

CHAPTER 115: ADULT ENTERTAINMENT

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§ 115.01 DEFINITIONS.

(A) **Adult Uses.** Adult uses include bookstores, adult motion pictures theaters, adult motion picture rental, 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.

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

(2) **Specific 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, and any of the following sexual-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.
- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.
- (d) Fondling or touching of nude human genitals, public region, buttocks, or female breasts.

- (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons.
- (f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.
- (g) Human erection, urination, menstruation, vaginal or anal irrigation.

(B) **Adult Uses -Accessory.** A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazine sales.

(C) **Adult Uses Principal.** A use, business, or establishment having more than 10% of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from, any adult use.

(D) **Adult 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.”

(E) **Adult Use-Bookstore.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such 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.”

(F) **Adult 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.”

(G) **Adult 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.”

(H) **Adult 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.”

(I) **Adult 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.”

(J) **Adult Use-Hotel or Motel.** Adult 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 sexual activities” or “specified anatomical areas.”

(K) **Adult 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.”

(L) **Adult Use-Mini-Motion Picture Theater.** A building or portion of a building with a capacity for less than fifty (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.

(M) **Adult 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 “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

(N) **Adult 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 (5) 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.”

(O) **Adult Use-Motion Picture Theater.** A building or portion of a building with a of fifty (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.

(P) **Adult Use –Novelty Business.** A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designated for sexual stimulation.

(Q) **Adult 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 steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

(R) **Adult 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.”

§ 115.02 PURPOSE.

The nature of adult uses is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses such as schools, day care centers, libraries or parks. Furthermore, the concentration of adult uses has an adverse effect upon the use and enjoyment of adjacent areas. The nature of adult uses requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential uses. Special regulation of adult uses is necessary to ensure that the adverse secondary effects would not contribute or enhance criminal activity in the area of such uses nor will it contribute to the blighting or downgrading of the surrounding property and lessening of its value.

§ 115.03 GENERAL PROVISIONS.

Adult uses as defined in this Chapter shall be subject to the following general provisions:

(A) Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this ordinance be constructed to allow an activity otherwise prohibited by law.

(B) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(C) An adult use which does not qualify as an accessory use pursuant to Section 115.05, shall be classified as an adult use-principal.

§ 115.04 ADULT USE, PRINCIPAL.

(A) Adult use-principal shall be a permitted use in the Industrial Park District, subject to the location criteria outlined in 115.03 (B) and 115.04.

(B) Adult use-principal shall be located at least three hundred (300) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use-principal is located to the property line of:

(1) A zoning district in which residential uses are specifically listed as a permitted or conditional use.

(2) A licensed day care center.

(3) A public or private educational facility classified as an elementary, junior high or senior high.

(4) A public library.

(5) A public park.

(6) Another adult use-principal.

(7) Any church or church related organization.

(C) No adult use-principal shall be located in the same building or upon the same property as another adult use-principal. This limitation does not apply to any business or establishment that contains more than one adult use-principal as of October 27, 1997.

(D) Adult use-principal shall adhere to the following signing regulations in addition to the sign regulations of section 151.11(G).

(1) Sign messages shall be generic in nature and shall only identify the name of the business.

(2) Signs shall comply with the requirements of size and number for the district in which they are located.

(E) Adult use-principal shall be limited to 7:00 a.m. to 12:30 p.m. for its hours of operation. Differing time schedule may be approved by the City Council, if it can be satisfactorily demonstrated by the operator to the City Council that all the following apply:

(1) Not adversely impact or affect uses or activities within three hundred fifty (350) feet.

(2) Will not result in increased policing and related service calls.

(3) Is critical to the operation of the business.

§ 115.05 ADULT USE, ACCESSORY.

Adult Uses, Accessory, shall be permitted in all commercial districts, provided the accessory use conforms with the provisions of this Subd.

(A) Adult use-accessory shall:

(1) Comprise no more than ten percent (10%) of the floor area of the establishment in which it is located.

(2) Comprise no more than twenty percent (20%) of the gross receipts of the entire business operation.

(3) Not involve or include any activity except the sale or rental of merchandise.

(B) Adult use-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 Rental.** 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.

(2) **Magazines.** Publications classified or qualifying as adult 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.** Adult uses-accessory not specifically cited shall comply with the intent of this Section subject to the approval of the Zoning Administrator.

(C) Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

§ 115.06 NONCONFORMING ADULT USE-PRINCIPAL OR ACCESSORY.

Adult uses which are in existence prior to October 27, 1997, shall be classified as legal nonconforming uses and may continue in accordance with the provisions of this Chapter. If an adult use becomes nonconforming because of rezoning or the establishment of use listed in Subd. 3, the adult use shall be considered legal nonconforming and may continue in accordance with the provisions of this Chapter. In no instance, shall a legal nonconforming adult use be allowed to structurally expand the use on the lot on which it is located when the use became legally nonconforming, or expand the adult use to include another lot on which the adult use was not located when it became legally nonconforming. If the building in which a legal nonconforming adult use is located is destroyed by any means to an extent of greater than fifty percent (50%) of its market value, or if the building in which the legally nonconforming adult use is vacant for more than twelve (12) months, an adult use shall not be re-established unless it is in conformance with this Section.

§ 115.07 Enforcement.

(A) Any person violating any provision of this Section is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by State Law.

(B) Any violation of this Section shall be a basis for the suspension or revocation of the certificate of occupancy for the property or building in or on which the adult use is located. In the event the City Council proposes to revoke or suspend a certificate of occupancy, the property owner shall be notified in writing of the basis for such proposed suspension or revocation. The City Council shall hold a hearing for the purpose of determining whether to revoke or suspend the certificate of occupancy, which hearing shall be within thirty (30) days of the date of the notice.

(C) The City Council shall determine whether to revoke or suspend a certificate of occupancy within thirty (30) days after the close of the hearing or within sixty (60) days of the dates of the notice, whichever is sooner, and shall notify the property owner of its decision within that period.