

## CHAPTER 6 LICENSED ACTIVITIES

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Section 660.01: FINDINGS. The City of Kimball, Minnesota (“City”) makes the following findings regarding the impacts or “secondary effects” of sexually oriented businesses and the sale, distribution, and display of sexually oriented materials (collectively, “Sexually Oriented Business Activities”) on the areas in which such Activities are located or take place. The findings are based upon the experiences of other cities where such business have located.

Sexually Oriented Business Activities can cause or contribute significantly to increases in criminal activity in the areas in which they are located or take place, thereby taxing crime prevention, law enforcement, and public health services.

Nude dancing and other similar conduct provided by Sexually Oriented Business Activities encourages prostitution, increases the frequency of sexual assaults, attracts or encourages other related criminal activity, increases the public health and safety risks associated with Sexually Oriented Business Activities, and otherwise causes or contributes significantly to the adverse impacts and secondary effects of Sexually Oriented Business Activities on the areas in which such Activities are located, or take place.

Sexually Oriented Business Activities can cause or contribute significantly to the deterioration of residential neighborhoods, can impair the character and quality of such neighborhoods and the housing located therein, and can inhibit the proper maintenance and growth of such neighborhoods, limiting or reducing the availability of quality, affordable housing for area residents and reducing the value of property in such areas.

Sexually Oriented Business Activities can undermine the stability of other established business and commercial uses in the areas in which Sexually Oriented Business Activities are located or take place and cause or contribute significantly to the deterioration of such other business and commercial uses, thereby causing or contributing to a decline in such uses, an inhibition on business and commercial growth, and a resulting adverse impact on local government revenues and property values.

Sexually Oriented Business Activities can have a dehumanizing and distracting influence on young people and students attending schools, can diminish or destroy the enjoyment and family atmosphere of person using parks, playgrounds, forest preserves, and other public recreational areas, can interfere with or even destroy the spiritual experience of persons attending church, synagogue, or other places of worship, and can interfere with or even destroy the opportunity for solemn and respectful contemplation at cemeteries and similar facilities.

The presence of Sexually Oriented Business Activities is perceived by the public generally and by neighboring business owners and residents as an indication that the area in which such Activities occur or take place is in decline and deteriorating, a perception that can quickly lead to such decline and deterioration, prompting businesses and residents to flee the affected area to avoid the consequences of such decline and deterioration.

The exterior appearance, including signage, of Sexually Oriented Business Activities can have an adverse impact on young people and students, can contribute to the decline in property values

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associated with Sexually Oriented Business Activities, and can otherwise cause or contribute significantly to the adverse impacts and secondary effects of Sexually Oriented Business Activities on the areas in which such activities are located or take place.

Section 660.02: CONCLUSIONS OF THE CITY COUNCIL. In direct furtherance of the substantial goals of public health, safety, and welfare, the City Council adopts the following Ordinance, recognizing that it has a great interest in the present and future character of the City's residential and commercial neighborhoods.

Section 660.03: DEFINITIONS. The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

Adult Bookstore. A business or commercial enterprise that provides for barter, rental, or sale, items consisting of printed matter, pictures, slides, records, audio tape, videotape, motion picture film, or other visual or aural media, from which minors are excluded by reason of age or where a substantial or significant portion of such items are distinguished or characterized by an emphasis on Specific Anatomical Areas or Specified Sexual Activities.

Adult Gift or Novelty Business. A business or commercial enterprise that has as a principal activity the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals or otherwise providing sexual stimulation.

Adult Health Club or Adult Sports Club. A business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health or sports-related goods, services, or equipment, from which minors are excluded by reason of age or that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Adult Hotel or Motel. A business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Adult Mini-Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of less than 50 persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Adult Modeling Studio. A business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videograph, or otherwise depict or portray with the intent of providing sexual stimulation or sexual gratification to such customers, Specified Anatomical Areas of one or more models or subjects, or one or more models of subjects who are engaging in Specified Sexual Activities.

Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin-, slug-, electronically-, or mechanically-controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on Specified Sexual Activities, and the individual viewing areas are not screened, including but not limited to, doors and curtains, in any way to obstruct the viewing areas from monitoring.

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Adult Motion Picture Theater. A business or commercial enterprise operating in, on, or from a building or portion thereof that has a legal capacity of 50 or more persons, from which minors are excluded by reason of age or that is used for presenting visual media or materials that are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Adult Use Other. Any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Body Painting Studio. A business or commercial enterprise that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on any Specified Anatomical Area of any person.

Cabaret. A business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where such entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of Specified Anatomical Areas or Specified Sexual Activities.

Companion Establishment. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion between the owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Conversation/Rap Parlor. A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

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.

Establishment. Any of the following:

- (1) the opening or commencement of any sexually oriented business as a new business;
  - (2) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (3) the additions of any sexually oriented business to any other existing sexually oriented business; or
- (1) the relocation of any sexually oriented business.

Licensee. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Massage Parlor. 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 Anatomical Areas or Specified Sexual Activities.

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

Sauna, Steam Room, or Bathhouse Facility. A business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities, where the services provided are distinguished or characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, or from which minors are excluded by reason of age.

Sexually Oriented Business. An Adult bookstore, Adult Gift or Novelty Business, Adult Health Club, Adult Sports Club, Adult Hotel or Motel, Adult Mini-Motion Picture Theater, Adult Modeling Studio, Adult Motion Picture Arcade, Adult Motion Picture Theater, Body Painting Studio, Cabaret, Companion Establishment, Conversation/Rap Parlor, Escort Agency, Massage Parlor, Sauna, Steam Room, Bathhouse, or Adult Use Other.

Specified Anatomical Areas.

- (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and
- (2) human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Any of the following:

- (1) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (2) Masturbation, actual or simulated;
- (3) Human genitals in a state of sexual stimulation, arousal or tumescence;
- (4) 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 flagellation, torture, fettering, binding, or other physical restraining of any such persons;
- (5) Fondling or other erotic touching, or simulated touching, of human genitals, pubic region, buttocks, or female breast(s);
- (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being;
- (7) Excretory functions as part of or in connection with any of the activities set forth in paragraphs 1-6 of this definition.

Section 660.04: REGULATIONS.

Subd. 1. Sexually Oriented Businesses shall be prohibited in all of the City's zoning districts except I-1, as defined and regulated in Chapter 11 of the Kimball City Code (Zoning Ordinance) where such businesses shall be permitted, provided the conditions specified in the Zoning Ordinance and in this Ordinance are met.

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Subd. 2. In the I-1 District, in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.

- (a) No sexually oriented business shall be located within 1000 feet of:
  - (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
  - (2) A public or private educational facility, including, but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
- (b) No sexually oriented business shall be located within 500 feet of:
  - (1) A boundary of a residential district as defined in the Zoning Ordinance;
  - (2) A public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the city;
  - (3) A public theater;
  - (4) A public library;
  - (5) A shopping center; or
  - (6) A cemetery.
- (c) Location Near Other Sexually Oriented Businesses. The operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business may not occur within 1000 feet of another sexually oriented business. In addition, there shall not be more than one sexually oriented business within a block front even if said block is greater than 1000 feet in length.
- (d) Multiple Uses or Enlargement of Uses. The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business is prohibited.
- (e) Measurement from Certain Uses. For the purpose of subsections (a) and (b) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsections (a) or (b). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section. Such distance shall be measured across property lines, regardless of ownership of the property.

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- (f) Measurement between Sexually Oriented Business. For purposes of subsection (c) of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Section 660.05: SIGN RESTRICTIONS. In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulations shall apply to all sexually oriented businesses in the City in addition to the provisions of Section 1141 of the Zoning Ordinance, provided however that any in the event of any inconsistencies, this section will govern.

Subd. 1. All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, electrical, or contain any flashing lights, moving elements, or electronically or mechanically changing messages. No sign shall contain any message or image which identifies specified sexual activities or specified anatomical areas as defined herein.

Subd. 2. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, not to exceed 16 square feet.

Subd. 3. No signs shall be placed in any window. A one square foot sign may be placed on the door to state the hours of operation and admittance to adults only.

Subd. 4. No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually oriented business is located.

Section 660.06: ILLUMINATION. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically allowed herein. The illumination of the premise's exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Section 660.07: ENTRANCES. All entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Section 660.08: HOURS OF OPERATION. Except for an adult motel or adult hotel, no sexually oriented business may remain open except between the hours of 8:00 a.m. and 12:00 a.m. (Midnight) on weekdays and Saturdays and 12:00 p.m. (Noon) and 6:00 p.m. on Sundays.

Section 660.09: LICENSE REQUIRED. No person shall own or operate a sexually oriented business within the City unless such person is currently licensed under this Ordinance.

Section 660.10: LICENSE APPLICATION. The application for a license under this Ordinance shall be made on a form supplied by the Issuing Authority. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this Ordinance. The application shall require the following information:

Subd. 1. All Applicants. For all applicants:



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- (a) Whether the applicant is a natural person, corporation, partnership, or other form of organization.
- (b) The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimension of the interior of the premises to an accuracy of plus or minus six inches.
- (c) The name and street address of the business. If the business is to be conducted under a designation, name or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes section 333.01 shall be submitted.

Subd. 2. Applicants who are natural persons. If the applicant is a natural person:

- (a) The name, place and date of birth, street and city address, and phone number of the applicant.
- (b) Where the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
- (c) The street and city addresses at which the applicant has lived during the preceding two years.
- (d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.
- (e) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place and offense for which the convictions were had.

Subd. 3. Applicants That Are Partnerships. If the applicant is a partnership:

- (a) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in Subdivision 2 of this Section.
- (b) The name(s) of the managing partner(s) and the interest of each partner in the business.
- (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes section 333.01, a certified copy of such certificate shall be attached to the application.

Subd. 4. Corporate or Other Applicants. If the applicant is a corporation or other organization:

- (a) The name of the corporation or business form, and if incorporated, the state of incorporation.
- (b) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws shall be attached to the application. If the

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applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.

- (c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in Subdivision 2 of this Section.

Section 660.11: LICENSE APPLICATION EXECUTION. If the applicant is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

Section 660.12: LICENSE APPLICATION VERIFICATION. Applications of licenses under this Ordinance shall be submitted to the City Council (hereinafter referred to as the "Issuing Authority"). Within 60 calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Ordinance.

Section 660.13: LICENSE APPLICATION CONSIDERATION. No later than 10 calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in Section 12, the Issuing Authority shall accept or deny the license application in accordance with this Ordinance. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided in the application form and it shall inform the applicant of the applicant's right within 20 calendar days of receipt of the notice by the appellant to request an appeal of the determination for reconsideration by the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received, the hearing before the City Council shall take place within 20 calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or is not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the City Planning Department. During the application consideration process prescribed herein, an applicant operating a business not previously subject to the license provisions of this Ordinance may remain operating pending the outcome of the application consideration by the Issuing Authority.

Section 660.14: LICENSE FEES.

Subd. 1. Application Fee.

- (a) The license application fee shall be \$1,000.00.
- (b) The application fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit in the general fund of the City. The application fee shall be non-refundable.
- (c) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be 90 days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

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### Subd. 2. Investigation Fee.

- (a) An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted \$1,000.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be nonrefundable.

Section 660.15: PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE. The Issuing Authority shall issue a license under this division to an applicant unless one or more of the following conditions exist:

- (a) The applicant is not 18 years of age or older on the date the application is submitted to the Issuing Authority;
- (b) The applicant failed to supply all of the information requested on the license application;
- (c) The applicant gave false, fraudulent, or untruthful information on the license application;
- (d) The applicant has had a sexually-oriented license revoked from the City or any other jurisdiction within 12 months immediately preceding the date the application was submitted;
- (e) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;
- (f) The sexually oriented business does not meet the zoning requirements prescribed in this Ordinance;
- (g) The premises to be licensed as a sexually oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (h) The applicant has not paid the license and investigation fees required in Section 14.

### Section 660.16: LICENSE RESTRICTIONS.

Subd. 1. Posting of License. A license issued under this Ordinance must be posted in a conspicuous place in the premises for which it is used.

Subd. 2. Effect of License. A license issued under this Ordinance is only effective for the compact and contiguous space specified in the approved license application.

Subd. 3. Maintenance of Order. A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

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Subd. 4. Distance Requirement for Live Adult Entertainment. All performers, dancers, and persons 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 distance of ten feet from all patron, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two feet from the level of the floor on which patrons or spectators are located.

Subd. 5. Interaction with Patrons. No dancer, performer, or person 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 fondle or caress any spectator or patron.

Subd. 6. Gratuity Prohibition. No customer, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

Subd. 7. Adult Car Wash Requirements. Sexually oriented businesses that are adult car washes shall meet all of the requirements of this Ordinance.

### Section 660.17: RESTRICTIONS REGARDING LICENSE TRANSFER.

Subd. 1. The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

Subd. 2. When a sexually oriented business licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the sexually oriented business, the new owner or operator must immediately apply for a license under this Ordinance.

### Section 660.18: RENEWAL APPLICATION.

Subd. 1. Annual Licenses: Deadline of Renewal Applications. All licenses issued under this Division shall be effective for only one year commencing with the date of approval by the issuing Authority or City Council. An application for the renewal of an existing license shall be submitted to the Issuing Authority at least 30 calendar days prior to the expiration date of the license. An applicant must pay for the costs of a criminal background check with each renewal. This fee must be paid in full before the renewal application will be considered.

Subd. 2. Verification, Investigation and Consideration of Renewal Application. Within 20 calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant on the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Ordinance. No later than ten calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one or more of the following conditions exist:

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- (a) The applicant is a minor at the time the application is submitted;
- (b) The applicant failed to supply all of the information requested on the renewal application;
- (c) The applicant gave false, fraudulent, or untruthful information on the renewal application;
- (d) The sexually oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Ordinance;
- (e) The sexually oriented business does not meet the zoning requirements prescribed in this Ordinance;
- (f) The premises to be licensed as a sexually oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (g) The applicant has had a conviction of any crime listed in this Division; or
- (h) The applicant has had a sexually oriented license revoked within the 12 months immediately preceding the date the application was submitted.

Subd. 3. Notice of Denial. If the Issuing Authority denies a renewal application, the Issuing Authority shall notify the applicant in accordance with this Ordinance and the notice, shall, in addition, state the grounds of the denial.

Subd. 4. Appeal to City Council or Court of Law. After the denial of a renewal application by the Issuing Authority, the applicant may appeal the determination of the City Council for reconsideration or by immediately challenging the determination in a court of law. If the City denies renewal of a license under this Division, the applicant shall not be issued a license under this Division for one year from the date of the denial. If subsequent to the denial, the City Council finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial became final.

### Section 660.19: SANCTIONS FOR LICENSE VIOLATIONS.

Subd. 1. Suspension. The City Council may suspend a license issued pursuant to this Ordinance for a period not to exceed 30 days for a violation of:

- (a) Fraud, misrepresentation, or false statement contained in a license application or a renewal application;
- (b) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business;
- (c) Any violation of this Ordinance or related state law;
- (d) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 368.03, Subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by

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Minnesota Statutes, Section 364.03, subdivision 3; or

- (e) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to health, safety, or general welfare of the community.

Subd. 2. Revocation. The City Council may revoke a license if the City Council determines that:

- (a) The licensee's license was suspended in the preceding 14 months and an additional cause of suspension as detailed in subdivision 1 above is found by the City Council to have occurred within the 14-month period;
- (b) The licensee gave false or misleading information in the material submitted to the City during the application process;
- (c) The licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (d) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;
- (e) A licensee violated any of the provisions of Minnesota Statutes Section 617.241-617.299, or any statute in conformity therewith, relating to the illegal distribution, possession or sale of obscene materials;
- (f) A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (g) A licensee has been convicted of an offense described in Section 660.15 and/or 660.16 of this Ordinance for which the time period has not elapsed;
- (h) On two or more occasions within a 12-month period, a person or persons has/have committed an offense prescribed in Section 660.15 and/or 660.16 of this Ordinance, in or on the licensed premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed;
- (i) A licensee or an employee or independent contractor has knowingly allowed specified sexual activities to occur in or on the licensed premises; or
- (j) A licensee is delinquent in payment to the City, County, State or Federal Governments for hotel, occupancy, taxes, ad valorem taxes, sales taxes, or other financial obligations.

Subd. 3. Appeal. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subd. 4. Notice of Hearing. A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail to the most recent address listed on the application.

## CHAPTER 6 LICENSED ACTIVITIES

Section 660.20: PENALTY. A violation of this Ordinance shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation.

Section 660.21: SEVERABILITY. It is the specific intent of the Council that if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance as adopted. The Council hereby declares that given the overall purpose of intent of the Ordinance, that it would have adopted the Ordinance if such invalid provision had not been included or any illegal application had not been made.

Section 660.22: EFFECTIVE DATE. This Ordinance shall be effective upon its passage and publication.