

CHAPTER 153: ANTI-BLIGHT REGULATIONS

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§ 153.01 PURPOSE.

The purpose of this chapter 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. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content. This chapter is intended to supercede the provisions of M.S. § 617.242, as it may be amended from time to time, and to render M.S. § 617.242 inapplicable as authorized by the statute.

§ 153.02 FINDINGS.

The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, a copy of which is adopted by reference and included in Appendix II of Chapter 119 of this code. This Chapter 153 shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in Appendix I of Chapter 119 of this code.

(A) Sexually oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(B) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

(1) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(2) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;

(3) Increased transiency and decreased stability of ownership;

(4) Deteriorated neighborhood appearance from litter and graffiti;

(5) Sex-related harassment of residents and customers by motorists and pedestrians;

(6) A perception that the area is "unsafe"; and

(7) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(C) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(D) The adverse impacts of sexually oriented businesses are exacerbated when the uses are located near each other.

(E) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(F) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(G) 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 where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(H) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. 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. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(I) Land-use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

§ 153.03 DEFINITIONS.

The following words and terms shall have the following meanings when used in this section, except as provided otherwise in § 153.04:

SEXUALLY ORIENTED BUSINESS. Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) A business that engages for any length of time in a sexually oriented use as defined in this section, or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

SEXUALLY-ORIENTED MATERIALS. Visual, printed, or aural materials, and other objects or devices, which:

(1) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

(2) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

(3) Are designed for sexual stimulation.

SEXUALLY-ORIENTED USE. Includes any of the following activities and businesses, even if the activity exists for only a short-time:

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

(2) **ADULT BOOKSTORE.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

(3) **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(5) **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(6) **ADULT HEALTH/SPORT CLUB.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) **ADULT HOTEL OR MOTEL.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(8) **MASSAGE PARLOR/HEALTH CLUB.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(9) **ADULT MINI-MOTION PICTURE THEATER.** A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(10) **ADULT MODELING STUDIO.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

(11) **ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

(12) **ADULT MOTION PICTURE THEATER.** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.

(14) **ADULT SAUNA.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(15) **ADULT STEAM ROOM/BATHHOUSE FACILITY.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS. Shall include the following:

(1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Shall include the following:

- (1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zoerastia;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- (5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

§ 153.04 EXCEPTIONS.

This section does not regulate the following:

- (A) Any material with significant literary content or social commentary;
- (B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if (1) the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, and (2) each item is in an area accessible only by an employee of the business;
- (C) Any person or organization exempted under M.S. § 617.295;
- (D) Any activity regulated under M.S. § 617.202;
- (E) Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale and the business does not have a liquor license; and

(F) Movies rated G, PG, PG-13, NC-17 or R.

§ 153.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(A) A sexually-oriented business may locate only in the C-2 and I zones.

(B) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

(1) Property used or zoned for residential uses;

(2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution or other public recreational facility;

(3) Premises licensed under city code Chapter 112, Liquor Regulations; and

(4) Another sexually-oriented business.

Cross-reference:

Sexually Oriented Businesses, Ch. 119

§ 153.06 SIGN RESTRICTIONS FOR SEXUALLY ORIENTED BUSINESSES.

In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded up and that the property is deteriorating, and to preserve the value of property surrounding sexually oriented businesses, the following sign regulations apply to all sexually oriented businesses.

(A) All signs must be flat wall signs. No signs may be freestanding, located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(B) No merchandise, photos or pictures of the products or entertainment on the premises may be displayed in or immediately behind window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(C) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one square foot must be placed on the main entrance door and must state, "adults only." The letters of this message must be a minimum of two inches high. The only other information on this sign may be the hours of operation.

Cross-reference:

Sexually Oriented Businesses, Ch. 119

§ 153.99 PENALTY.

A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of § 10.99