



Nicollet County  
Adult Use/Sexually  
Oriented Business  
Ordinance

## **Section 1      DEFINITIONS**

- (1)      **Adult Uses/Sexually Oriented Businesses** - Adult uses/sexually oriented businesses include, but are not limited to, adult bookstores, adult motion picture theaters, adult picture rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse, sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, 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.
- (2)      **Adult Uses Accessory** - A use, business, or establishment having ten percent (10%) or less of its stock in trade or floor area allocated to, or twenty percent (20%) or less of its gross receipts derived from movie rentals or magazine sales.
- (3)      **Adult Uses Principal** - A use, business, or establishment having more than ten percent (10%) of its stock in trade or floor area allocated to, or more than twenty percent (20%) of its gross receipts derived from movie rentals or magazine sales.
- (4)      **Adult Use Body Painting Studio** - A business or establishment which 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 in terms of “specified anatomical area.”
- (5)      **Adult Use Bookstore** - A building or portion of a building used for the barter, rental or sale of items, consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas.”
- (6)      **Adult Use Cabaret** - A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or live entertainment is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (7)      **Adult Use Companionship Establishment** - A companionship establishment which excludes minors by reason of age or which provides the service of listening to or engaging in 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.”

- (8) Adult Use Conversation/Rap Parlor - A conversation/Rap Parlor which excludes minors by reason of age or which provides the service of listening to or engaging in conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (9) Adult Use Health/Sport Club - A health/sport club which excludes minors by reason of age or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (10) Adult Use Hotel/Motel - 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, or describing or relating to “specified sexual activities” or “specified anatomical areas.”
- (11) Adult Use Massage Parlor, Health Club - A massage parlor or health club which restricts minors by reason of age and which provides the service of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (12) Adult Use Mini Motion Parlor, Health Club - A massage parlor or health club which restricts minors by reason of age and which provides the service of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- (13) Adult Use Modeling Studios - 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 “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
- (14) Adult Use Motion Picture Arcade - Any place to which the public is permitted or invited wherein coin operated or slug operated, or electronically, electrically, or mechanically controlled or operated still or motor 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 an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”
- (15) Adult Use Motion Picture Theater - A building or portion of a building with a capacity of more than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

- (16) Adult Use Novelty Business - A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
- (17) 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 steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (18) Adult Use Steam Room/Bathhouse Facility - A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing, or reducing agent, if such building or portion of a building restricts minors by reason , or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (19) Liquor License - Any of the following licenses issued or approved by the County of Nicollet pursuant to Minnesota Statute, Chapter 340A:
  - (1) On-sale Intoxicating Malt Liquor License, or
  - (2) On-sale Intoxicating Liquor License, or
  - (3) On-sale Wine License.
- (20) Minor - Person(s) under eighteen (18) years of age.
- (21) Police-Related Service Calls - Requests for assistance made to the Nicollet County Sheriff’s Office from a neighboring resident, a victim of crime, a patron of the establishment, or the management of the Adult Use/Sexually Oriented business. Such calls may include but are not limited to: assaults, disorderly conduct, indecent exposure, prostitution, and trespassing.
- (22) Specified Anatomical Areas:
  - Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered.
  - Human Male genitals in a discernible turgid state, even if completely and opaquely covered.
- (23) Specified Sexual Activities:
  - a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals,

flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexual-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or

- b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence.
- c. Use of human or animal ejaculation or ejaculate, sodomy, oral copulation, coitus, or masturbation.
- d. Fondling or touching of nude human genitals, public region, buttocks, or female breast(s).
- e. Situations involving a person or persons, any of whom are nude, clad in undergarments, or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical constraint of any such persons.
- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.
- g. Human erection, urination, menstruation, vaginal or anal irrigation.



## **Section 2     Adult Use License Required**

No person shall own or operate an adult use/sexually oriented business without first having secured an Adult Use/Sexually Oriented Business License from Nicollet County.

### **Section 2.1     Application:**

The application for an Adult Use/Sexually Oriented Business License shall be submitted on a form provided by the County and shall include:

- (1) If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, members, and creditors furnishing credit for the establishment or the acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishings of the establishment including the purchase of any items of personal property for use in said operation.
- (2) Application for license shall contain the address and legal description of the property to be used; the names, addresses phone numbers, date of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the state, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
- (3) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use/sexually oriented business of adult business by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a business entity applicant, a statement detailing any felony convictions by any owner of five percent (5%) or more of the applicant entity and whether or not any owner of five percent (5%) or more of the applicant entity has ever applied for or held a license to operate a similar type of business in other community(s).
- (4) The activities and types of business to be conducted.

- (5) The hours of operation.
- (6) Provisions to be utilized to restrict access by minors.
- (7) A building plan of the premise detailing all internal operations and activities.
- (8) The permit shall expire on December 31 of the year it is issued.

**Section 2.2 Responsibility to Obtain Other Permits/Licenses.**

The granting of any permit or license pursuant to requirements of this Ordinance, or other applicable Nicollet County Ordinances, shall not relieve applicants of their responsibility to obtain any required state or federal permits.

**Section 3 Adult Use/Sexually Oriented Business License Fee**

- (1) **Submittal of Fees.** Each application for an Adult Use/Sexually Oriented Business License shall be submitted to the Property Services Department and shall be accompanied by payment in full of the required fee for the Adult Use/Sexually Oriented Business License.
- (2) **Expiration of Adult Use/Sexually Oriented Business License.** Each license shall be issued for a period of one (1) calendar year. All licenses shall expire on the last day of December of each year. Any portion of a year less than 12 months shall be counted as a full year for the purpose of calculation of fees.
- (3) **Annual Fee.** The annual fee for an Adult Use/Sexually Oriented License shall be as detailed in the fee schedule established by the Nicollet County Board of Commissioners. The fee may be adjusted from time to time by Board resolution.
- (4) **Refund of Fee.** If any application for a license is rejected, the license fee shall not be refunded. No part of the fee paid for any license issued under this Ordinance shall be refunded.

**Section 4 Granting of Adult Use/Sexually Oriented Business License.**

(1)The Nicollet County Sheriff shall investigate all facts set out in the application. Each owner of the establishment, be it individual, or in the case of business entity owner, any owner of five percent (5%) or more of the business entity, shall be subjected to a criminal history background check by the Sheriff or his designee. Costs of the criminal history investigations shall be borne by the applicant according to a fee schedule established by the Sheriff. The application for the adult use/sexually oriented business license shall not be considered complete until all required information has been furnished, the investigation has been completed by the Sheriff, and a report provided to the Property



Services Department by the applicant.

The Planning Commission shall hold a public hearing and report its findings to the County Board within thirty (30) days after the Property Services Department receives a complete application. At the hearing opportunity shall be given to any person to be heard relating to the granting of the license. The County Board shall grant or deny said Adult Use/Sexually Oriented Business License within thirty (30) days of the conclusion of the hearing.

- 2) The Adult Use/Sexually Oriented Business License shall be issued only to the applicant and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another premises or person without the written permission of the County. If the licensee is a business entity, a change in the identity of any partner, shareholder, owner, member of the entity, or any owner of five percent (5%) or more of the business entity shall be deemed to be a transfer of the license. If a license is transferred without the written permission of Nicollet County said license shall be void.

#### **Section 5 Persons Ineligible for Adult Use/Sexually Oriented Business License.**

No license shall be issued to any individual or business entity:

- (1) Under twenty-one (21) years of age.
- (2) Who is overdue in payments to a city, county, state, or federal government of taxes, fees, fines, or penalties or charges for municipal services and utilities assessed against them or imposed upon them.
- (3) If the individual or if any owner of five percent (5%) or more of the business entity has been convicted of a gross misdemeanor or felony, or of violating any law of this state or local Ordinance relating to sex offenses, obscenity offenses, or adult establishments.
- (4) Who is not the proprietor of the establishment for which the license is issued.
- (5) To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the above criteria.
- (6) Who has not paid the required investigation/licensing fees required by this Ordinance.

**Section 6      Places Ineligible for Issuance of Adult Use/Sexually Oriented Business License.**

- (1) No license shall be granted for adult use/sexually oriented business establishments on any premises where a licensee has been convicted of a violation of this Ordinance, or where any license hereunder has been revoked for a violation, until one (1) year has elapsed after such conviction or revocation.
- (2) No license shall be granted for any adult use/sexually oriented business establishment which is not in compliance with the County's land use regulations, fire, health, and safety codes, and all other provisions of federal and state law.

**Section 7      Conditions of Adult Use/Sexually Oriented Business License.**

- (1) All licensed premises shall have the license posted in a conspicuous place at all times.
- (2) No minor shall be permitted on the premises.
- (3) Any designated inspection officer of the County shall have the right to enter, inspect, and search the premises of a licensee during business hours.
- (4) No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.
- (5) In granting a license for an adult use/sexually oriented business, the County Board may impose additional conditions to protect the best interest of the surrounding area or the County as a whole, including but not limited to parking, light, etc.
- (6) The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the County upon request.
- (7) The licensee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the licensed premise from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas.



## **Section 8      Adult Use/Sexually Oriented Business Operational Restrictions**

### **Adult Uses - Principal**

- (1)      General Provisions.    Adult Use/Sexually Oriented Business as defined in Section 1 of this Ordinance shall be subject to the following general provisions:
- (2)      No person(s) under eighteen (18) years of age shall be permitted in any adult use/sexually oriented business-principal premises, enterprises, establishments, business or place.
- (3)      No liquor license shall be issued to any adult use/sexually oriented business related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in “specified sexual activities” or “specified anatomical areas.”
- (4)      No adult use/sexually oriented business related premises, enterprise, establishments, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.
- (5)      Activities classified as obscene are not permitted and are prohibited from locating in any building which is also utilized for residential purposes.
- (6)      Adult uses/sexually oriented business, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
- (7)      An adult use which does not qualify as an accessory use pursuant to Section 703, subpart 14 below, shall be classified as an adult-use principal.

## **Section 9      Permitted Locations for Adult Use-Principal.**

- (1)      Adult use-principal, shall only be allowed in the B-1 General Business District and the I-1 Limited Industry District.
  - A.      Access, parking, screening, lighting, and other relevant site related criteria for all Adult Uses shall be as set forth in the Nicollet County Land Use Ordinance, Section 720.
  - B.      Adult-use principal, shall be located at least 1000 lineal feet, as measured in a straight line from the closest point of the main entrance of the building within which the adult use-principal is located, to the property line of:
    1.      Any residentially used or zoned property.

2. Any licensed day-care center.
3. Any public or private educational facility classified as an elementary, junior high, or senior high school.
4. Any hotel or motel.
5. Any public park or trail system.
6. Any nursing home.
7. Any youth establishment.
8. Any church or church-related organization.
9. Another adult establishment. No adult use-principal shall be located in the same building or upon the same property as another adult use-principal.
10. Establishments licensed to serve alcoholic beverages.
11. Hospitals/Clinics

**Section 10 Hours of Operation.** Hours of operation for adult uses/sexually oriented business principal, shall be from 11:00 a.m. to 1:00 a.m. A different time schedule may be approved by the County Board if it can be satisfactorily demonstrated to the Board that all of the following apply:

- (1) The use does not adversely impact or affect uses or activities within 1000 feet.
- (2) The use will not result in increased policing or related service calls.
- (3) It is critical to the operation of the business.

**Section 11 Sign Regulations.** Adult use/sexually oriented business-principal shall adhere to the following sign regulations in addition to those set forth in the Nicollet County Zoning Ordinance, Section 721, Sign Regulations:

- (1) Sign message shall be generic in nature and shall only identify the name and type of business. Signs shall not be pictorial.
- (2) Signs shall be limited to the size and number of signs permitted in the district in which the use is located.

## **Adult Cabaret Regulations.**

**Section 12** The following additional restrictions apply to Adult Cabarets:

- (1) No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult cabaret without a valid Adult Use/Sexually Oriented Business License.
- (2) An Adult Use/Sexually Oriented Business License shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the licensee.
- (3) An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.
- (4) No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless as provided in #7 and #8 below, shall be in an adult cabaret.
- (5) No patron or any person other than a dancer or live entertainer, as provided in areas #7 and #8 below, shall be nude in an adult cabaret.
- (6) No dancer, live entertainer, or performer shall be under eighteen (18) years of age.
- (7) All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet above the level of the floor.
- (8) No dancer or performer shall perform or dance closer than (10) feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
- (9) No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (10) No person under eighteen (18) years of age shall be admitted to an adult cabaret.

## **Viewing Booth Regulations.**

**Section 13** The following additional regulations apply to viewing booths:

- (1) Individual Motion Picture viewing booths must be without doors and the occupant must be visible at all times.
- (2) Only one person may be in a viewing booth at a time.
- (3) Walls separating booths must be such that the occupants cannot engage in sexual activity.

- (4) Each booth must be kept clean and sanitary.
- (5) Minimum lighting requirements must be maintained.

**Adult Use, Accessory.**

**Section 14 Permitted Location for Accessory Adult Use.** Adult use-accessory shall be permitted in the B-1 General Business District and the I-1 Limited Industry District, provided the accessory use conforms with the provisions of this subdivision. Adult Use/Sexually Oriented Business-Accessory shall:

- (1) Comprise no more than ten (10%) percent of the floor area of the establishment in which it is located or shall comprise an area no greater than 100 sq. ft. of floor area in which it is located, whichever is greater.
- (2) Comprise no more than twenty (20%) percent of the gross receipts of the entire business operation.
- (3) Not involve or include any activity except the sale or rental of merchandise.

**Section 15 Separation of Areas.** Adult use-accessory shall be restricted from and prohibit access to minors by physically separating the following and similar items from areas of general public access:

- (1) Movie Rental display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view of, and under the control of, the persons responsible for the operation.
- (2) Magazines or publications classified as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
- (3) Other adult uses not specifically cited shall comply with the intent of this Ordinance.

**Section 16 Advertising.** Adult Use/Sexually Oriented Business-Accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

