

**ORDINANCE # 32**

**FOR THE REGULATION OF**

**ADULT USES AND**

**SEXUALLY ORIENTED BUSINESS**

**HUBBARD COUNTY, MINNESOTA**

**ENACTED ON:**  
**March 6, 2002**

# ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE

## HUBBARD COUNTY, MINNESOTA

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# **1.0 ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE**

## **1.1 PURPOSE**

In the development and adoption of the ordinance codified in this chapter, it is recognized that:

1. There are some adult business uses which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods, public parks, churches, public buildings, schools, and other facilities;
2. These business uses have a deleterious impact upon property values;
3. These business uses frequently become places of criminality.

It is the further purpose of this chapter to protect the well-being of the youth of the community from objectionable operational characteristics of these adult uses by regulating and restricting their close proximity to established facilities such as, but not limited to, churches, parks, schools, and residential areas.

It is the belief of the County that, just as advertising is designed to stimulate one's appetite for desired goods and services, an overabundance or preoccupation with sexual displays or materials arouses the appetites of those so preoccupied and encourages criminal sexual behavior.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this chapter to inhibit freedom of speech or the press. The provisions herein 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 neither the intent nor effect of this chapter 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. This chapter represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time, and manner regulation of sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

## **1.2 FINDINGS**

The Hubbard County Board of Commissioners makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the County's neighborhoods.

In making the findings, the County Commissioners accept the recommendations of staff that has studied the experiences of other areas about such businesses: City of St. Cloud, MN., The Minnesota Attorney General, the City of Los Angeles, CA., the City of St Paul, MN., the City of Austin, TX., Adams County, CO., St. Croix County, WI., the City of New York, NY., and various other cities throughout the Country have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies the County Commissioners conclude:

1. Adult uses and sexually oriented business can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the County crime prevention programs and law enforcement services.
2. Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are. This situation could lessen the amount of desirable housing for residents.
3. The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from area. Lower property values that can result from the concentration of such businesses erode the County's tax base and contribute to blight.
4. Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.
5. It is necessary to provide for the special and express regulations of businesses; establishments or commercial enterprises that operate as adult body painting, studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses, adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.
6. The commercial enterprises such as the types described in paragraph 5 above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training are susceptible to operations contravening, subverting, or endangering the morals or the County by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, and thus requiring close inspection, permitting and regulations.
7. Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Sheriff's department and other departments of the County. It is necessary for the County to provide services to all of Hubbard County without concentrating the public services in one area. The concentrated use of County Services detracts from and reduces the level of services available to the rest of Hubbard County. Thus, these types of establishments can diminish the ability of the County to protect and promote the general health, welfare, morals and safety of Hubbard County.
8. The County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of Hubbard County.

## 2.0 DEFINITIONS:

The following words shall have the following meanings:

2.01 ADULT USES: Adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

2.02 ADULT USE - ACCESSORY: The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

2.03 ADULT USES - PRINCIPAL: The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

ADULT BODY PAINTING STUDIO: An establishment or business that 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".

ADULT BOOK STORE: An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty ( 20) per cent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to "specified sexual activities" or "specified anatomical areas".

ADULT CABARET: An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT CAR WASH: A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas".

ADULT COMPANIONSHIP ESTABLISHMENTS: An establishment of business, if such establishment excludes minors because 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 FACILITY: A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".

ADULT ESTABLISHMENT: An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either:

- a: Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or
- b. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas".

Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

ADULT HOTEL or MOTEL: A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB: A massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

ADULT MINI-MOTION PICTURE THEATER: A business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patron.

ADULT MODELING STUDIO: An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers 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.

ADULT MOTION PICTURE ARCADE: Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to give or fewer persons per machine at once, and characterized by an

emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

ADULT MOTION PICTURE THEATER: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

ADULT NOVELTY BUSINESS: A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to "specified sexual activities" or "specified anatomical areas".

ADULT SAUNA/STEAM ROOM/BATHHOUSE: A business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

2.034 PLANNING COMMISSION The Hubbard County Planning Commission as described in Minnesota Statutes, Section 394.30.

2.035 COUNTY BOARD OF COMMISSIONERS OR COUNTY BOARD: The governing body of Hubbard County, Minnesota.

2.036 DEPARTMENT OR ESD: the Hubbard County Environmental Services Department unless otherwise provided herein.

2.037 ZONING ADMINISTRATOR: the Zoning Administrator of the Hubbard County Environmental Services Department.

2.04 LICENSED FAMILY DAY CARE, LICENSED GROUP FAMILY DAY CARE, LICENSED CHILD CARE CENTER: A facility holding a license from Hubbard County or Minnesota pursuant to Minnesota Statutes, chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

2.05 MINOR: Any person under the age of eighteen (18) years.

2.06 NUDITY: The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

2.065 OPEN SPACE: Any parcel of land or portion thereof designated by the Ordinance for the Management of Shoreland Areas, Hubbard County, Minnesota.

2.07 PUBLIC LIBRARY: Any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

2.08 PUBLIC PARK: A park, reservation, playground, beach, or recreation or community center in the County owned, leased, or used wholly or in part by a city, county, state, school district, or federal

government for recreational purposes.

2.09 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.

2.10 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.

2.11 SEXUALLY ORIENTED BUSINESS: An adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

2.12 SPECIFIED ANATOMICAL AREAS: Anatomical areas consist of:

1. Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
2. Human genitals in a discernibly turgid state, even if completely and opaquely covered.

2.13 SPECIFIED SEXUAL ACTIVITIES: Activities consisting of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or
2. Human genitals in the state of sexual stimulation, arousal, or tumescence; or
3. Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
4. Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts; or
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
6. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation; or
8. Any combination of the above.

### **3.0 PERMITTING OR LICENSES:**

#### **3.1 LICENSE REQUIRED**

No person, firm or corporation shall own or operate an adult use or sexually oriented business in Hubbard County without having first secured a license as provided herein. The license shall be one of two types:

- A. Adult use Principal;
- B. Adult use Accessory;

#### **3.2 APPLICATIONS:**

The County shall provide an application for an Adult Use Principal or sexually oriented business license.

This application shall include:

- A. The legal full name, residence, phone number and birth date of the applicant, if any individual; and, if any corporation, partnership, LLC, or similar entity, the legal full names, residences, phone numbers and birth dates of those owners holding more than five (5) percent of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.
- B. The legal full name, address, phone number and birth date of the operator and manager of such operation, if different from the owners;
- C. The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.
- D. A statement detailing each gross misdemeanor or felony of which the applicant or, for a corporation, the owners of more than five (5) percent of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other Counties or Cities.
- E. The activities and type of business to be conducted;
- F. The hours of operation;
- G. The provisions made to restrict access by minors;
- H. A building plan of the premises detailing internal operations and activities;
- I. A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

- J. Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be reported to the Zoning Administrator by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Zoning Administrator in writing, and the Zoning Administrator shall report the changes to the County Board of Commissioners. Failure to report said changes by the applicant (s) or the licensee may result in the denial or revocation of a license.

### **3.3 LICENSE FEES:**

- A. Each application for a license shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.
- B. All permits/licenses shall expire on the last day of December in each year. The County shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made, the County may issue a license for the remainder of the year for a prorated fee. In computing such fee, the County shall count any unexpired fraction of a month as one (1) month.
- C. The annual fee, investigative fee, and late fees for the Adult Use or Sexually Oriented business license shall be established by resolution of the County Board of Commissioners.
- D. No part of any annual fee, investigative fee, and late fee paid as required by this ordinance shall be refunded.

### **3.4 GRANTING OF LICENSE.**

- A. The County shall investigate all facts set out in the application. After the County finishes the investigation, the County shall grant approval of the application if all requirements of this ordinance are met.
- B. The County shall only issue the license to the applicant. The license shall not be transferred to another holder. The County shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the County Board of Commissioners.

### **3.5 PERSONS INELIGIBLE FOR LICENSE**

The County shall not grant a license to nor may one be held by any person who:

- A. Is under twenty-one (21) years of age;
- B. Has been convicted of a felony;

- C. Is not the proprietor of the establishment for which the license is issued;
- D. Has not paid the license and investigative fees required by this Ordinance;
- E. Is not a citizen of the United States;
- F. Has had an adult use or similar permit or license revoked under and ordinance or statute similar to this ordinance.

**3.6 PLACES INELIGIBLE FOR LICENSE.**

- A. No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this ordinance, or where any license hereunder has been revoked for cause until one (1) year has elapsed after such conviction or revocation.
- B. Except uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business that does not meet all County Ordinance requirements, all building and fire codes requirements, and all provisions of State and Federal Law.

**3.7 NON-CONFORMING USES.**

Any adult use or sexually oriented business existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

- A. No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with the provisions of this Ordinance;
- B. A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the County. The County does not require a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

**3.8 CONDITIONS OF LICENSE GENERALLY**

- A. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and of any applicable county, state and federal law.
- B. All licensed premises shall have the license posted in a conspicuous place.
- C. No minor shall be allowed in or on the premises of an adult use or sexually oriented business.
- D. Any designated inspection officer or law enforcement officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- E. Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and County Ordinances generally.
- F. No adult goods, materials or services shall be offered, sold, transferred, conveyed,

given, displayed or bartered to any minor.

### **3.9 CONDITIONS OF LICENSE - ADULT PRINCIPAL**

The County permits adult use principal and sexually oriented businesses subject to the following conditions:

- A. No adult use principal or sexually oriented business shall be located closer than 1320 ft from any other adult use principal or sexually oriented business in any County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.
- B. No adult use principal or sexually oriented business shall be located closer than 1320 feet from any residential structure, place of worship, school, public park, open space, licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.
- C. No adult principal use or sexually oriented business shall be located closer than 1320 feet from any residential structure. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential structure.
- D. All adult uses and sexually oriented businesses must meet the requirements of all Hubbard County Ordinances.
- E. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:

- Adult body painting studio;
- Adult book store;
- Adult cabaret;
- Adult car wash;
- Adult companionship establishment;
- Adult entertainment facility;
- Adult hotel or motel;
- Adult modeling studio;
- Adult sauna/steam room/bath house;
- Adult motion picture theater;
- Adult mini-motion picture theater;
- Adult massage parlor;
- Adult health/sports club;
- Adult novelty business;

Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

- F. An adult use principal and sexually oriented business shall not sell or dispense non-intoxicating or intoxicating liquors, nor shall it be located within 1320 feet of a building that contains a business that sells or dispenses intoxicating or non-intoxicating liquors. An adult use principal and sexually oriented business shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business.
- G. No adult use principal and sexually oriented business' entertainment shall engage in any activity or conducts or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Hubbard County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.
- H. No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- I. All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two (2) feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter".
- J. Adult use principal and sexually oriented businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.

### **3.10 CONDITIONS OF LICENSE - ADULT USE ACCESSORY.**

The County may issue Adult Use Accessory licenses to businesses or establishments subject to the following requirements:

- A. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any other adult use principal or sexually oriented business in any adjacent County. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.
- B. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential structure, place of worship, school, public park, open space,

licensed family day care home, public library, or licensed child care or day care center in any city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residence, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

- C. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential structure. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business.
- D. All adult uses and sexually oriented businesses must meet the requirements of all Hubbard County Ordinances.
- E. The County prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure:
  - Adult body painting studio;
  - Adult book store;
  - Adult cabaret;
  - Adult car wash;
  - Adult companionship establishment;
  - Adult entertainment facility;
  - Adult hotel or motel;
  - Adult modeling studio;
  - Adult sauna/steam room/bath house;
  - Adult motion picture theater;
  - Adult mini-motion picture theater;
  - Adult massage parlor;
  - Adult health/sports club;
  - Adult novelty business;
  - Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.
- F. The adult use accessory shall comprise no more than twenty (20) percent of the floor area, or up to five hundred (500) square feet, whichever is smaller, of the establishment, space, structure or building in which it is located.
- G. Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

### **3.11 REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSE.**

- A. The Zoning Administrator may revoke, suspend, or not renew a license upon recommendation of assigned ESD staff or the County Sheriff that shows that the licensee, its owners, managers, employees, agents or any other interested parties have

engaged in any of the following conduct:

1. Fraud, deception or misrepresentation about securing the license.
  2. Habitual drunkenness or intemperance in use of drugs defined in Minnesota Statutes Section 618.01, barbiturates, hallucinogenic drugs, amphetamines, Benzedrine, Dexedrine or other sedatives, depressants, stimulants or tranquilizers.
  3. Engaging in conduct involving moral turpitude or permitting or allowing other within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.
  4. Failure to follow any requirements of the Ordinances of Hubbard County about sanitary and safety conditions, zoning requirements, or ordinances, the violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance.
  5. Conviction of an offense involving moral turpitude.
  6. Conviction of a felony.
- B. The license holder may appeal such suspension, revocation, or non-renewal to the County Board of Commissioners. The County Board of Commissioners shall consider the appeal at a regularly scheduled public hearing within (30) thirty days from the service of the notice of appeal to the Zoning Administrator.
- C. At the conclusion of the hearing the County Board of Commissioners may order:
1. The revocation, suspension or non-renewal be affirmed;
  2. That the revocation, suspension or non-renewal be lifted and that the license be returned to the certificate holder.
- D. An appeal must be accompanied by a letter of credit, cashier's check, or cash in the amount of \$500. If the decision of the Zoning Administrator is upheld, the County is entitled to recover expenses and return any balance of the \$500 that may remain. If the decision is overturned, the full amount will be refunded to the license holder.

#### **4.0 SIGN RESTRICTIONS:**

The following sign regulations shall apply to all adult use sexually oriented businesses in Hubbard County. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and the preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from any other provisions of the Counties regulations.

1. All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanical changing messages.

2. The County's sign regulations outlined in the Ordinance for the Management of Shoreland Areas, Hubbard County, Minnesota shall regulate the number, size, and location of signs allowed for an adult use or sexually oriented business.
3. 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 adult use or sexually oriented business is located.
4. No signs shall be placed in any window. A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

## **5.0 PENALTY.**

Any person violating any provisions of this Ordinance 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.

1. It shall be a misdemeanor for a person who knowingly or intentionally, in a sexually oriented business, appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

## **6.0 SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of ordinance. The County Board of Commissioners declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase of it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid.

## **7.0 EFFECTIVE DATE.**

This Ordinance shall become effective the 14<sup>th</sup> day of March, 2002.

## **8.0 SIGNATURE**

Passed by the County Board of Commissioners this 6<sup>th</sup> day of March, 2002.

County of Hubbard, Minnesota

By: /s/ Lyle Robinson  
Lyle Robinson, Chairman

Hubbard County Board of Commissioners

Attest:  
/s/ Jack Paul  
Jack Paul, Hubbard County Coordinator