**SEXUALLY ORIENTATED BUSINESS LICENSE**
**APPLICATION INSTRUCTIONS**

***PLEASE COPY FORMS AS NEEDED***

Please submit the following:

1. Investigation Fee $1,500.00 Fee made payable to City of Burnsville.

2. Application

3. Sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

4. Additional Requirement for exhibition in a viewing room of less than 150 square feet of a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas:

   The application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architects blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus -six inches.

5. Ordinance Acknowledgement Form

4. Statement of Planned Opening Form

5. State of Minnesota Tax ID Form

6. MN Worker's Compensation Form

Upon receipt of the above forms and the investigation fee of $1,500.00, an Officer will be assigned to conduct a background investigation.

Before a license will be issued, the business premises must be inspected and found to be in compliance with the law by the fire department, police department and building officials.

Upon completion of the investigation, a public hearing will be called for Council consideration of approval. The license fee of $5,000.00 must be submitted prior to the public hearing (In the event that the license is denied, the license fee shall be refunded; however, no part of the investigation fee shall be returned to the applicant).

All licenses expire on December 31 of each year.

# APPLICATION FOR SEXUALLY ORIENTATED BUSINESS LICENSE
# PART 1 – GENERAL INFORMATION

City of Burnsville
100 Civic Center Parkway, Burnsville, MN 55337-3817 (952) 895-4460 Fax (952) 895-4512 www.burnsville.org

**Directions:** This form must be filled out with typewriter, or hand printed in ink. If the application is by a natural person, by such person; if by a corporation, by an officer thereof; if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer thereof.

**Type of Establishment:**
☐ Arcade ☐ Book/Video Store ☐ Cabaret ☐ Rap Parlor ☐ Massage Parlor
☐ Motel ☐ Motion Picture Theater ☐ Sauna ☐ Novelty Business
☐ Theater ☐ Escort Agency ☐ Nude Model Studio ☐ Sexual Encounter Center

Name of applicant (name of individual, partnership, corporation or association):_____

_____

Applicant Address:_____
*(No P.O. Box Accepted)*

Applicant Phone:_____Email Address:_____

Business Name/dba:_____

Business Address:_____

Business Phone:_____Website:_____

Dakota County Property ID #_____

**IF BUSINESS IS TO BE CONDUCTED UNDER A DESIGNATION, NAME OR STYLE OTHER THAN FULL INDIVIDUAL NAME OF THE APPLICANT, ATTACH THE CERTIFICATE OF ASSUMED NAME, AS REQUIRED BY CHAPTER 333, MINNESOTA STATUTES, CERTIFIED BY THE OFFICE OF THE SECRETARY OF STATE. IF THE APPLICATION IS FOR A PARTNERSHIP, ATTACH THE PARTNERSHIP AGREEMENT AND THE CERTIFICATE OF TRADE NAME UNDER PROVISIONS OF CHAPTER 333, MINNESOTA STATUTES, CERTIFIED BY SECRETARY OF STATE'S OFFICE. IF THE APPLICATION IS FOR A CORPORATION, ATTACH COPIES OF THE CERTIFICATE OF INCORPORATION; ARTICLES OF INCORPORATION OR ASSOCIATION AGREEMENT; BY-LAWS TO THE APPLICATION; FOREIGN CORPORATIONS SHALL ATTACH CERTIFICATE OF AUTHORITY AS DESCRIBED IN MSA CHAPTER 303.**

Type of Ownership: Sole Proprietor _____ Partnership _____ Corporation _____ LLC_____ Non-profit _____

If corporation: Date of Incorporation _____State Incorporated In_____

If incorporated under the laws of another state, is corporation authorized to do business in the State of Minnesota:
_____Yes _____No (Attach Articles of Incorporation and By-laws)

List all of the owners, officers, stockholders and/or partners. Ownership must add up to 100%. Corporations need list only shareholders with 10% or greater interest in the business. Attach additional sheets if necessary. **Part II forms must be submitted for individuals listed below and the operating manager(s).**

Name:_____Title_____#shares or %_____

Name:_____Title_____#shares or %_____

Name:_____Title_____#shares or %_____

Name:_____Title_____#shares or %_____

The full name, date of birth, residence address, telephone number and email of the **Operating Manager** in charge of the premises when the owner is absent and any other individual with management responsibilities for the corporation's or association's premises to be licensed: (if more than one operating manager, attach additional sheet with information).

Full Name:_____ DOB:_____
(Last) (First) (Middle)

Residence Address:_____ PH:_____
(Street, City, State, Zip – No P.O. Box Accepted)

Email:_____

Give full names, dates of birth, addresses, and telephone numbers of all persons, other than the applicant, who have any financial interest in the business, buildings, premises, fixtures, furniture, or stock in trade. State the nature of the interest amount thereof, and the terms for payment or other reimbursement: (This shall include, but not be limited to, any lessees, lessors, mortgagors, lendors, lien holders, trustees, trustors, and persons who have co-signed notes or otherwise loaned, pledged, or extended security for any indebtedness of the applicant. Attach additional sheet with information if needed).

Full Name:_____Address:_____

Interest:_____

Full Name:_____Address:_____

Interest:_____

**IF THE APPLICATION IS FOR PREMISES EITHER PLANNED, UNDER CONSTRUCTION OR UNDERGOING SUBSTANTIAL ALTERATION, THE APPLICATION SHALL BE ACCOMPANIED BY A SET OF PRELIMINARY PLANS SHOWING THE DESIGN OF THE PROPOSED PREMISE TO BE LICENSED. IF THE PLANS OR DESIGNS ARE ON FILE WITH THE MANAGER OF THE BUILDING AND BURNSVILLE BUILDING INSPECTIONS DEPARTMENT, NO ADDITIONAL PLANS NEED BE FILED WITH THIS APPLICATION.**

State the exact legal description of the premises to be licensed: (Applicant must submit a designated scaled drawing with market dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicant must submit a plot plan showing dimensions, location of buildings, street access, parking facilities, and the locations of and distances to the closest point of a residentially zoned property, another sexually oriented business, schools, religious institutions and daycares.)

_____

_____

Provide a general description (business plan) of the proposed business for which the license is sought, including, but not limited to: Type of clientele, type of entertainment (if any), type of food menu (if any), fixtures etc.:

_____

_____

_____

_____

_____

Sq. ft. for business use: Indoor _____Outdoor_____ Seating Capacity: Indoor _____ Outdoor_____

Fire Occupancy: Indoor _____ Outdoor_____ Hours of Operation: Indoor _____ Outdoor_____

Are you sharing the licensed premises with any other business: Yes_____ No_____ If yes, describe _____

_____

How are the premises permitted under the Burnsville Zoning Ordinance?_____

State full names, dates of birth, residence and business addresses, and telephone numbers of the owner or owners of the building wherein the licensed business will be located, if the owner is other than the applicant:

Full Name:_____Phone:_____
(Last, First, Middle)

Residence Address:_____
(Street, City, State, Zip)

Business Address:_____ Phone:_____
(Street, City, State, Zip)

Full Name:_____Phone:_____
(Last, First, Middle)

Residence Address:_____
(Street, City, State, Zip)

Business Address:_____ Phone:_____

Where the building is owned by other than applicant, state in summary the conditions of lease arrangement, such as term of lease, monthly rental, renewal privileges, etc. (Attach a copy of the lease).

_____

_____

Are any real estate taxes, personal property taxes, special assessments, or other financial claims delinquent or unpaid for the premises to be licensed? If yes, give details. _____

_____

**********

**The data you furnish on this application will be used by the City of Burnsville to assess your qualifications for licensure. Disclosure of this information is voluntary. You are not legally required to provide this data; however, if you fail to do so, the City of Burnsville may be unable to process this application. Disclosure of your Social Security number, Minnesota Tax ID Number, or Individual Tax ID Number is required by Minnesota Statutes 270C.72 and your Social Security number may be requested by and released to the Department of Revenue. Upon submission of this application, all information except your Social Security Number will be public information pursuant to Minnesota Statutes, Chapter 13.**

**I (print name)_____, agree that my associates and I will strictly comply with all the laws of the State of Minnesota and all ordinances of the City of Burnsville. I hereby certify or declare under penalty of perjury under the laws of the State of Minnesota that I have read and understand every question in this application and that the answer to every question and in all supplemental documents submitted on behalf of this application are true and correct to the best of my knowledge, information and belief. I further understand that the giving of false information in this application, regardless of when it is discovered, and or the failure to give required pertinent information constitutes cause for the immediate revocation of any and all licenses and/or permits issued hereunder and may be grounds for prosecution for perjury. All information given is subject to verification by the State of Minnesota.**

_____ _____ _____
***Signature of Applicant*** ***Title*** ***Date***

SUBSCRIBED AND SWORN TO BEFORE ME THIS

_____day of_____, 20_____.

_____ (Stamp)
Signature of Notary Public

My Commission expires on:_____

# APPLICATION FOR SEXUALLY ORIENTATED BUSINESS LICENSE
# PART II – PERSONAL INFORMATION

City of Burnsville
100 Civic Center Parkway, Burnsville, MN 55337-3817 (952) 895-4460 Fax (952) 895-4512 www.burnsville.org

This form must be completed by each of the following with a colored copy of driver's license or government issued photo ID attached.

☐ Applicant ☐ Manager (s) ☐ Owners/Partners/Directors/Officers/ and Shareholders with 10% interest or greater.

| BACKGROUND INFORMATION | | | |
|---|---|---|---|
| Legal Corporate Name of Establishment | Trade Name of Business (DBA) | | |
| Street Address of Licensed Premises | Cell Phone | Business Phone | Social Security Number |
| Your Name (Full First, Middle, Last) | Place of Birth (City, State) | | Date of Birth |
| Residential Street Address | City | State | Zip Code |
| Race: Caucasian ☐ African American ☐ Asian ☐ Hispanic ☐ Other ☐<br>Sex : Female ☐ Male ☐ U.S. Citizen: Yes ☐ No ☐ | First, middle, or last names you have ever used or been known by<br>Naturalized ☐ Yes ☐ No If yes, give date and place | | |
| Email address | Title | | % of ownership |

| List your Residences for the past Five (5) Years – Attach additional sheets if necessary | | | | | |
|---|---|---|---|---|---|
| Street Address | City | State | Zip | From | To |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| List Name and Address or Employer and Occupation for the past Five (5) Years – Attach additional sheets if necessary | | | | | |
|---|---|---|---|---|---|
| Employer and Occupation | Street Address and City | State | Zip | From | To |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

| SPOUSE'S INFORMATION | | | |
|---|---|---|---|
| Spouse's Name | Place of Birth (City, State) | | Date of Birth |
| First, middle, or last names your spouse has ever used or been known by | | | |
| Spouse's Residential Street Address | City | State | Zip Code |

| FOR CITY USE ONLY | | | | |
|---|---|---|---|---|
| Case File #: | | | | |
| Amount/Date Fee Paid: | CCH ☐ | QDP ☐ | CJIN ☐ | Investigation Approval: |

## LICENSE HISTORY

Have you or your spouse ever been employed or operated a sexually orientated business or other business of a similar nature? ____ Yes ____ No
If yes,

| Name | Address | City | State | Zip | From | To |
|---|---|---|---|---|---|---|
| | | | | | | |

Have you ever individually or with others made application or been licensed for a sexually orientated business and have such applications and/or licenses been ::
Revoked or suspended? ____ Yes _____ No New or renewal license denied? _____Yes _____No (By any government entity?) If yes, explain:

Have you or your spouse ever filed for bankruptcy either as individuals, jointly, or in connection with any business you have had an interest in?
_____Yes _____No If yes, give dates and business:

List all other cities or communities where you have applied for or held a license to operate a sexually orientated business:

Do you have income from any other source other than the sexually orientated business? Yes _____ No_____ If yes, state source:

Have you or your spouse ever been convicted of any ordinance violation, sexually orientated law violation, petty misdemeanor, misdemeanor, gross misdemeanor, or felony? This includes both civil and criminal offenses, including sexually orientated penalties. This includes state, local, and federal offenses. Do not include parking violations. _____Yes _____ No If yes,

| Offense | Fine/Penalty | City | State | Date |
|---|---|---|---|---|
| | | | | |

Were you or your spouse ever a party to a civil action or proceeding in this state or elsewhere, or been named in a notice of claim that you may be a defendant in a civil action or proceeding that related to the operation of a sexually orientated business? Yes _____ No_____ Indicate below each civil action or proceeding:

| Date Commenced | Action or Proceeding | Named as plaintiff, defendant, petitioner or respondent | Court Disposition |
|---|---|---|---|
| | | | |

Were you or your spouse ever named as a defendant in a criminal proceeding that related to the operation of a sexually oriented business? Yes____ No____ Indicate below each criminal action or proceeding:

| Date Commenced | Action or Proceeding | Court Disposition |
|---|---|---|
| | | |

Do you or your spouse have any delinquent personal or business taxes? _____Yes _____No If yes,

Date filed:_____Address:_____County:_____State:_____

## REFERENCES

| Name | Address | City/State/Zip | Relationship | Email | Phone |
|---|---|---|---|---|---|
| Name | Address | City/State/Zip | Relationship | Email | Phone |
| Name | Address | City/State/Zip | Relationship | Email | Phone |

## DATA PRIVACY ADVISORY

The Minnesota Data Practices Act requires that we inform you of your rights about the private data we are requesting on this form. As part of this application, you are asked to provide private and/or confidential information about yourself that will be used to check driving history, criminal history, arrest records, warrant information, and other relevant records. You may refuse to provide this information. However, should you refuse; our investigation cannot be completed and will result in your application not being processed. The information you provide is public and will be used by the City of Burnsville Police Department, Licensing Department, the Burnsville City Council, and the general public.

**This AUTHORIZATION FOR RELEASE OF INFORMATION will expire two years from the date it was signed.**
**I HAVE READ AND UNDERSTAND THE ABOVE DATA PRACTICES ADVISORY**

**Signature**_____ **Date**_____

## VERIFICATION

**The data you furnish on this application will be used by the City of Burnsville to assess your qualifications for licensure. Disclosure of this information is voluntary. You are not legally required to provide this data; however, if you fail to do so, the City of Burnsville may be unable to process this application. Disclosure of your Social Security number, Minnesota Tax ID Number, or Individual Tax ID Number is required by Minnesota Statutes 270C.72 and your Social Security number may be requested by and released to the Department of Revenue. Upon submission of this application, all information except your Social Security Number will be public information pursuant to Minnesota Statutes, Chapter 13.**

**I will strictly comply with all the laws of the State of Minnesota and all ordinances of the City of Burnsville. I hereby certify or declare under penalty of perjury under the laws of the State of Minnesota that I have read and understand every question in this application and that the answer to every question and in all supplemental documents submitted on behalf of this application are true and correct to the best of my knowledge, information and belief. I further understand that the giving of false information in this application, regardless of when it is discovered, and or the failure to give required pertinent information constitutes cause for the immediate revocation of any and all licenses and/or permits issued hereunder and may be grounds for prosecution for perjury. All information given is subject to verification by the State of Minnesota.**

**A SIGNATURE IS REQUIRED IN ORDER TO PROCESS THIS APPLICATION**

Signature_____ Date_____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____day of _____, 20____

_____ My Commission expires on:_____
Signature of Notary Public

(Stamp)

I hereby certify that I have received a copy of the Burnsville Sexually Orientated Business Ordinance and **will familiarize myself with the contents thereof.**

_____

Signature

_____

Business

# STATEMENT OF PLANNED OPENING INVESTMENT FOR PROPOSED BUSINESS

Trade Name of Proposed Business_____

Made a part of License Application dated:_____

INTENDED USE OF FUNDS FROM OPENING INVESTMENT
AND OTHER SOURCES LISTED BELOW: (Round off to nearest hundred dollars)

Operating capital for daily needs, such as, but not limited to the opening checking account balance, cash register change, sufficient money to carry an average amount of accounts receivable (if credit is extended to customers), insurance, rent and other expenses which must be paid in advance ..... $_____

Merchandise for resale {stock in trade) ..... _____

Business Property:

Land and buildings used for the business {enter zero if rented) ..... _____

Equipment and other furnishings ..... _____

Other uses of funds, if any (describe each)

_____

_____

TOTAL REQUIREMENTS..... _____

SOURCES OF FUNDS TO PROVIDE FOR BUSINESS
REQUIREMENTS ABOVE:

Indebtedness owed to the seller if applicant purchases an existing business with the seller financing part of the price after the closing date..... $_____

Loans from financial institutions, banks and other such 1enders..... _____

Loans from re1atives..... _____

Loans from other individuals ..... _____

Other outside sources, if any (describe each)

_____

_____

# TAX IDENTIFICATION FORM

**LICENSE APPLICANT:**

Pursuant to *Minnesota Statute 270C.72 Tax Clearance: Issuance of Licenses, the licensing authority is required to provide to the Minnesota Commissioner of Revenue your Minnesota business tax identification number and the Social Security number of each license applicant.

Under the Minnesota Government Data Practices Act and the Federal Privacy Act of 1974, we are required to advise you of the following regarding the use of this information:

1. This information may be used to deny the issuance, renewal or transfer of your license in the event you owe the Minnesota Department of Revenue delinquent taxes, penalties or interest:

2. Upon receiving this information, the licensing authority will supply it only to the Minnesota Department of Revenue. However, under the Federal Exchange of Information Agreement the Department of Revenue may supply this information to the Internal Revenue Service:

3. Failure to supply this information may jeopardize or delay the processing of your licensing issuance or renewal application.

Please supply the following information and return along with your application to the agency issuing the license. DO NOT RETURN TO THE DEPARTMENT OF REVENUE.

Name of Applicant_____

Social Security #*_____
For individual business owner only, not partnership, corporation, etc.

Type of Business_____

Minnesota Tax Identification # _____

Federal Tax Identification # _____

Signed by_____ Date _____

Print Name of Person Signing: _____

**If a Minnesota Tax Identification Number is not required, please explain below.**

_____

_____

_____

***2008 Minnesota Statutes**

**270C.72 TAX CLEARANCE; ISSUANCE OF LICENSES.**

Subd. **4. Licensing authority; duties.**

All licensing authorities must require the applicant to provide the applicant's Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner, the licensing authority must provide the commissioner with a list of all applicants, including the name, address, business name and address, Social Security number, and business identification number of each applicant. The commissioner may request from a licensing authority a list of the applicants no more than once each calendar year.

**History:** *2005 c 151 art 1 s 87*

# Certificate of Compliance
# Minnesota Workers' Compensation Law

***THIS FORM MUST BE COMPLETED BY THE BUSINESS LICENSE APPLICANT***

**PRINT IN INK or TYPE**

Minnesota Statutes §176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes Chapter 176. If the required information is not provided or is falsely stated it shall result in a $2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry.

A valid workers' compensation policy must be kept in effect at all times by employers as required by law.

| License or certificate number (if applicable) | Business telephone number | Alternate telephone number |
|---|---|---|
| | | |

Business name (Provide the legal name of the business entity. If the business is a sole proprietor or partnership, provide the owner's name(s), for example John Doe, or John Doe and Jane Doe.)

DBA ("doing business as" or "also known as" an assumed name), if applicable

| Business address (must be physical street address, no P.O. boxes) | City | State | ZIP code |
|---|---|---|---|
| | | | |

| County | Email address |
|---|---|
| | |

## YOUR LICENSE OR CERTIFICATE WILL NOT BE ISSUED WITHOUT THE FOLLOWING INFORMATION. *You must complete number 1 or 2 below.*

## Number 1 – Workers' compensation insurance policy information

| Insurance company name (not the insurance agent) | | NAIC number |
|---|---|---|
| Policy number | Effective date | Expiration date |

## Number 2 – Reason for exemption from workers' compensation insurance

If you have questions regarding the need to obtain workers' compensation coverage, including exemptions, call (651) 284-5032 or 1-800-342-5354.

☐ I have no employees. (See Minnesota Statute § 176.011, subd. 9 for the definition of an employee.)

☐ I am self-insured for workers' compensation (attach a copy of the authorization to self-insure from the Minnesota Department of Commerce).

☐ I have employees but they are not covered by the workers' compensation law. (See Minnesota Statute § 176.041 for a list of excluded employees.) Explain why your employees are not covered:

_____

_____

I certify the information provided on this form is accurate and complete. If I am signing on behalf of a business, I certify I am authorized to sign on behalf of the business.

**Print name**

| **Applicant signature (required)** | **Title** | **Date** |
|---|---|---|
| | | |

NOTE: You must notify the authority issuing your license if there is any change to your workers' compensation insurance information or an employee status change by resubmitting this form. This material can be made available in different forms, such as large print, Braille or audio.

CHAPTER 25

# SEXUALLY ORIENTED BUSINESSES

SECTION:


3-25- 1: Purpose And Intent
3-25- 2: Definitions
3-25- 3: Classification
3-25- 4: License Required
3-25- 5: Issuance Of License
3-25- 6: License Fees; License Investigation Fees
3-25- 7: Inspection
3-25- 8: Expiration Of License
3-25- 9: Suspension
3-25-10: Revocation
3-25-11: Appeal
3-25-12: Transfer Of License
3-25-13: Additional Regulations For Escort Agencies
3-25-14: Additional Regulations For Nude Model Studios
3-25-15: Additional Regulations For Sexually Oriented Theaters And Sexually Oriented Motion Picture Theaters
3-25-16: Additional Regulations For Sexually Oriented Motels
3-25-17: Regulations Pertaining To Exhibition Of Sexually Explicit Films Or Videos
3-25-18: Enforcement
3-25-19: Injunction


## 3-25-1: PURPOSE AND INTENT:

(A) The purpose of this Chapter is to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City, to guard against the inception and transmission of disease, and to establish reasonable and uniform regulations. The provisions of this Chapter 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 not 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.

(B) The City Council further finds that experience from other cities demonstrates that sexually oriented businesses conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the health, safety and welfare of members of the community by being the sites of acts of prostitution, illicit sex, and occasions of violent crimes, thus requiring close inspection, licensing, and regulation. (Ord. 588, 10-16-1995)

3-25-2: **DEFINITIONS:** The following words, terms, and phrases, when used in this Chapter and in Title 10, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

CITY MANAGER: The City Manager of the City of Burnsville or a person designated by the City Manager.

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: Includes any of the following:

(A) The opening or commencement of any sexually oriented business as a new business;

(B) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(C) The addition of any sexually oriented business to any other existing sexually oriented business; or

(D) 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.

NUDE MODEL STUDIO: Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

NUDITY OR A STATE OF NUDITY: (A) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or

(B) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

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

SEMI-NUDE: A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breasts, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

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(B) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SEXUALLY ORIENTED ARCADE: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

SEXUALLY ORIENTED BOOKSTORE OR SEXUALLY ORIENTED VIDEO STORE: A commercial establishment which as a principal business purpose offers for sale or rental for any form of consideration any one or more of the following:

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs, computer software, digital recordings, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas".

SEXUALLY ORIENTED BUSINESS: A sexually oriented arcade; sexually oriented bookstore; sexually oriented video store; sexually oriented cabaret; sexually oriented conversation/rap parlor; sexually oriented massage parlor; sexually oriented motel; sexually oriented motion picture theater; sexually oriented sauna; sexually oriented theater; escort agency; nude model studio; or sexual encounter center; and other premises, enterprises, establishments, businesses, or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or

description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

SEXUALLY ORIENTED CABARET: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(A) Persons who appear in a state of nudity; or

(B) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(C) Films, motion pictures, video cassettes, slides, compact discs, computer software, digital recordings, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

SEXUALLY ORIENTED CONVERSATION/RAP PARLOR: A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion 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".

SEXUALLY ORIENTED MASSAGE PARLOR: A massage parlor which excludes minors by reason of age, or which provides for any form of consideration the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

SEXUALLY ORIENTED MOTEL: A hotel, motel or similar commercial establishment which:

(A) Offers accommodations to the public for any form of consideration; provides patrons with

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closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

(B) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(C) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

SEXUALLY ORIENTED MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

SEXUALLY ORIENTED SAUNA: A sauna which excludes minors by reason of age, or which provides for any form of consideration 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".

SEXUALLY ORIENTED THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

SPECIFIED ANATOMICAL AREAS: Human genitals in a state of sexual arousal.

SPECIFIED SEXUAL ACTIVITIES: Includes any of the following:

(A) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) Masturbation, actual or simulated; or

(D) Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above. (Ord. 588, 10-16-1995)

3-25-3: **CLASSIFICATION:** The following are classified as sexually oriented businesses:

(A) Sexually oriented arcades;

(B) Sexually oriented bookstores or sexually oriented video stores;

(C) Sexually oriented cabarets;

(D) Sexually oriented conversation/rap parlors;

(E) Sexually oriented massage parlors;

(F) Sexually oriented motels;

(G) Sexually oriented motion picture theaters;

(H) Sexually oriented saunas;

(I) Sexually oriented theaters;

(J) Escort agencies;

(K) Nude model studios; and

(L) Sexual encounter centers. (Ord. 588, 10-16-1995)

## 3-25-4: LICENSE REQUIRED:

(A) A sexually oriented business may not be operated without a valid license, issued by the City for the particular type of business.

(B) An application for a license must be made on a form provided by the City Clerk. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with market dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Applicants who must comply with Section 3-25-17 of this Chapter shall submit a diagram meeting the requirements of that Section.

(C) The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with the law by the Fire Department and Building Official.

(D) If a person who wishes to operate a sexually oriented business is an individual, the individual must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 3-25-5 of this Chapter and each applicant shall be considered a licensee if a license is granted. (Ord. 588, 10-16-1995)

## 3-25-5: ISSUANCE OF LICENSE:

(A) The City Manager shall approve the issuance of a license by the City Clerk to an applicant within thirty (30) days after receipt of a complete application unless the City Manager finds one or more of the following to be true:

1. An applicant is under eighteen (18) years of age.

2. An applicant is delinquent in the applicant's payment to the City of taxes, fees, fines, or penalties assessed against the applicant or imposed upon the applicant in relation to a sexually oriented business.

3. An applicant has intentionally failed to provide information reasonably necessary for issuance of the license or has intentionally falsely answered a question or request for information on the application form.

4. An applicant has been convicted of a violation of a provision of this Chapter within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

5. An applicant is residing with a person who has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

6. The premises to be used for the sexually oriented business have not been approved by the Fire Department and the Building Official as being in compliance with applicable laws and ordinances. The Fire Department and Building Inspector must inspect the premises and issue an inspection report within thirty (30) days after the applicant identifies the premises and requests an inspection.

7. The license fee required by this Chapter has not been paid.

8. An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve (12) months and has demonstrated that the applicant is unable to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers on two (2) or more occasions during the preceding twelve (12) month period.

9. An applicant or the proposed establishment is in violation of or is not in compliance with this Chapter.

10. An applicant or an applicant's spouse has been convicted of a crime:

a. Involving any of the following offenses:

(1) Prostitution as described in Minnesota Statutes, section 609.321;

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(2) Solicitation, inducement or promotion of prostitution as described in Minnesota Statutes, section 609.322;

(3) Receiving profit derived from prostitution as described in Minnesota Statutes, section 609.323;

(4) Other prohibited acts relating to prostitution as described in Minnesota Statutes, section 609.324;

(5) Obscenity as described in Minnesota Statutes, section 617.241;

(6) Sale, dissemination, distribution, display or exhibition of harmful material to minors as described in Minnesota Statutes, sections 617.293 and 617.294;

(7) Sexual performance by a child as described in Minnesota Statutes, section 617.246;

(8) Dissemination or possession of child pornography as described in Minnesota Statutes, section 617.247;

(9) Indecent exposure as described in Minnesota Statutes, section 617.23;

(10) Criminal sexual conduct as described in Minnesota Statutes, sections 609.342, 609.343, 609.344, and 609.345;

(11) Incest, as described in Minnesota Statutes, section 609.365; or

(12) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

b. For which:

(1) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(2) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(3) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.

(B) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(C) An applicant who has been convicted or whose spouse has been convicted of an offense listed in subsection 3-25-5(A)10a may qualify for a sexually oriented business license only when the time period required by subsection 3-25-5(A)10b has elapsed.

(D) The license, if granted, shall state the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. (Ord. 588, 10-16-1995)

3-25-6: **LICENSE FEES; LICENSE INVESTIGATION FEES:** The annual fee for a sexually oriented business license shall be set by resolution of the City Council. The investigation fee for the purpose of issuing a license shall be set by resolution of the City Council. In the event that the license is denied upon application, the license fee shall be refunded; however, no part of the license investigation fee shall be returned to the applicant. No part of the annual license fee shall be refunded if the license is suspended or revoked. (Ord. 588, 10-16-1995)

3-25-7: **INSPECTION:**

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, and Building Inspection Division to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

(B) A person who operates a sexually oriented business or their agent or employee commits an offense if the person refuses to permit a lawful inspection of the premises by a representative of the Police Department at any time it is occupied or open for business.

(C) The provisions of this Section do not apply to areas of a sexually oriented motel which are currently being rented by a customer for use as a permanent or temporary habitation. (Ord. 588, 10-16-1995)

3-25-8: **EXPIRATION OF LICENSE:**

(A) Each renewal license shall be issued for a maximum period of one year. All licenses expire on December 31 of each year. Each license may be renewed only by making application as provided in Section 3-25-4 of this Chapter. Application for renewal should be made at least ninety (90) days before the expiration date. If the City Manager determines good and sufficient cause is shown by the applicant for failure to file a timely renewal application, the City Manager shall, if other provisions of this Chapter are complied with, grant the application.

(B) When the City Manager denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City Manager finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final. (Ord. 588, 10-16-1995)

3-25-9: **SUSPENSION:** The City Manager may suspend a license for a period not to exceed thirty (30) days following written notice and an opportunity to be heard if the City Manager determines that a licensee or an employee of a licensee has:

(A) Violated or is not in compliance with this Chapter;

(B) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

(C) Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter;

(D) Knowingly permitted unlawful gambling by any person on the sexually oriented business premises; or

(E) Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers. (Ord. 588, 10-16-1995)

3-25-10: **REVOCATION:**

(A) The City Manager may revoke a license preceded by written notice and an opportunity to be heard if a cause of suspension in Section 3-25-9 of this Chapter occurs and the license has been suspended within the preceding twelve (12) months.

(B) The City Manager may revoke a license if the City Manager determines that:

1. A licensee gave false or misleading information to the City during the application process;

2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

3. A licensee or an employee has knowingly allowed prostitution on the premises;

4. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

5. A licensee has been convicted of an offense listed in subsection 3-25-5(A)10a for which the time period required in subsection 3-25-5(A)10b has not elapsed;

6. On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in subsection 3-25-5(A)10a, for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;

7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the meaning as it is defined in Minnesota Statutes, section 609.341, subdivision 11(b); or

8. A licensee is delinquent in payment to the City for ad valorem taxes, local lodging tax, or other taxes or fees related to the sexually oriented business.

(C) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(D) Subsection 3-25-10(B)7 does not apply to sexually oriented motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(E) When the City Manager revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the City Manager finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsection 3-25-10(B)7, an applicant may not be granted another license until the appropriate number of years required under subsection 3-25-5(A)10b have elapsed. (Ord. 588, 10-16-1995)

3-25-11: **APPEAL:**

(A) Right To Appeal: If the City Manager requires an establishment that is unlicensed to apply for a license, denies the issuance of a license, or suspends or revokes a license, the City Manager shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action, and the right to an appeal. The aggrieved party may appeal the decision of the City Manager within ten (10) days of receiving notice of the City's action. The filing of an appeal stays the action of the City Manager in requiring, suspending or revoking a license until the City Council makes a final decision.

(B) Procedure: The City Council may appoint a committee of the Council or an independent hearing officer to hear the matter, report findings of fact and make a recommendation for disposition to the Council. Hearings on the appeal shall be open to the public and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in its behalf. At the conclusion of the hearing, the City Council shall make a final decision.

(C) Additional Requirements: The City Council may condition denial, suspension, revocation, or nonrenewal of a license upon appropriate terms and conditions. (Ord. 588, 10-16-1995)

3-25-12: **TRANSFER OF LICENSE:** A licensee shall not transfer a license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. 588, 10-16-1995)

3-25-13: **ADDITIONAL REGULATIONS FOR ESCORT AGENCIES:**

(A) An escort agency shall not employ any person under the age of eighteen (18) years.

(B) A person commits an offense if that person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years. (Ord. 588, 10-16-1995)

3-25-14: **ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS:**

(A) A nude model studio shall not employ any person under the age of eighteen (18) years.

(B) A person commits an offense if he or she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way. (Ord. 588, 10-16-1995)

3-25-15: **ADDITIONAL REGULATIONS FOR SEXUALLY ORIENTED THEATERS AND SEXUALLY ORIENTED MOTION PICTURE THEATERS:**

(A) A person commits an offense if he or she knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity in or on the premises of a sexually oriented theater or sexually oriented motion picture theater.

(B) It is a defense to prosecution under subsection (A) of this Section if the person under eighteen (18) years was in a restroom not open to public view or persons of the opposite sex. (Ord. 588, 10-16-1995)

## 3-25-16: ADDITIONAL REGULATIONS FOR SEXUALLY ORIENTED MOTELS:

(A) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is a "sexually oriented motel" as that term is defined in this Chapter.

(B) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business license, he or she rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, the person rents or subrents the same sleeping room again.

(C) For purposes of subsection (B) of this Section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. 588, 10-16-1995)

## 3-25-17: REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS:

(A) A person who operates or causes to be operated a sexually oriented business, other than a sexually oriented motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus

six inches (6"). The City Manager may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Manager.

4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (A)5 of this Section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (A)1 of this Section.

7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to

ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(B) A person having a duty under subsection (A)1 through 8 above commits an offense if the person knowingly fails to fulfill that duty. (Ord. 588, 10-16-1995)

3-25-18: **ENFORCEMENT:**

(A) Any person violating a provision of this Chapter, upon conviction, is punishable by a fine not to exceed seven hundred dollars ($700.00) and ninety (90) days in jail.

(B) It is a defense to prosecution under this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school licensed by the State of Minnesota; a college, junior college, or university supported entirely or partly by taxation;

2. By a private college or university which maintains and operates educational programs in which credits are transferrable to a college, junior college, or university supported entirely or partly by taxation; or

3. In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

b. Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

c. Where no more than one nude model is on the premises at any one time. (Ord. 588, 10-16-1995)

3-25-19: **INJUNCTION:** A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this Chapter is subject to a suit for injunction as well as prosecution for criminal violations. (Ord. 588, 10-16-1995)