

ORDINANCE 118
ADULT BUSINESS ORDINANCE

The City of Stockton does hereby ordain:

Section 1: That the Model Zoning Ordinance for the City of Stockton, established October, 1975, be amended by adding thereto the following:

ARTICLE VII
ADULT USE ESTABLISHMENTS

Section A. FINDINGS AND PURPOSE. The Minnesota State Attorney General's Office and the cities of St. Paul, Minneapolis, Rochester, and Ramsey, Minnesota, as well as Phoenix, Arizona, Seattle, Washington, Indianapolis, Indiana, and Adams County, Colorado, have conducted studies of the impact of Adult Use Establishments on their respective communities. The American Society of Planning Officials (ASPO) has also issued a report providing an overview of concerns related to the regulation of adult entertainment businesses. On the basis of these studies and reports and other information available to it the City Council of the City of Stockton finds that Adult Use Establishments generate harmful secondary effects which negatively impact neighborhoods. These secondary effects, include but are not limited to, the following;

1. Residential neighborhoods located within close proximity to adult theaters, bookstores, and other Adult Use Establishments experience increased crime rates (sex related crimes in particular), lowered property values, increased transiency, neighborhoods blight, and potential health risks.
2. Adult Use Establishments can have an adverse impact on adjacent commercial uses.
3. The adverse impacts which Adult Use Establishments have on surrounding areas diminish as the distance from the adult establishments increases.
4. Many members of the public perceive areas within which Adult Use Establishments are located as less safe than other areas which do not have such uses.
5. Adult Use Establishments can exert a dehumanizing influence on persons attending nearby places of worship; children attending family day care homes, group family day care homes and child care centers; students attending schools; and people using parks.
6. The concentration of Adult Use Establishments in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban and suburban life. A cycle of decay can result from the

concentration of adult establishments. The presence of such businesses is perceived by others as an indication that the area is deteriorating which can cause other businesses and residents to move out of the vicinity. Declining real estate values, which can result from the concentration of such businesses, erode the City's tax base and contribute to a feeling that the section of the City is depressed.

In recognizing that the suburban characteristics of the City of Stockton are similar to those cited by the reports, the purpose of this Article is to regulate Adult Use Establishments in order to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Adult Use Establishments within the City. The provisions of this Article 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 Article 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. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.

Section B. DEFINITIONS.

Adult Use - Body Painting Studio: An establishment or business which provides the service of applying paint or other substance whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

Adult Use - Bookstore: A business, a significant portion which, is devoted to the barter, rental, or sale of books, magazines, printed matter, pictures, slides, records, audiotapes, videotapes or motion picture film, that are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Use - Cabaret: A nightclub, bar, restaurant, or similar establishment that provides dancing or other live entertainment that is distinguished or characterized by an emphasis on the performance, depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Use - Companionship Establishment: A companionship establishment 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, and characterized by an emphasis on "specified sexual activities" of "specified anatomical areas". The term Adult Use - Companionship Establishment shall include any "rap parlor", "conversation group", "adult encounter group", "adult sensitivity group", "personal escort service", "model service", "dancing

service", or "hostess service", which may be so licensed, if such business or service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Use - Establishments: Any business that is characterized by, or places a significant emphasis on, providing its patrons with merchandise, services or entertainment that is characterized by an emphasis on the depiction, exposing, describing, or discussing of "specified sexual activities" or "specified anatomical areas". For purpose of this definition, Adult Use - Establishments include, without limitation, adult bookstores, adult motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

Adult Use - Hotel or Motel: Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".

Adult Use - Massage Parlor, Health Club: A massage parlor or a 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 sexual activities" or "specified anatomical areas". The term Adult Use - Massage Parlor shall include any massage parlor which is both defined and required to be licensed, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Use - Modeling Studio: An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified Sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Use - Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

Adult Use - Motion Picture Theaters: A business premises within an enclosed building used for presenting visual media material that is distinguished or characterized by an emphasis on the depiction description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Use - Novelty Business: A business that is characterized by, or places a significant emphasis on, the sale or rental of merchandise, paraphernalia, instruments or devices that are marketed or sold primarily to simulate human genitals or to provide sexual stimulation.

Adult Use - Sauna: A sauna which excludes minors 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". The term Adult Use - Sauna shall include any sauna, which is both defined, and required to be licensed, if such service is characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Specified Anatomical Areas: Anatomical areas consisting of (a) less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the aureole; and (b) human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Activities consisting of the following: (a) actual or stimulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or (b) clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or (c) use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation, or other sexually-oriented contact.

Substantial or significant portion: Means at least Twenty-five (25) percent of the inventory, stock and trade, or publicly displayed merchandise, or at least Twenty-five (25) percent of the floor area of the business (not including storerooms, stock areas, bathrooms, basement or any portion of the business not open to the public).

Place of Worship: Building(s) or structure(s) which by design, construction, and/or adaptation are primarily intended for the conduction of organized religious services and associated accessory uses.

School: A school is defined in Minnesota Statutes Section 120A.05 or a school, nonpublic school, or nonsectarian nonpublic school as defined in Minnesota Statutes Section 123B.41.

Section C: ADULT USE ESTABLISHMENTS - PERMITTED. An Adult Use Establishment is permitted within any Commercial Zoning district or General Industry Zoning district provided that the following requirements are met:

(a) Illegal activities as described and prohibited by Minn. Stat. 617.23 through 617.299 are not permitted and are prohibited. A criminal prosecution shall not be necessary before making a finding that such illegal activity has occurred on the premises of an Adult Use Establishment.

(b) Adult Use Establishments shall be prohibited in any building which is also utilized for residential purposes.

(c) All such uses shall be located a minimum of 600 feet from any residential zoned property, school, public parks, place of worship, place of liquor sales, any adjacent municipal boundary or licensed daycare center. For purposes of this section, distances shall be determined by a straight horizontal line measured between the nearest lot line of the Adult Use Establishment to the property line of the nearest residential zoned property, school, public parks, place of worship, place of liquor sales, adjacent municipal boundary, or licensed daycare centers.

(d) No Adult Use Establishment shall be located closer than 1,200 feet to any other Adult Use Establishment. For purposes of this section, distances shall be determined by a straight horizontal line measured between the closest exterior walls of the structure in which each business is located. No more than one Adult Use Establishment shall be located in the same building.

(e) No Adult Use Establishment shall be conducted in any manner which permits the perception or observation from any property, not approved as an Adult Use Establishment, of any materials depicting, describing, or related to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media including display, decoration, sign, show window, sound transmission or other means.

(f) No Adult Use Establishment shall sell or dispense 3.2 percent malt liquor or intoxicating liquor, or be located within a building which contains a business which sells or dispenses 3.2 malt liquor or intoxicating liquor.

(g) No Adult Use Establishment shall permit any person under the age of 18 onto the premises of said establishment. Nor shall any person under the age of 18 be permitted access to material displayed or offered for sale or rent by the Adult Use Establishment.

(h) Adult Use Establishments are related structures or uses for purposes of determining whether a conditional use authorization is needed. The City shall require in reviewing the conditional use for an Adult Use Establishment that the conditions in this Section be complied with and may require that measures be taken to screen the property

from neighboring properties, sufficient on street or off street parking be provided within any screened area, and any building containing the Adult Use Establishment be set back a sufficient distance from the street as to facilitate compliance with the other paragraphs in this Section.

Section D. NONCONFORMING USES. Any Adult Use Establishment lawfully operating on the adoption date of this Article and which is in violation of this Ordinance or which does not have a conditional use authorized, shall be deemed a nonconforming use. The nonconforming use shall be permitted to continue for a period not to exceed five years unless sooner terminated for any reason. Such nonconforming uses shall be maintained in accordance with the provisions of Article IV, Section A. Authority to operate as a non-conforming use shall not be interpreted to permit otherwise illegal activity to be conducted or continued on the premise.

Section 2. That Article VI of said Code, which section is entitled Definitions, to include in Section A, be amended as follows:

"School: A school is defined in Minnesota Statutes Section 120A.05 or a school, nonpublic school, or nonsectarian nonpublic school as defined in Minnesota Statutes Section 123B.41.

(School, Elementary and High: An institution of learning which offers instructions in the several branches of learning and study required to be taught in the public schools by the applicable statutes of the state. High schools include junior and senior grades.)"

Section 3. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2002.

Mayor

City Clerk - Treasurer

Dated:
Seal: