associated with adult, sexually oriented business.

3A.03. Conclusions of the City Council.

In order to minimize the detrimental effect sexually-oriented businesses have on adjacent land uses, the City Council adopts the following land-use regulations, recognizing that it has a great interest in the present and future character of the City's residential and commercial neighborhoods.

3A.04. Definitions.

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

Subd. 1. Adult Establishment AAdult Establishment means:

- a. Any business or other undertaking that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by policy or procedure of the owners or operators of the business; and
- b. Any business or other establishment, operation, venture or undertaking that engages in any Adult Use as defined in subdivision 2 of this Section.

Subd. 2. Adult Use. AAdult Use” means any of the following:

- a. Adult 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 as defined herein.
- b. Adult Bookstores - An establishment that has 25% or greater of its current store stock in merchandise, videos, books, magazines, software, computer programs and/or other periodicals which are distinguished or characterized by their emphasis of matters depicting, describing or

relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined.

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

d. Adult Carwash - A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of Specified Anatomical Areas as defined herein.

e. Adult Companionship Establishment - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee 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 as defined herein.

f. Adult Entertainment Facility - A building or space wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold, intended or available for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas as defined herein.

g. Adult Health/Sport Club - A health or sport club that excludes minors by reason of age, and that is distinguished or characterized by emphasis on Specified Sexual Activities or Specified Anatomical Areas as defined herein.

h. Adult Hotel or Motel - A hotel, motel or other place of accommodation for hire that excludes minors by reason of age and presents or provides to its guests or visitors material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

- i. **Adult 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 as defined herein or display Specified Anatomical Areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

- j. **Adult Motion Picture Arcade** - A place at 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.

- k. **Adult Motion Picture Theater** - A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular substantial course of conduct and not a one-time presentation of such material.

- l. **Adult Mini Motion Picture Theater** - A building or space with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

- m. **Adult Novelty Business** - A business or establishment that devotes 25% or more of its floor area, excluding storerooms, stock areas, offices, basements, bathrooms or any portion of the business not open to the public, to items or merchandise depicting Specified Sexual Activities or Specified Anatomical Areas

or devises that either stimulate human genitals or are designed or used for sexual stimulation.

n. Adult 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 as defined herein.

Subd. 3. General Terms. The following general terms are defined as follows for the purpose of this ordinance:

a. Dwelling Unit - one or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

b. Minor - Any natural person under the age of eighteen (18) years.

c. Nudity - Means uncovered, or less than opaquely covered post pubertal human genitals, pubic areas, the post pubertal human female breast below the point immediately above the top of the areola or the covered human male genitals in a discernible turgid state. For purpose of this definition, female breast is considered uncovered if the nipple only or the nipple and the areola only, are covered.

d. Public Library - any library that provides free access to all residents of a city or county without discrimination, receives at least half of its financial support from public funds, and is organized under the provisions of Minnesota Statutes, Chapter 14.

e. Public Park - a park, reservation, open space, playground, beach, or recreation center in the City owned, leased, or used, wholly or in part, by a City, County, State, School District or Federal Government for recreation purposes.

f. 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.

g. 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 this Ordinance.

h. Sign - a name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display of official court or governmental office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a "sign."

i. Single-Family Dwelling - a residential building containing one dwelling unit as herein defined including detached, semi-detached and attached dwellings.

j. State-Licensed Family Day Care Home, State-Licensed Group Family Day Care Home, State-Licensed Child Care Center - a facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

k. Sexually-Oriented Business - an adult establishment or an adult use defined in this Ordinance.

l. Specified Sexual Activities - include the following:

- a. Human genitals in a discernible state of sexual stimulation or arousal; or
- b. Acts of human masturbation, sexual intercourse or sodomy; or
- c. Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast or breasts; or
- d. Any combination of the foregoing.

- m. Specified Anatomical Areas –
 - a. less than completely and opaquely covered:
 - i. human genitals, pubic region or pubic hair, or
 - ii. buttock, or
 - iii. female breast or breasts below a point immediately above the top of the areola; or
 - iv. any combination of the foregoing; or
 - b. human male genitals in a discernible turgid state even if completely and opaquely covered.

3A.05 Zoning Regulations.

a. Sexually-oriented businesses shall be prohibited in all of the City's use districts detailed in Appendix A of the City Code, the Detroit Lakes Zoning Ordinance, as it now exists, or is hereafter amended or replaced, except the following use districts where such businesses shall be a conditional use provided the conditions in Section 3A.05 below are met:

Heavy Industrial District I-2

b. In use districts in which sexually-oriented businesses are permitted as a conditional use, the following conditions shall be met prior to a sexually-oriented business being allowed.

1. No sexually-oriented business shall be located closer than 500 feet from any other sexually-oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual business premises of any other sexually-oriented business.
2. No sexually-oriented business shall be located closer than 500 feet from any single family dwelling, two-family dwelling, multiple-family dwelling, planned unit development, mobile home park, place of worship, school, public park, state-licensed family day care home, state-licensed group family day care home, public library, or

state-licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the property line of property used as a single-family dwelling, place of worship, school, park, or state-licensed family day care home, state-licensed group family day care home, or state-licensed child care center.

3. No sexually-oriented business shall be located closer than 500 feet from any of the following commercial or residential use districts. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest boundary of the commercial or residential use district:

R-1, Single Family Residence District
R-2, One and Two Family Residence District
R-3, Multiple Family Residence District
R-3A Limited Multi-Family Residence District
R-MH, Mobile Home Park District
R-LB, Residential Lake Front Business District
B-1, Central Business District
B-2, General Business District
B-3, Auto Oriented Commercial District

4. A sexually-oriented business must also comply with all permit and licensing requirements of the Detroit Lakes City Code.
5. The operation or maintenance of more than one (1) Sexually Oriented Business in the same building or structure is prohibited

3A.06 Sign Restrictions.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually-oriented

businesses, the following sign regulations shall apply to all sexually-oriented businesses in the City notwithstanding any other provision of this Code:

- a. All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages.
- b. 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 eighty (80) square feet.
- c. 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 sexually-oriented business is located.
- d. No signs shall be placed in any window. A one (1) square foot sign may be placed on the door to state hours of operation and admittance to adults only.

3A.07 Penalty.

A violation of this Ordinance shall be a misdemeanor under Minnesota law.

3A.08. Severability.

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words be declared invalid.

(Amended: 8/6/96 Ord. NO. 140)

(Pages 97-107 Reserved for Changes)