

ORDINANCE REGULATING SEXUALLY ORIENTED BUSINESSES

The County Board of Crow Wing County hereby ordains:

SECTION I. DEFINITIONS.

For the purpose of the Ordinance:

- A. ADULT BODY PAINTING STUDIO: means an establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude or the application of paint or other substance by a patron to the body of another person.
- B. ADULT BOOKSTORE: means a building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tapes, videotapes, motion picture films, digital video discs, compact discs or other computer generated images, if such building or portion of a building excludes minors by reason of age or if a substantial or significant portion of the items bartered, rented or sold are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
- C. ADULT CABARET: means a building or portion of a building which provides exotic dancing, striptease or other live entertainment, if such building or portion of a building excludes minors by reason of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".
- D. ADULT COMPANIONSHIP/CONVERSATION/RAP ESTABLISHMENT: means a companionship, conversation, or rap establishment which excludes minors by reason of age, or which provides customers the service of engaging in or listening to conversation, talk or discussion that is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- E. ADULT HEALTH CLUB/SPORT CLUB/MASSAGE PARLOR: means a health club, sport club or massage parlor that excludes or restricts minors by reason of age, or that provides services distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- F. ADULT MINI-MOTION PICTURE THEATRE: means a building or portion of a building with a capacity for less than 50 persons used for presenting still or motion pictures if such building or portion of a building excludes minors by reason of age, or if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- G. ADULT MODELING STUDIO: means an establishment whose business is the provision to customers of figure models who are provided with the intent of giving sexual stimulation or sexual gratification to 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.
- H. ADULT MOTION PICTURE ARCADE: means a building or portion of a building wherein coin or slug-operated or electronically,

electrically or mechanically controlled or operated still or motion 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".

- I. ADULT MOTION PICTURE THEATRE: means a building or portion of a building with a capacity of 50 or more persons used for presenting still or motion pictures if such building or portion of a building, excludes minors by reason of age or if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- J. ADULT NOVELTY BUSINESS: means a building or portion of a building used for the barter, rental or sale of toys, instruments, devices, clothing or paraphernalia designed or used in connection with the presentation, display depiction, or description of "specified anatomical areas" or "specified sexual activities."
- K. ADULT SAUNA/STEAM ROOM/BATHHOUSE FACILITY: means a sauna, steam room or bathhouse which excludes minors by reason of age, or which provides a sauna, steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, which utilizes steam water, or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna, steam room, or bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- L. LICENSED PREMISES: means that physical area of a sexually oriented business devoted to uses or activities which emphasize the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities, which is required to be licensed under this Ordinance and which is specifically identified in the license granted to the Sexually Oriented Business.
- M. MINOR: means a natural person under the age of eighteen (18) years.
- N. PERFORMER: means an individual, including but not limited to employees, independent contractors, and patrons of a sexually oriented business, who personally presents, displays, depicts, or describes "specified sexual activities" or "specified anatomical areas".
- O. PRESENTATION: means the display, depiction or description of "specified sexual activities" or "specified anatomical areas".
- P. RESPONSIBLE PERSON: means an individual appointed by the licensee who is responsible for the conduct of the sexually oriented business when the licensee is not present.
- Q. SEXUAL CONTACT: means touching between a patron, performer, or employee involving contact by or with a patron's, performer's, or employee's specified anatomical areas, whether covered or not, or kissing, when such contact can reasonably be construed as being for the purpose of sexual arousal or sexual gratification of either party or any observer.
- R. SEXUALLY ORIENTED BUSINESS means
 - 1) Any business or enterprise where the primary or dominant theme is the presentation, display, depiction, or description of specified anatomical areas or

specified sexual activities; or

2) Any business or enterprise where the sum total of floor, wall, or shelf area devoted to uses or activities which emphasize the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities, for more than seven (7) days per year, is greater than thirty percent (30%) of the total sales floor or more than thirty percent (30%) of the total gross sales of the business.

3) This term includes, but is not limited to, adult body painting studios, adult cabarets, adult companionship/conversation/rap establishments, adult health/sport clubs, adult massage parlors, adult modeling studios, adult sauna/steam room/bathhouse facilities, adult mini-motion picture theatres, adult motion picture arcades, adult motion picture theatres, adult bookstores, and adult novelty businesses.

4) This term does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by state registered or licensed individuals, nor does it include businesses which engage in uses or activities that are obscene and, therefore, prohibited by law.

5) This term does not apply to theaters, concert halls, art centers, museums or similar establishments which primarily devoted to the arts or theatrical performances.

S. SPECIFIED ANATOMICAL AREAS: means

1) 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 areola; and, exposed or opaquely covered human male genitals in discernibly turgid state.

T. SPECIFIED SEXUAL ACTIVITIES: means

1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or

2) Presentation, display, depiction, or description of human genitals in the state of sexual stimulation, arousal, or tumescence; or

3) Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or

4) Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breasts; or

5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or

6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

7) Human excretion, urination, menstruation, vaginal or anal irrigation;

8) or any combination of the above.

SECTION II. LICENSE.

A. License Required.

- 1) It is unlawful for any person to operate a Sexually Oriented Business, or allow the operation of a sexually oriented business on property under the person's ownership or control, without a valid Sexually Oriented Business license issued by Crow Wing County pursuant to this Ordinance.
- 2) A license issued under this Ordinance must be posted in a conspicuous, public place on the premises for which it is issued.
- 3) A license issued under this Ordinance is valid only for the compact and contiguous space within the Sexually Oriented Business as specified in the license.

B. License Application.

- 1) Application for a Sexually Oriented Business license shall be made to the Crow Wing County Public Health Department on a form provided by the County.
- 2) The County shall refuse to accept any license application that does not contain all required information or is not accompanied by all required fees.
- 3) If the application does not include all information required by Paragraph C. and the required fees, the Public Health Department shall notify the applicant within ten (10) working days of submission of the application and shall specifically identify deficiencies in the application or fees. The time, which the County has to approve or deny the license under Paragraph F., does not begin until the County has received all information required by Paragraph C.

C. Required Information:

- 1) Individual Applicants. An individual applicant must provide his or her full name and any aliases or formerly used names, date of birth, and home address.
- 2) Partnerships. The applicants must provide the full name and any aliases or formerly used names, dates of birth, and home addresses of each partner, a statement of the percent of the business owned by each partner, and a copy of the partnership agreement.
- 3) Corporate Applicants. A corporate applicant must provide the full name of the corporation, the date and State where the business is incorporated, a copy of the Certificate of Incorporation and its Articles of Incorporation, evidence that the corporation is entitled to do business in the State of Minnesota, and the full names and any aliases or formerly used names, dates of birth, and home addresses of each individual holding twenty percent (20%) or greater interest in the corporation.
- 4) Each person required to provide the information identified in paragraphs one (1), two (2) and three (3) above, must also provide his/her driver's license number, criminal history, employment record for the past three (3) years, and a picture of the applicant's face taken within the past six (6) months.
- 5) Each applicant must also provide:
 - a. The address at which the sexually oriented business will be operated.
 - b. The name that will be used by the business, and if the business will be conducted under a designated name or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statute Section 333.01.
 - c. A detailed floor plan, drawn to scale, showing the type of activities which will be conducted in each area of the sexually oriented business; the design of performance or display areas, seating areas, restrooms, service areas, and non

public areas; and a signed statement from a licensed architect verifying that the facility meets the design requirements of Section VII of this Ordinance.

D. License Execution.

- 1) The application must be signed and sworn to, subject to the penalties for perjury, by the applicant, if a sole proprietor; by all partners, if a partnership; and by all individuals holding twenty percent or more interest if a corporation.
- 2) The application must include a statement that the applicant has received and read the Crow Wing County Ordinance Regulating Sexually Oriented Businesses and understands the licensee's responsibility to abide by and enforce the Ordinance.
- 3) If a license is granted, each individual required to sign the application is considered a licensee.

E. License Restrictions.

No license shall be issued under this Ordinance if:

- 1) The applicant is under eighteen (18) years of age;
- 2) The applicant fails to supply all information requested on the license application;
- 3) The applicant gives false, fraudulent, or incomplete information on the license application;
- 4) The applicant has had a sexually oriented business license or similar license revoked by this County or another jurisdiction within 3 years immediately preceding the date of application;
- 5) The applicant has been convicted of a felony, gross misdemeanor, or misdemeanor sexually related offense, obscenity offense, or adult use ordinance violation in the past three (3) years;
- 6) The sexually oriented business does not meet all land use, septic, sewage, public health, and other Ordinance requirements of the County and/or City in which the business is located; except, sexually oriented businesses legally operating prior to the enactment of this Ordinance may be licensed without meeting the setback requirement of Crow Wing County Land Use Ordinance Section 1405, if the business otherwise complies with this Ordinance;
- 7) The business, any of the applicants, or the property on which the business is located, has any unpaid taxes, fees, or other obligations due and payable to the County, or the property taxes or assessments on the real property which is the subject of the license are not paid in full to the amount then due and owing;
- 8) The applicant has not paid the license and investigation fees required by this Ordinance.

F. License Verification and Issuance.

The Crow Wing County Sheriff and other State and County agencies shall verify licensing information submitted by the applicant. The applicants shall sign all requested releases of information necessary to verify information contained in the application.

G. License Approval.

- 1) The Public Health Department shall approve or deny the license application within thirty (30) days of receipt of a completed application.

- 2) Approval of the application shall be indicated by issuance of a Sexually Oriented Business license.
- 3) Denial of the license application shall be made in writing, mailed to the applicant(s) by first class mail, and shall specifically identify the reason(s) for the denial.
- 4) Any applicant whose application was denied may request a hearing before an examiner.
 - a. The examiner will be an attorney licensed to practice in the State of Minnesota and selected by the County.
 - b. The applicant must deliver a request for a hearing, in writing to the Public Health Department within 21 (twenty-one) days of the day the notice of denial is mailed to the applicant.
 - c. A hearing will be held within fourteen (14) days of the County's receipt of the request for a hearing, unless the time period is extended by agreement of the parties.
 - d. To sustain the license denial, the County must show, by a preponderance of the evidence that the applicant does not qualify for a license for any of the reasons listed above.
 - e. The applicant may present evidence on his or her behalf.
 - f. Witnesses testifying on behalf of either party are subject to cross-examination.
 - g. An audio record will be kept of all proceedings.
 - h. The examiner will issue written findings of fact and a decision within 21 days of completion of the hearing.
 - i. The decision of the hearing examiner is final subject to an appeal to District Court.

H. License Term

- 1) A Sexually Oriented Business license is valid for a calendar year, from January 1st (first) to December 31st (thirty-first).
- 2) A license granted after January 1st (first) shall be valid through December 31st (thirty-first) of the year in which the license is granted.
- 3) No refund shall be made when a business is sold, transferred, or closed.
- 4) Any individual applying for a license during the license year shall pay the full license fee for the year unless the application is made on or after October 1st (first), in which case the applicant shall pay one half (1/2) of the annual license fee.

I. License Renewal

- 1) Each application for renewal of a Sexually Oriented Business license, together with appropriate license fees, shall be submitted to the Public Health Department not later than December 10th (tenth) each year.
- 2) No license shall be renewed unless all required information is submitted by the applicant and the Public Health Department determines that the applicant meets all the requirements of this Ordinance.

J. License Transfer

- 1) A Sexually Oriented Business license is issued to a particular licensee(s) and for a particular location.
- 2) No license for a Sexually Oriented Business shall be transferred from place to place nor from licensee to any other individual or entity.
- 3) If a Sexually Oriented Business is sold or transferred, the existing licensee

shall notify the County prior to the sale or transfer.

4) A new owner or operator must immediately apply for a license under this Ordinance and may continue to operate the business for no more than thirty (30) days following the date of transfer without first obtaining a Sexually Oriented Business license.

SECTION III. FEES.

A. An applicant for a Sexually Oriented Business license shall pay to the County an initial fee in an amount set by the County Board as an investigative fee. This amount shall cover the costs involved in verifying the information contained in the license application and completing a thorough background check of the applicant. The investigation fee is non refundable.

B. In addition, the licensee shall pay an annual license fee in an amount set by the County Board. This fee shall be paid prior to the issuance of any license or license renewal and will be used to offset ongoing investigations of the licensee's use of the sexually oriented business premises and to assure compliance with this Ordinance.

SECTION IV. NON CRIMINAL SANCTIONS FOR LICENSE VIOLATIONS.

A. Suspension

The County may suspend a Sexually Oriented Business license for up to thirty (30) days, or until the violation which caused the suspension is corrected, whichever is longer, under the following conditions:

- 1) The licensee or responsible person made false or misleading statements in the initial license application, the renewal application, or in the course of carrying on the licensed business;
- 2) The licensee or responsible person fails to prevent violations of state or federal laws relating to obscenity, indecent exposure, prostitution, or criminal sexual conduct in the sexually oriented business;
- 3) The licensee or responsible person is under the influence of alcohol or controlled substances during the time the sexually oriented business is open to the public;
- 4) The licensee or responsible person fails to prevent the possession, use, or sale of controlled substance in the sexually oriented business;
- 5) The licensee or responsible person refuses to allow inspection of the sexually oriented business as required by Section V;
- 6) The licensee fails to pay all taxes, fees, fines, or penalties assessed by the County against the business or the licensee;

B. Revocation.

The County may revoke a license under the following circumstances:

- 1) The licensee is under eighteen (18) years of age;
- 2) The County has cause to suspend the license following two prior Sexually Oriented Business license suspensions within the preceding twenty-four (24) months;
- 3) The licensee or responsible person violates state or federal laws relating to obscenity, prostitution, indecent exposure or criminal sexual conduct;
- 4) The licensee or responsible person knowingly allows the possession, use, or sale of controlled substance in the sexually oriented business;
- 5) The licensee or responsible person knowingly allows prostitution in the

sexually oriented business;

6) The sexually oriented business was operated before all licenses necessary for the operation of the business were granted or during a period of time when the Sexually Oriented Business license or other required license was suspended or revoked.

C. Effect of License Revocation

A person whose license to operate a sexually oriented business is revoked may not operate or obtain a license to operate a Sexually Oriented Business for two (2) years from the date of revocation. To obtain a license at the end of the revocation period, an individual must reapply and be found eligible to be licensed.

D. Effective Date

1) A suspension or revocation of a sexually oriented business license becomes effective ten (10) days from the day the notice of license suspension or revocation is delivered to the licensee or to the licensed premises unless a hearing is requested pursuant to Paragraph E below.

2) A license can be suspended or revoked immediately and without notice if the County determines that continued operation of the licensed business will cause an immediate threat of serious harm or injury.

E. Hearing

Any licensee whose license has been suspended or revoked may request a hearing before an examiner.

1) The examiner will be an attorney licensed to practice in the State of Minnesota and selected by the County.

2) The request for a hearing must be delivered in writing to the Public Health Department within ten (10) days of the day the notice of license suspension or revocation is delivered to the licensee or the licensed premises.

3) A hearing will be held within fourteen (14) days of the County's receipt of the request for a hearing, unless the time period is extended by agreement of the parties.

4) To sustain the suspension or revocation, the County must present evidence at the hearing which proves, by clear and convincing evidence, the grounds for the suspension or revocation.

5) The licensee may present evidence in his or her defense.

6) Witnesses testifying on behalf of either party are subject to cross-examination.

7) An audio record will be kept of all proceedings.

8) The examiner will issue written findings of fact and a decision within 21 days of the completion of the hearing.

9) A party aggrieved by the decision of the examiner, may appeal to District Court.

SECTION V. INSPECTION.

Any applicant or licensee shall permit representatives of the Crow Wing County Sheriffs Department, Public Health Department, Planning and Zoning Office, or any other County or State department or agency to inspect the sexually oriented business for the purpose of determining compliance with the law, at any time the sexually oriented business is occupied or open for business and at other reasonable times with prior notice to the licensee. Refusal to permit such

inspection is a violation of this Ordinance.

SECTION VI. REGULATIONS.

A. Maintenance of Order

1. Licensee's Responsibility

A licensee under this Ordinance is responsible for the conduct of the sexually oriented business and shall not allow illegal activity to take place on the licensed premises or on adjacent property owned or controlled by the licensee. Such illegal activity shall include, but not be limited to, prostitution, public indecency, indecent exposure, disorderly conduct, or the illegal sale or use of alcohol or controlled substances.

2. Liability for Acts of Others

Every act or omission by an employee or independent contractor of the licensee, which constitutes a violation of this Ordinance, shall be deemed an act or omission of the licensee if the act or omission occurs with the authorization, knowledge, or approval of the licensee, or is the result of the licensee's failure to adequately supervise the employee's or independent contractor's conduct.

3. Responsible Person

a. The licensee must appoint an individual who is responsible for the conduct of the business when the business is open or occupied and the licensee is not personally present.

b. Written notice stating the full name and any aliases or formerly used names, date of birth, and home address of this individual must be provided to Crow Wing County Public Health prior to the time the person is appointed as a Responsible Person for a sexually oriented business.

c. Records identifying the responsible person must be maintained by the licensee for a period of one (1) year and must be available for inspection by the County during regular business hours.

B. Minors.

1. No business which presents or displays activities which emphasize the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities, regardless whether they are Sexually Oriented Business, shall allow a minor to enter the portion of the premises containing such displays.

2. The business shall require proof of age from all persons a reasonable person would believe to be under twenty-five (25) years of age. Proof of age may be established only by a valid driver's license or identification card issued by the State of Minnesota, another state, or a province of Canada; a valid military identification card issued by the United States Department of Defense, or a valid passport.

C. Public View.

1. No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of sexually oriented material or entertainment from any sidewalk, public or private right-of-way, or other location outside the licensed premise. For any licensed premises solely dedicated to the display, sale or rental of sexually oriented material, all doors, windows, and other openings to the licensed premises must be covered with an opaque material to prevent a person outside the licensed premises from seeing the material or activities within. For any licensed premises that has only a portion of its premises

dedicated to the display, sale or rental of sexually oriented material, the portion of the premise displaying sexually oriented material must be physically separated from the remaining premise and covered or constructed in such a way so that no sexually oriented material may be viewed from outside the dedicated area.

2. Clear signage must be posted on the outside of any premises or area within a premise dedicated to the display, rental or sale of sexually oriented materials prohibiting persons under the age of eighteen (18) from entering.

3. If a licensed premise is operated in the same building as another business or commercial entity or is only a portion of a sexually oriented business, the licensed premise must be physically separated from the other business and accessed only through a separate exterior door or a door which is personally or electronically controlled by a sexually oriented business employee.

C. Additional Regulations.

1. All graffiti, both inside and outside the sexually oriented business, must be removed within forty-eight (48) hours of the time the graffiti is posted.

2. No specified sexual activities or specified anatomical areas may be presented, displayed, depicted or described or advertised in any restroom in the sexually oriented business.

3. The entrance to the licensed premise and parking areas of those sexually oriented businesses described in Section VII, paragraphs A and B, must be under constant video surveillance monitored by a sexually oriented business employee.

SECTION VII PERFORMANCE STANDARDS

A. Live On Site

Sexually oriented businesses, including but not limited to adult body painting studios, adult cabarets, adult companionship/conversation/rap establishments, adult massage parlor or health/sport club, adult modeling studios, adult sauna/steam room/bathhouse, or other business where on-site employees, independent contractors, volunteers, patrons or other persons are actively engaged in the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas, shall follow these performance standards:

- 1) The licensee shall:
 - a) Prohibit any presentation except:
 - I. On a stage or platform raised at least two (2) feet above floor level and separated from the audience by a railing at least three (3) feet high and six (6) feet from the stage; or
 - II. On a stage or platform fully enclosed by a floor to ceiling glass or Plexiglas wall;
 - b) Prohibit any patron or customer from going onto the stage or within the fenced area;
 - c) Prohibit any presentation except in rooms that are at least eight hundred (800) square feet in size and without partitions, booths, mirrors, drapes, or other devices that prevent a clear view of all employees, performers and patrons or customers from all areas within the room;
 - d) Prohibit any presentation in a room with lighting less than

- three hundred (300) lux (or 28 candle foot) horizontal, measured at thirty (30) inches from the floor and on ten (10) foot centers so that all employees, performers, and patrons or customers can be seen clearly from any area in the room;
- e) Prohibit any performer from coming closer than six (6) feet to a customer or patron, during a performance;
 - f) Prohibit any performer from rubbing, touching, fondling, caressing, or having any sexual contact with a customer or patron while in the sexually oriented business or in adjacent parking lots under the control of the licensee;
 - g) Prohibit any performer from soliciting or accepting payment or gratuity from any patron or customer in the sexually oriented business or in adjacent areas under the control of the licensee;
 - h) Prohibit any performer from going to or from the stage except through an exclusive stage entrance or with all specified anatomical areas opaquely covered;
 - i) Prohibit any person from performing on the licensed premises unless the employee or performer has provided to the licensee the performer's full name and any aliases or formerly used names, date of birth, and home address, and the licensee has verified this information by means of a driver's license or picture identification card issued by the State of Minnesota or another government entity; the licensee shall maintain the above described records of all employees and performers for a period of at least one (1) year from the last date the person was employed by or performed on the licensed premises; such records shall be made available by the licensee to law enforcement or other county authorities upon request;
 - j) Prohibit any performer from engaging in lewd or obscene behavior.
- 2) A performer shall not:
- a) Present, display, depict, or describe any specified sexual activity or specified anatomical area, except while on a stage as described in Section VII, A, 1), I and II;
 - b) Rub, touch, fondle, caress, or have any sexual contact with a patron or customer while in the sexually oriented business or in adjacent areas under the control of the licensee;
 - c) Solicit or accept any payment, gift, or gratuity from any patron or customer;
 - d) Participate in a presentation unless the performer has provided to the licensee the performer's full name and any aliases or formerly used names, date of birth, and home address, verified by a valid driver's license or picture identification card issued by the State of Minnesota or another government entity;
 - e) Engage in lewd or obscene behavior.
- 3) A customer or patron shall not:
- a) Rub, touch, fondle, caress, or have any sexual contact with a

- performer while in the sexually oriented business or in adjacent areas under the control of the licensee;
- b) Make or offer any payment, gift, or gratuity to a performer in the sexually oriented business or while in adjacent areas under the control of the licensee;
- c) Cross the fence that divides the stage from the viewing area or climb onto or be on the stage during a performance;
- d) Engage in lewd or obscene behavior.

B. Media On Site

Sexually oriented businesses, including but not limited to adult mini-motion picture theaters, adult motion picture arcades, adult motion picture theaters, and other businesses where specified sexual activities or specified anatomical areas are presented, displayed, depicted or described by means of movies, videos, computer generated images, or other visual or auditory devices for on-site viewing or listening, shall follow these performance standards:

- 1) The licensee shall:
 - a) Prohibit the viewing or listening in a room less than five hundred (500) square feet in size or in any room with partitions, booths, mirrors, or other devices that prevent a clear view of all employees, patrons, and customers from any area in the room;
 - b) Prohibit the viewing or listening in any room that does not have individual seating (not couches or benches) for all customers or patrons;
 - c) Prohibit any sexual contact on the premises between or among employees, patrons, and customers.
 - d) Not allow the display, depiction or description of obscene materials.
- 2) No person shall engage in sexual contact or obscene behavior while in the sexually oriented business or in adjacent areas under the control of the licensee.

C. Media Off Site

Sexually oriented businesses including but not limited to adult book stores, adult novelty businesses or other businesses where

- a) specified sexual activities or specified anatomical areas are presented, displayed, depicted or described by means of printed materials, drawings, sketches, paintings, cartoons, movies, videos, computer generated images, or other media forms which are offered for sale or rent, and are to be read, viewed, or listened to at places other than the sexually oriented business, and/or
 - b) toys, clothing, costumes, or devices that present, display, depict, describe, or enhance specified anatomical areas or specified sexual activities are offered for sale or rent to be used at places other than the sexually oriented business,
- shall follow these performance standards:
- 1) The licensee shall:
 - a) Prohibit the sale, rental, or other distribution of the above

described materials in any area of the business that is not clearly identified by a warning sign as required by Section IX.

- b) Prohibit minors from entering the licensed premises.
- c) Display the above described material only in an area where entry is electronically controlled by a store employee and the area is under constant video surveillance by a store employee.

- 2) No person shall engage in sexual contact or obscene behavior while in the sexually oriented business or in the adjacent areas controlled by the licensee.

SECTION VIII. HOURS OF OPERATION.

No sexually oriented business may operate between the hours of 12:00 a.m. and 10:00 a.m. on any day.

SECTION IX. SIGN RESTRICTIONS.

Signs identifying or advertising sexually oriented businesses must comply with the following restrictions:

- A. No signs may contain any message or image that identifies specified sexual activities or specified anatomical areas;
- B. No merchandise, photos, illustrations, representations or pictures of the sexually oriented products, activities or entertainment offered on the licensed premises may be displayed in an area where such items can be viewed from a sidewalk, public right-of-way, or any building or structure adjoining or adjacent to the sexually oriented business;
- C. The licensee shall prominently display, on the door of the licensed premises, a sign containing the following language: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign shall be in clear, legible letters, each letter at least one inch high.

SECTION X. CRIMINAL PENALTY.

Any person who violates, fails to comply with, or assists or participates in any way in the violation of provisions or requirements of this Ordinance is guilty of a misdemeanor and subject to the maximum penalty imposed by the State of Minnesota for misdemeanor offenses. Each day of such violation constitutes a separate offense.

SECTION XI. JURISDICTION

This ordinance shall apply to all incorporated and unincorporated areas of Crow Wing County except in those cities or townships that have enacted an adult use licensing ordinance.

SECTION XII. SEVERABILITY.

It is the intention of Crow Wing County that the several provisions of this Ordinance be severable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions

- of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular structure, site, business, or enterprise, such judgment shall not affect the application of said provision to any other structure, site, business, or enterprise not specifically included in said judgment.

SECTION XIII. EXISTING SEXUALLY ORIENTED BUSINESSES.

A sexually oriented business, legally operating on the date this ordinance is enacted, may continue to operate subject to the following provisions:

- a. the business is not enlarged, expanded or changed except in conformance with this ordinance, and
- b. the business meets all requirements of this ordinance and obtains a sexually oriented business license within six (6) months of the effective date of this ordinance.

SECTION XIV. EFFECTIVE DATE.

This Ordinance amendment will be effective as of the 13th day of May, 2014.

Adopted this 13th day of May, 2014.



Rosemary Franzen, Chair
Crow Wing County Board of Commissioners



ATTEST:
Timothy J. Houle
County Administrator