

Chapter #7

SEXUALLY ORIENTED BUSINESSES, THE ZONING THEREOF

701.01. Purpose. The purpose of this Section of the City of Pierz Zoning Ordinance 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.

702.02. Findings. The City of Pierz makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located.

Subd. 1. The City has reviewed and relies on the State Attorney General's Report of the Attorney General's Working Group on Regulation of Sexually Orientated Businesses dated June 6, 1989, which details the effects and impacts of sexually orientated business plus the Task Force Report on Sexually Orientated Businesses authored by the cities of Minnetonka, St. Louis Park and Shakopee, Minnesota, which considered relevant studies from six cities. The City finds that it is similar to the cities in the Attorney General's study and the cities involved in preparing the above Task Force Report as well as the cities whose studies were considered therein and the City will experience the same secondary effects from adult businesses as did those cities.

Subd. 2. Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed family daycare homes, state licensed group family day care homes, state licensed child care centers; students attending school; and people using public parks and libraries.

Subd. 3. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the property management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

Subd. 4. 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 in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents.

Subd. 5. The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. It has been noted that the presence of such businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such businesses, which can erode the City's tax base and contribute to overall community blight.

Subd. 6. Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experience of other cities indicate that such businesses can facilitate

the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

Subd. 8. Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

701.03. Conclusions. 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 growth and financial welfare.

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

Subd. 1. **Adult Body Painting Studio.** An establishment or business which provides the service of applying paint or other substances, 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 area as defined herein.

Subd. 2. **Adult Book Store.** An establishment that has forty percent (40%) or greater of its current store stock in merchandise, videos, books, magazines and /or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.

Subd. 3. **Adult Oriented Cabaret.** A building space wherein a portion of the business is used for providing dancing, modeling or other entertainment, if such dancing or modeling or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons.

Subd. 4. **Adult Car Wash.** A wash facility for any type of motor vehicle that allows employees, and/or independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

Subd. 5. **Adult Companionship Establishments.** Any companionship establishment which excludes minors by reason of age, or which provides a service for a fee 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 as defined herein.

Subd. 6. **Adult Entertainment Facility.** A building or space wherein an admission is charged for entrance, or food or alcoholic or nonalcoholic beverages are sold or intended for consumption and wherein may be observed live presentations of entertainment including nude dancing, nude modeling or nudity, or which include other activities distinguished or characterized by an emphasis on matters depicting, describing or pertaining to specified sexual activities or specified anatomical areas as defined herein

Subd. 7. **Adults Modeling Studio.** An establishment whose major business is the provision to customers of figure models who are so presented with intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Subd. 8. **Adult Motion Picture Theater.** A building or space with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observations by patrons therein. The phrase used for in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

Subd 9. **Adults Mini-Motion Picture theater.** A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observations by patrons therein. The phrase used for in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

Subd. 10. **Adult Sauna.** A sauna which excludes by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

Subd. 11. **City.** City of Pierz, Minnesota.

Subd. 12. **Dwelling Unit.** One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

Subd. 13. **Issuing Authority.** City Council of the City of Pierz.

Subd. 14. **Minor.** Any natural person under the age of eighteen (18) years of age.

Subd. 15. **Nudity.** The showing of the human male or female genitals or public area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or a depiction or showing of the covered mail genitals in a discernibly turgid state.

Subd. 16. **Person.** One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.

Subd. 17. **Public Library.** Any library that provides free access to all residents of a city or county without discrimination, received at least half of its financial support from public funds, and is organized under the provisions of Minnesota Statutes, Chapter 134.

Subd. 18. **Public Park.** A park, reservation, open space, playground, beach, or recreation center in the City Owned, leased, or housed, wholly or in part, by a City, County, State, School District or Federal Government for recreation purposes.

Subd. 19. **Places 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 or religious educational purposes.

Subd. 20. **Sadomasochistic Abuse.** Flagellation or torture by or upon a person unclad or partially clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one.

Subd. 21. **School.** A building or space that is principally used as a place where 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.

Subd. 22. **Sign.** A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land which directs attention to an object, project, place, activity, person, Institution, organization, or business. However, a sign shall not include any display or official court or government office notices nor shall it include the flag, emblem or insignia for a nation, political unit, school, or religious group. Sign shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a sign.

Subd. 23. **Single Family Dwelling.** A residential building containing one dwelling unit as herein defined, including detached, semi-detached and attached dwellings, which is intended to be used as a residence.

Subd. 24. **State Licensed Family Day Care Home, State Licensed Group Family Day Care Home, State Licensed Child Care Center.** A facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 235A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

Subd. 25. **Sexually Oriented Business.** An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, adult-oriented cabaret, or adult sauna as herein defined or defined by the discretion of the City Council of Pierz.

Subd. 26. **Specified Sexual Activities.** For the purposes of this Ordinance, sexual activities include the following:

- a Human genitals in a discernable state of sexual stimulation or arousal; or

Acts of human masturbation, sexual intercourse, sadomasochistic behavior or sodomy; or

- b Fondling of or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breasts; or
- c Any combination of the foregoing.

Subd. 27. **Specified Anatomical Areas.** For the purposes of the Ordinance, this means less than completely or opaquely covered:

- a. Human genitals, pubic region or pubic hair; or
- b. Buttock; or
- c. Female breast or breasts below a point immediately above the top of the areola; or
- d. Any combination of the foregoing; and/or,
- e. Human male genitals in a discernibly turgid state even if completely or opaquely covered.

701.05. Zoning Regulations.

Subd. 1. **Permitted Locations.** Sexually-oriented businesses shall be prohibited in all of the City's use districts, except Industrial District where such businesses shall be a permitted use subject to the conditions in Subd. 2 below and the requirements of the City Zoning Ordinance.

Subd. 2 **Conditions relating to location.** A sexually-oriented business shall be a permitted use in an Industrial District subject to the following conditions:

- a. No sexually-oriented business shall be located closer than three hundred (300) feet from any other sexually-oriented business or liquor-serving establishments. Only one sexually-oriented business shall be permitted per building or structure. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual business premises of any other sexually-oriented business.
- b. No sexually-oriented business shall be located closer than seven hundred fifty (750) feet from any single-family or multi-family dwelling, place of worship, school, public park, state-licensed family day care home, state-licensed group family day care home, or state-licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual premises used as a single-family dwelling, place of worship, school or park, state-licensed family day care home, or state-licensed child care center. In the case of a single-family or multi-family dwelling located in an area used for agricultural purposes, the premises of the residence thereon shall be defined as the minimum lot size required by the City of Pierz Zoning Ordinance.
- c. No sexually-oriented business shall locate in any place which is also used to dispense or consume alcohol.
- d. No sexually-oriented business shall be located in the same building or upon the same property as another such use.
- e. Notwithstanding any other provision of this Ordinance, a sexually-oriented business shall not be permitted more than one (1) on-premise sign advertising its business. Such on-

premise sign shall comply with the applicable requirements of the City of Pierz Zoning Ordinance and those listed in A - D below. Further, no sign shall contain any flashing lights, moving elements, or mechanically changing messages.

1. All signs shall be flat wall signs.
2. The amount of allowable sign area shall be one square foot of sign per foot of lot frontage on the street.
3. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed by the sidewalk or front of the building.
4. Window areas shall not be covered or made opaque in any way. No sign shall be placed in a window. A one square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

701.06. Penalty. A violation of this Ordinance shall constitute and be punishable as a misdemeanor, as defined in Minnesota Statutes. Each day of operation in violation of this Ordinance shall constitute a separate offense.

701.07. Severability. If any subsection, sentence, clause or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The Council hereby declares that it would have adopted this Section and each subsection, sentence, clause or phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.