



**KANDIYOHI COUNTY
ADULT
ENTERTAINMENT
ESTABLISHMENTS
ORDINANCE #32**

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CHAPTER 1: TITLE AND APPLICATION

1-1 TITLE

This Ordinance shall be known and may be cited and referred to as the Kandiyohi County Adult Entertainment Establishment Ordinance. When referred to herein; it shall be known as “this Ordinance”.

1-2 PURPOSE

It is the purpose of this Ordinance to regulate adult entertainment establishments to promote the health, safety, and general welfare of the citizens of the County, to guard against the inception and transmission of disease, and to establish reasonable and uniform regulations. 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 sexually oriented materials. Similarly, it is not the intent, nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

1-3 INTENT

The County Board further finds that experience from other Counties and Cities demonstrates that adult entertainment establishments conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the health, safety and welfare of members of the community by being the sites of acts of prostitution, the spread of disease, and acts of violent crime, thus requiring close inspection, licensing, and regulation.

1-4 DEFINITIONS

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

Adult Arcade - Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult Bookstore, Adult Video Store, or Adult Store - A commercial establishment which as a principal business purpose offers for sale or rental for any form of consideration any one or more the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
2. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

Adult Cabaret - A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear semi-nude or in a state of nudity; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult 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 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.

Adult Entertainment Establishment – A business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of sexual conduct or nudity.

Adult Massage Parlor - A massage parlor which excludes minors by reason of age, or which provides for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor includes specified sexual activities.

Adult Motel - A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Sauna - A sauna which excludes minors by reason of age, or which provides for any form of consideration, 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 sauna permits or offers specified sexual activities.

Adult Theater - A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear semi-nude or in a state of nudity or live

performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

County - Kandiyohi County.

County Board - Kandiyohi County Board of Commissioners.

Distinguished or Characterized by an Emphasis Upon - The dominant or principal theme of the object referenced. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or display of specified anatomical areas, or specified sexual activities.

Employee, Employ, and Employment - Any person who performs any service on the premises of an adult entertainment establishment on a full-time, part-time or contract basis, regardless of whether the person is denominated as an employee, independent contractor, agent, or by another status. Employee does not include a person exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods to the premises.

Escort - A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency - A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establish or Establishment - Means and includes any of the following:

1. The opening or commencement of any adult entertainment establishment as a new business;
2. The conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
3. The addition of any adult entertainment establishment to any other existing; or
4. The relocation of any adult entertainment establishment.

Licensee - A person in whose name a license to operate an adult entertainment establishment has been issued, as well as the individual listed as an applicant on the application for a license.

Nude Model Studio - Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by another person or persons who pay money or any form of consideration.

Nudity, Nude or a State of Nudity –

1. The appearance of a human bare anus, male genitals, female genitals, or areola of the female breast; or

2. A state of dress which fails to opaquely cover a human anus, male genitals, female genitals, or areola of the female breast.

Operate or cause to be Operated - To cause to function or to put or keep in a state of doing business.

Operator - Any person on the premises of an adult entertainment establishment who is authorized to exercise operational control of the business, or who causes to function or who puts or keeps in operation, the business. A person may be found to be operating or causing to be operated an adult entertainment establishment regardless of whether that person is an owner, part owner, or licensee of the business.

Person - An individual, proprietorship, partnership, corporation, association, or other legal entity.

Principal Business Purpose - The primary purpose for which a premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

Regularly Features or Regularly Shown - A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

Semi-Nude or in a Semi-Nude Condition - A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Conduct - means any of the following:

- (i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.
- (ii) Sadoomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed or who is nude.
- (iii) Masturbation, excretory functions, or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.
- (iv) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Sexual Encounter Center - A business or commercial enterprise that as one of its primary business purposes, offers for any form of consideration a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities. The definition of sexual encounter center or any adult entertainment establishments shall not include an establishment where a physician, psychologist,

psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Specified Anatomical Areas -

1. Human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

Specified Sexual Activities - Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, actual or simulated, including intercourse, or oral copulation;
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

Substantial Enlargement of an Adult Entertainment Establishment - The increase in floor area occupied by the business by more than 25%, as the floor area existed on the effective date of this Ordinance.

Transfer of Ownership or Control of an Adult Entertainment Establishment - Any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

1-5 CLASSIFICATION

The following are classified as adult entertainment establishments:

- a. Adult arcades;
- b. Adult bookstores, adult video stores, adult stores;
- c. Adult cabarets;
- d. Adult conversation/rap parlors;
- e. Adult massage parlors;

- f. Adult motels;
- g. Adult motion picture theaters;
- h. Adult saunas;
- i. Adult theaters;
- j. Escort agencies;
- k. Nude model studios; and
- l. Sexual encounter centers.

CHAPTER 2: LICENSE REQUIRED; ISSUANCE; FEES

2-1 LICENSE REQUIRED

1. Prohibition. It is unlawful for any person to operate an adult entertainment establishment without a valid adult entertainment establishment license issued by the County for the particular type of business.
2. Application form. An application for an adult entertainment establishment license must be made on a form provided by the County and submitted to the Zoning Administrator.
3. Required information.
 - a. An application shall be considered complete if it includes the information required in this section. The applicant shall be qualified according to the provisions of this Ordinance. The application shall be notarized. The application shall include the information called for in subsections (1) through (6), and where applicable, subsection (7), as follows:
 1. The full true name and any other names used in the preceding five (5) years.
 2. The current business address.
 3. Either a set of fingerprints suitable for conducting necessary background checks pursuant to this Ordinance, the applicant's social security number, or tax identification number to be used for the same purpose.
 4. The name, business location, legal description, business mailing address and phone number of the proposed adult entertainment establishment.
 5. Written proof of age, in the form of either (i) a copy of a birth certificate and current photo (ii) a current driver's license with picture, or (iii) other picture identification document issued by a governmental agency.
 6. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to an adult entertainment establishment, and whether any such license or permit has been denied, revoked, or suspended,

and if so, the reason or reasons therefore.

7. The name and address of the statutory agent or other agent authorized to receive service of process.
- b. The information provided pursuant to subsections (1) through (7) shall be supplemented in writing by certified mail, return receipt requested, to the Zoning Administrator within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

2-2 DIAGRAM OF PREMISES

The application for an adult entertainment establishment license must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram 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. Applicants who must comply with Chapter 4 section 4-5 of this Ordinance shall submit a diagram meeting the requirements of that section.

2-3 BUILDING INSPECTIONS

The applicant must be qualified according to the provisions of this Ordinance and the premises must be inspected and found to be in compliance with the law by the Fire Chief and Building Official with jurisdiction.

2-4 EXECUTION OF APPLICATION

If a person who wishes to operate an adult entertainment establishment is an individual, the individual must sign the application for a license as applicant. If a person who wishes to operate an adult entertainment establishment is other than an individual, each individual who has a ten percent (10%) or greater interest in the business, and each officer, director, general partner, or other person who will participate directly in decisions relating to management of the business must sign the application for a license as applicant. Each applicant must be qualified under 2-6 of this chapter and each applicant shall be considered a licensee if a license is granted.

2-5 NO EXCEPTION

A person who possesses a valid business license is not exempt from the requirement of obtaining any required adult entertainment establishment license. A person who operates an adult entertainment establishment and possesses a business license shall comply with the requirements and provisions of this Ordinance, where applicable.

2-6 ISSUANCE

1. Approval of license. Within sixty (60) days after the receipt of a completed application, the County shall either issue a license, or issue a written notice of intent to deny a license, to the applicant. The County shall approve the issuance of a license unless one or more of the following is found to be true:
 - a. An applicant is under eighteen (18) years of age.
 - b. An applicant is delinquent in the payment to the County of taxes, fees, fines, or

penalties assessed against him or imposed upon him in relation to an adult entertainment establishment.

- c. An applicant has failed to provide information required under Chapter 2, 2-1 through Chapter 2, 2-5 or which is necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- d. An applicant has been convicted of a violation of a provision of this Ordinance within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- e. The premises to be used for the adult entertainment establishment have not been approved by the Fire Chief and the Building Official with jurisdiction as being in compliance with applicable laws and ordinances.
- f. The license fee required by this Ordinance has not been paid.
- g. An applicant or the proposed establishment is in violation of or is not in compliance with this Ordinance.
- h. An applicant has been convicted of a crime:
 - 1. Involving any of the following offenses:
 - (a) Prostitution as described in M.S. § 609.321, as it may be amended from time to time;
 - (b) Solicitation, inducement or promotion of prostitution as described in M.S. § 609.322, as it may be amended from time to time;
 - (c) Receiving profit derived from prostitution as described in M.S. § 609.323, as it may be amended from time to time;
 - (d) Other prohibited acts relating to prostitution as described in M.S. § 609.324, as it may be amended from time to time;
 - (e) Obscenity as described in M.S. § 617.241, as it may be amended from time to time;
 - (f) Sale, dissemination, distribution, display or exhibition of harmful materials to minors as described in M.S. §§ 617.293 and 617.294, as it may be amended from time to time;
 - (g) Sexual performance by a child as described in M.S. § 617.246, as it may be amended from time to time;
 - (h) Dissemination or possession of child pornography as described in M.S. § 617.247, as it may be amended from time to time;
 - (i) Indecent exposure as described in M.S. § 617.23, as it may be amended from time to time;
 - (j) Criminal sexual conduct as described in M.S. §§ 609.342, 609.343, 609.344, and 609.345, as it may be amended from time to time;

- (k) Incest, as described in M.S. § 609.365, as it may be amended from time to time; or
 - (l) Criminal attempt, conspiracy, liability for the crimes of another or solicitation to commit any of the foregoing offenses for which:
 - i. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - ii. Less than ten (10) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. Less than seven (7) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.
 - (m) The proposed adult entertainment establishment would or does not comply with the County Zoning Ordinance.
3. Conviction. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant. For purposes of this section, “conviction” means:
 - a. A conviction, adjudication, or a guilty plea; or
 - b. A conviction of any business entity for which the applicant had, at the time of the offense leading to the conviction for a crime designated under this section, a management responsibility or a controlling interest.
 4. Time periods. An applicant who has been convicted of an offense listed in section 2-6, 1 h,1 may qualify for an adult entertainment establishment license only when the time period required by section 2-6,1 h,1(1) has elapsed.
 5. License information and posting. The license, if granted, shall state the name of the person or persons to whom it is granted, the expiration date and the address of the adult entertainment establishment. The license shall be posted in a conspicuous place at or near the entrance to the adult entertainment establishment so that it may be easily read at any time.
 6. Fees. The annual fee for an adult entertainment establishment license shall be set by resolution of the County Board. The investigation fee for the purpose of issuing a license shall be set by resolution of the County Board. In the event that the license is denied upon application, the license fee shall be refunded; however, no part of the license investigation fee shall be returned to the applicant. No part of the annual license fee shall be refunded if the license is suspended or revoked.

2-7 BUSINESS INSPECTIONS

2-7-1 Inspection Required

An applicant, operator, or licensee shall permit law enforcement officers and any other Federal, State, or County agency in the performance of any function connected with the enforcement of this Ordinance, normally and arguably conducted by such agencies to inspect the premises of an adult entertainment establishment for the purpose of insuring compliance with the law, at any time.

2-7-2 Refusal

A person who operates an adult entertainment establishment or their agent or employee violates this ordinance if the person refuses to permit a lawful inspection of the premises by a representative of the sheriff's department at any time.

2-7-3 Exception

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.

2-8 EXPIRATION OF LICENSE

2-8-1 Period of License and Renewal

Each renewal license shall be issued for a maximum period of one (1) year. All licenses expire on December 31 of each year. Each license may be renewed only by making application as provided in Chapter 2, 2-1 through Chapter 2, 2-5. Application for renewal should be made at least ninety (90) days before the expiration date. If the County Board determines good and sufficient cause is shown by the applicant for failure to file a timely renewal application, the County Board may, if other provisions of the Ordinance are complied with, grant the application.

2-8-2 Denial of License Renewal

If the County Board denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the County finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

2-9 SUSPENSION OR REVOCATION

2-9-1 Suspension

The County Board may suspend a license for a period not to exceed thirty (30) days following written notice and an opportunity to be heard if the County Board determines that a licensee or an employee of a license has:

1. Violated or is not in compliance with this Ordinance;
2. Refused to allow an inspection of the adult entertainment establishment premises as authorized by this Ordinance;

3. Knowingly permitted gambling by any person on the adult entertainment establishment premises;

2-9-2 Revocation

1. Intent to revoke. The County Board shall issue a written statement of intent to revoke an adult entertainment establishment license if a cause of suspension as described in section 2-9-1 occurs and the license has been suspended within the preceding twelve (12) months, or any violation of section 2-6 of this Ordinance.
2. Basis for revocation. The County Board shall issue a written statement of intent to revoke an adult entertainment establishment license if the County Board determines that:
 - a. A licensee gave false or misleading information to the County during the application process;
 - b. A licensee or operator has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. A licensee or operator has knowingly allowed prostitution on the premises;
 - d. A licensee or operator knowingly operated the adult entertainment establishment during a period of time when the licensee's license was suspended;
 - e. A licensee has been convicted of an offense listed in section 2-6, 1 h, 1 for which the time period required in section 2-6, 1 h, 1 (l) has not elapsed;
 - f. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in section 2-6, 1 h, 1 for which a conviction has been obtained, and the person or persons were employees of the adult entertainment establishment at the time the offenses were committed;
 - g. A licensee or operator has knowingly allowed any act of sexual intercourse, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the meaning as it is defined in M.S. § 609.341, Subd. 11(b), as it may be amended from time to time. This subsection shall not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur either (i) in exchange for money, or (ii) in a public place or with public view; or
 - h. A licensee is delinquent in payment to the County for ad valorem taxes, local lodging tax, or other taxes or fees related to the adult entertainment establishment.
3. Appeal of conviction. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
4. Exception. Section 2-9-2, 2 g above does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

5. Provisional license. When, after the notice and hearing procedure described in Chapter 3, the County revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult entertainment establishment license for one (1) year from the date revocation became effective, provided that, if the conditions of Chapter 3, section 3-5 are met, a Provisional License shall be granted pursuant to that section. If, subsequent to revocation, the County finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under section 2-9-2, 2 g, an applicant may not be granted another license until the appropriate number of years required under section 2-6, 1 h, 1 (l) have elapsed.

2-10 PENALTY

1. A person who operates or causes to be operated or allows on premises owned by the person an adult entertainment establishment without a valid license or in violation of this Ordinance is subject to a suit for injunction as well as prosecution for criminal violations. Any person violating any provision of this Ordinance, upon conviction, is guilty of a misdemeanor. Each day an adult entertainment establishment so operates is a separate offense or violation.

CHAPTER 3: HEARING; LICENSE DENIAL; SUSPENSION; REVOCATION; APPEAL

3-1 NOTIFICATION

If the Zoning Administrator determines that facts exist for denial, suspension, or revocation of a license under this Ordinance, the Zoning Administrator shall notify the applicant or licensee (“respondent”) in writing of the intent to deny, suspend, or revoke the license, including the grounds therefore, by personal delivery or by certified mail. The notification shall be directed to the most current business address on file with the County. Within five (5) working days of receipt of such notice, the respondent may provide to the Zoning Administrator, in writing, a response that shall include a statement of reasons why the license or permit should not be denied, suspended, or revoked. Within three (3) days of the receipt of respondent’s written response, the Zoning Administrator shall notify respondent in writing of the hearing date on respondent’s denial, suspension, or revocation proceeding.

3-2 APPEAL AND HEARING

1. Within thirty (30) working days of the receipt of respondent’s written response, the County Board shall conduct a hearing on respondent’s appeal of the Zoning Administrator’s decision. Hearings on the appeal shall be open to the public and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in its behalf. At the conclusion of the hearing, the County Board shall make a final decision. If a response is not received by the County in the time stated or, if after the hearing, the County Board finds that grounds as specified in this Ordinance exist for denial, suspension, or revocation, then such denial suspension, or revocation shall become final five (5) days after the County sends, by certified mail, written notice that the license has been denied, suspended, or revoked. Such notice shall include a statement advising the applicant or licensee of the right to appeal such decision to the District Court.

2. If the County Board finds that no grounds exist for denial, suspension, or revocation of a license, then within five (5) days after the hearing, the Zoning Administrator shall withdraw the intent to deny, suspend, or revoke the license, and shall so notify the respondent in writing by certified mail.

3-3 JUDICIAL REVIEW

Any decision of the County Board shall be a final appealable order and the applicant or licensee (“aggrieved party”) may seek prompt judicial review of such administrative action in the District Court.

3-4 STAY OF DECISION

The filing of notice of appeal stays the action and decision of the County Board requiring, denying, suspending or revoking a license until sixty (60) days after a final decision by the County Board, to provide the aggrieved party sufficient time to appeal the County Board decision to the District Court. If the aggrieved party appeals the County Board decision within the sixty (60) days provided, the stay shall be extended until a final judicial decision is rendered in the matter.

3-5 PROVISIONAL LICENSE

Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the County’s enforcement of suspension, revocation, the County shall immediately issue the aggrieved party a Provisional License. The Provisional License shall allow the aggrieved party to continue operation of the adult entertainment establishment or to continue employment as an adult entertainment employee, as the case may be, and will expire upon the court’s entry of a judgment on the aggrieved party’s action to appeal, challenge, restrain, or otherwise enjoin the County’s enforcement.

3-6 ADDITIONAL REQUIREMENTS

The County Board may condition denial, suspension, revocation, or non-renewal of a license upon appropriate terms and conditions.

3-7 TRANSFER OF LICENSE

A licensee shall not transfer his license to another, nor shall a licensee operate an adult entertainment establishment under the authority of a license at any place other than the address designated in the application and a structure as depicted on the required plan. Any attempt to transfer a license shall render it void and be cause for immediate revocation.

CHAPTER 4: ADDITIONAL REGULATIONS FOR SPECIFIC BUSINESSES

4-1 ESCORT AGENCIES

1. An escort agency shall not employ any person under the age of eighteen (18) years.
2. A person commits an offense if he or she acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

4-2 NUDE MODEL STUDIOS

1. A nude model studio shall not employ any person under the age of eighteen (18) years.
2. A person commits an offense if he or she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

4-3 ADULT THEATERS AND ADULT MOTION PICTURE THEATERS

1. A person commits an offense if he or she knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

4-4 ADULT MOTELS

1. Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Ordinance.
2. A person commits an offense if, as the person having authority to rent a sleeping room in a hotel, motel, or similar commercial establishment that does not have an adult entertainment establishment license, he rents or sub rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub rents the same sleeping room again.
3. For purposes of subsection two (2) above, the terms “rent” or “sub rents” mean the act of permitting a room to be occupied for any form of consideration.

4-5 EXHIBITION OF SEXUALLY ESPLICIT FILMS, VIDEOS, OR LIVE ENTERTAINMENT IN VIEWING ROOMS

1. Requirements. A person who operates, permits or causes to be operated an adult entertainment establishment, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - a. Upon application for an adult entertainment establishment license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station may not exceed thirty two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The County may waive the foregoing diagram for renewal

applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- b. The application shall be sworn to be true and correct by the applicant.
- c. No alteration in the configuration or location of a manager's station or viewing rooms may be made without the prior approval of the County or its designee.
- d. It is the duty of the owners and operator of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction or viewing equipment. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- f. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in section (e) above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to section (a) above.
- g. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot-candle as measured at the floor level.
- h. It shall be the duty of the licensee, owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.
- i. No viewing room may be occupied by more than one (1) person at any time.
- j. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
- k. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- l. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist and shall cover or repair all openings or holes with twenty four (24) hours.
- m. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

- n. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty eight (48) inches of the floor.
2. Misdemeanor. A person having a duty under (a) through (n) above commits a misdemeanor if the person knowingly fails to fulfill that duty.

4-6 ADDITIONAL REGULATION CONCERNING PUBLIC NUDITY

It shall be a misdemeanor for a person to knowingly and intentionally, in an adult entertainment establishment, appear in a state of nudity or engage in specified sexual activities.

CHAPTER 5: RESTRICTED CONDUCT

5-1 DISTANCE REQUIREMENT FOR LIVE ENTERTAINMENT

All performers, dancers, and persons appearing in a semi-nude condition or providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of six (6) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

5-2 INTERACTION WITH PATRONS

No dancer, performer, or person while semi-nude or providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall knowingly or intentionally touch any spectator or patron or the clothing of any spectator or patron.

5-3 GRATUITY PROHIBITION

No customers, spectator, or patron of a licensed facility may directly or indirectly pay or give any gratuity to any dancer or performer in a semi-nude condition and no dancer or performer in a semi-nude condition shall solicit or receive any pay or gratuity directly or indirectly from any patron or spectator.

5-4 HOURS OF OPERATION

No adult entertainment establishment, except for an adult motel, may remain open at any time between the hours of 1:00a.m. and 8:00 a.m. on weekdays and Saturday s, and 1:00 a.m. and 12:00 p.m. on Sundays.

CHAPTER 6: ADULT ENTERTAINMENT ESTABLISHMENTS RESTRICTED TO SPECIFIC AREAS

6-1 SPECIFIC AREAS

1. All adult entertainment establishments shall be located in the CI Commercial/Industrial District and shall be setback one thousand (1000) feet from any residence, church or other place of religious worship, school, public park, or playground. Distances are measured between the closest property lines.
2. All adult entertainment establishments shall be setback five hundred (500) feet from any establishment licensed to sell at off sale or on sale, any alcoholic beverage, beer, wine or intoxicating spirits, or is licensed as a bottle club.

6-2 CHILDREN

No licensee, operator or employee shall knowingly allow a person under the age of eighteen (18) years on the premises of an adult entertainment establishment.

6-3 EXEMPTIONS

1. It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:
 - a. By a proprietary school licensed by the State of Minnesota; a college, junior college, or university supported entirely or partly by taxation;
 - b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - c. In a structure:
 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 2. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 3. Where no more than one (1) nude model is on the premises at any one (1) time.