

**ORDINANCE NO. 2010-#01**

**SYLVAN TOWNSHIP  
CASS COUNTY, MINNESOTA**

AN ORDINANCE ESTABLISHING THE ORDINANCE FOR THE REGULATION OF ADULT USES AND SEXUALLY ORIENTED BUSINESS WITHIN SYLVAN TOWNSHIP, MINNESOTA

**ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE**

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# **1.0 ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE**

## **1.1 PURPOSE**

In the development and adoption of the ordinance codified in this chapter, it is recognized that:

1. The purpose and intent of the adult use regulations set forth in this Ordinance is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, curtail the depression of property values, restrain increased criminal activity, and slow the spread of sexually transmitted diseases.

2. Adult use establishments, as defined in this Ordinance, because of their very Nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. Particularly when located in close proximity to residential neighborhoods, public parks, place of worship, public buildings, schools, day care, group home, nursing home, senior housing, hotel/motel, businesses that sell or dispense intoxicating beverages or intoxicating liquors and other facilities. These secondary effects are evident where such uses are concentrated.

3. The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values, and a significant change in the character of surrounding neighborhoods.

4. One of the Ordinance's objectives is to disperse adult uses by separation requirements from other adult uses and from other significantly incompatible uses. The Ordinance allows adult uses only in B-2 Districts.

5. It is recognized that such regulations cannot de-facto approach prohibition; otherwise a protected form of expression would vanish. The adult use regulations set forth in the Ordinance represent a balance of competing interests, reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers and patrons of those adult uses.

In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this chapter to inhibit freedom of speech or the press. The provisions herein 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 neither 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.

This chapter represents a balancing of the legitimate ends of the Township by imposing an incidental, content-neutral place, time, and manner of regulation of sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the business to carry its share of financial law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this chapter.

## **1.2 FINDINGS**

The Sylvan Township Board of Supervisors makes the following findings about the effect adult uses and sexually oriented businesses have on the character of the Township's neighborhoods. In making the findings, the Township Supervisors accept the recommendations of staff that has studied the experiences of other areas about such businesses: City of St. Cloud, MN., The Minnesota Attorney General, and the County of Cass. Various other cities throughout the country have studied the impact of adult uses and sexually oriented businesses. These studies have concluded that adult uses and sexually oriented businesses have adverse impacts on the surrounding neighborhoods. Based on these studies the Township Supervisors conclude:

1. Adult uses and sexually oriented business can contribute to an increase in crime in the area where such businesses are located. This can be a burden to the Township crime prevention programs and law enforcement services.
2. Adult uses and sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can increase neighborhood blight. These businesses also can impair the character and quality of the residential housing in the area where such businesses are. This situation could lessen the amount of desirable housing for residents.
3. The concentration of adult uses and sexually oriented businesses in one area can greatly affect the area where such businesses are concentrated and on the quality of life. A cycle of decay can result from the influx and concentration of adult uses and sexually oriented businesses. Others may perceive the presence of such businesses as an indication that the area is deteriorating and the results can be devastating. That is, other businesses move out of the vicinity and residents flee from area. Lower property values that can result from the concentration of such businesses erode the Township's tax base and contribute to blight.
4. Adult uses and sexually oriented businesses have adverse secondary impacts of the type discussed above.
5. It is necessary to provide for the special and express regulations of businesses; establishments or commercial enterprises that operate as adult body painting, studios, adult bookstores, adult cabarets, adult car washes, adult companionship establishments, adult hotels or motels, adult massage parlors or health clubs, adult motion picture arcades or theaters, adult modeling studios, adult novelty businesses,

adult saunas, and similar adult oriented services operating under various names to protect the public health, safety and welfare, and to guard against inception and transmission of disease.

6. The commercial enterprises such as the types described in paragraph 5 above and all other similar establishments whose services include sessions offered to adults conducted in private by members of the same or opposite sex, and employing personnel with no specialized training are susceptible to operations contravening, subverting, or endangering the morals or the Township by being the site of acts of prostitution, illicit sex, and occasions of violent crimes, and thus requiring close inspection, permitting and regulations.

7. Control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the Cass County Sheriff's department and Township staff. It is necessary for the County and Township to provide services to all of Sylvan Township without concentrating the public services in one area. The concentrated use of County and Township Services detracts from and reduces the level of services available to the rest of Sylvan Township. Thus, these types of establishments can diminish the ability of the County and Township to protect and promote the general health, welfare, morals and safety of Sylvan Township.

Therefore, the Sylvan Township Board of Supervisors adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the Township's residential and commercial neighborhoods. These regulations are to lessen the detrimental and adverse effects adult uses and sexually oriented businesses have on adjacent land uses and to protect and promote the health, safety and welfare of the residents of Sylvan Township.

## **2.0 DEFINITIONS:**

The following words shall have the following meanings:

2.011 ADULT USES: Adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion picture theaters, adult mini- motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene are defined by but not limited to Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

**2.02 ADULT USE - ACCESSORY:** The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties, and the like.

**2.03 ADULT USES - PRINCIPAL:** The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

**ADULT BODY PAINTING STUDIO:** 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 in terms of "Specified anatomical areas".

**ADULT BOOK STORE:** An establishment, building or business engaging in the barter, rental, or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film, or any other similar materials, if such shop is not open to the public generally but only to one or more classes of the public, excluding any minor because of age, if more than twenty ( 20) per cent of the useable floor area of the establishment, building, or business, or if at least 500 square feet, whichever is smaller, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to "specified sexual activities" or "specified anatomical areas".

**ADULT CABARET:** An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

**ADULT CAR WASH:** A wash facility for any type of motor vehicle that allows employees, agent, independent contractors or persons to appear in a state of partial or total nudity in terms of "specified anatomical areas".

**ADULT COMPANIONSHIP ESTABLISHMENTS:** An establishment of business, if such establishment excludes minors because 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".

**ADULT ENTERTAINMENT FACILITY:** A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentations of entertainment distinguished by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".

**ADULT ESTABLISHMENT:** An establishment, building or business engaging in any of the following activities or which uses any of the following business procedures or practices, either:

a: Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat either by law or by the operator of such business; or

b. Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas". Specifically included in the term, but without limitation, are adult book stores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult health clubs, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult car washes, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels and adult body painting studios.

**ADULT HOTEL or MOTEL:** A hotel or motel from which minors are specifically excluded from patronage and in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

**ADULT MASSAGE PARLOR, HEALTH/SPORT CLUB:** A massage parlor or health/sport club that restricts minors because of age or law, which provides the services of massage if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**ADULT MINI-MOTION PICTURE THEATER:** A business, building or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if such business as a prevailing practice excludes minors by virtue of age, or law, or if said material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patron.

**ADULT MODELING STUDIO:** An establishment or business whose major business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers 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.

**ADULT MOTION PICTURE ARCADE:** Any building or place to which the public is allowed or invited in which coin or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, computers or other image producing devices that show images to five or fewer persons per machine at

once, and characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

**ADULT MOTION PICTURE THEATER:** A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if said business as prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons.

**ADULT NOVELTY BUSINESS:** A business that has as a principal activity the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to "specified sexual activities" or "specified anatomical areas".

**ADULT SAUNA/STEAM ROOM/BATHHOUSE:** A business that excludes minors because of age, or which provided a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**2.034 BOARD OF ADJUSTMENT:** The Sylvan Township Board of Adjustment as described in Minnesota Statutes, Section 394.27.

**2.035 TOWNSHIP BOARD OF SUPERVISORS OR TOWNSHIP BOARD:** The governing body of Sylvan Township, Cass County, Minnesota.

**2.04 LICENSED FAMILY DAY CARE, LICENSED GROUP FAMILY DAY CARE, LICENSED CHILD CARE CENTER:** A facility holding a license from Sylvan Township, Cass County or Minnesota pursuant to Minnesota Statutes, chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

**2.041 GROUP HOME:** An establishment, usually resembling a private home and located in a residential neighborhood, for providing a small group of persons with special needs, as handicapped, mentally challenged, persons undergoing rehabilitation or elderly person, with lodging and supervised care to try to live independently.

**2.05 MINOR:** Any person under the age of eighteen (18) years.

**2.06 NUDITY:** The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage male genitals in a discernibly turgid state.

2.065 OPEN SPACE: Any parcel of land or portion thereof designated as an integral part of a residential development, plat, or planned unit development as required by the Ordinance for the Management of Shoreland Areas, Cass County, Minnesota, or the Land Use Ordinance for Non-Shoreland Areas, Cass County, Minnesota.

2.07 PUBLIC LIBRARY: Any library that provides free access to all residents of a township, city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

2.08 PUBLIC PARK: A park, reservation, playground, beach, or recreation or community center in the Township owned, leased, or used wholly or in part by the Township, a city, county, state, school district, or federal government for recreational purposes.

2.09 PLACE OF WORSHIP: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

2.10 SCHOOL: A building or space that is principally used as a place where twenty-five (25) or more persons, or a Charter School or Religious School of any size that receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Ordinance.

2.11 SEXUALLY ORIENTED BUSINESS: An adult body painting studios, adult book stores, adult car wash, adult hotels or adult motels, adult motion pictures theaters, adult mini motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

2.12 SPECIFIED ANATOMICAL AREAS: Anatomical areas consist of:

1. Less than completely and opaquely covering human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below a point immediately above the top of the areola or any combination of the foregoing; and
2. Human genitals in a discernibly turgid state, even if completely and opaquely covered.

## 2.13 SPECIFIED SEXUAL ACTIVITIES: Activities consisting of the following:

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. 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; or
8. Any combination of the above, but not limited to.

## 3.0 PERMITTING OR LICENSES:

### 3.1 LICENSE REQUIRED

No person, firm or corporation shall own or operate an adult use or sexually oriented business in Sylvan Township without having first secured a license as provided herein. The license shall be one of two types:

- A. Adult use Principal;
- B. Adult use Accessory;

### 3.2 APPLICATIONS:

The Township shall provide an application for an Adult Use Principal or sexually oriented business license. This application shall include:

A. The name, residence, phone number and birth date of the applicant, if any individual; and, if any corporation, partnership, LLC, or similar entity, the names, residences, phone numbers and birth dates of those owners holding more than five (5) percent of the issued and outstanding stock of the corporation or ownership interest in a partnership, LLC or similar entity.

B. The name, address, phone number and birth date of the operator and manager of such operation, if different from the owners;

C. The address and legal description of the building, establishment or premises where the adult use or sexually oriented business is to be located.

D. A statement detailing each gross misdemeanor or felony relating to a sex offense and/or the operation of adult uses and related activities of which the applicant or, for a corporation, the owners of more than five (5) percent of the issued and outstanding stock of the corporation, or ownership interest in a partnership, LLC or similar entity, have been convicted, and whether the applicant has ever applied for or held a license to operate a similar type of business in other Townships, Counties or Cities.

E. The activities and type of business to be conducted;

F. The hours of operation;

G. The provisions made to restrict access by minors;

H. A building plan of the premises detailing internal operations and activities;

I. A description or building plan that details all proposed interior and exterior changes to an existing building or structure.

### **3.3 LICENSE FEES:**

A. Each application for a license shall be accompanied by a fee, as set by the resolution of the Township Board of Supervisors, for payment in full of the required application and investigative fees for the license as established. All fees shall be paid at time of application. License fees shall be considered past due as of January 1 if not paid. Late fees will be assessed on all past due license applications.

B. All permits/licenses shall expire on the last day of December in each year. The Township shall issue each license for one (1) year, except if part of the license year has elapsed when the application is made, the Township may issue a license for the remainder of the year for a prorated fee. In computing such fee, the Township shall count any unexpired fraction of a month as one (1) month.

C. The annual fee, investigative fee, and late fees for the Adult Use or Sexually Oriented business license shall be established by resolution of the Township Board of Supervisors.

D. No part of any annual fee, investigative fee, and late fee paid as required by this ordinance shall be refunded.

E. Each application shall contain a provision on the application in bold print stating that any withholding of information or the providing of false or misleading information will be grounds for the denial or revocation of a license. Any changes in the information provided on the application or provided during the investigation shall be promptly reported to the Township Board of Supervisors by the applicant or licensee. If said changes take place during the investigation, the data shall be provided to the Township in writing, and the Administrator shall report the changes to the Township Board of Supervisors. Failure to timely report said changes by the applicant (s) or the licensee may result in the denial or revocation of a license.

### **3.4 GRANTING OF LICENSE.**

A. The Township shall investigate all facts set out in the application, including comments from the affected Township residents. As part of the investigation the Township shall request a written report from the Cass County Sheriff's Department. After the Township finishes the investigation, the Township shall grant approval of the application if all requirements of this ordinance are met.

B. The Township shall only issue the license to the applicant. The license shall not be transferred to another holder. The Township shall only issue each license for the premises or location described in the application. No license may be transferred to another location or place without the approval of the Township Board of Supervisors.

### **3.5 PERSONS INELIGIBLE FOR LICENSE**

The Township shall not grant a license to nor may one be held by any person who:

A. Is under twenty-one (21) years of age;

B. Has been convicted of a felony;

C. Is not the proprietor of the establishment for which the license is issued;

D. Has not paid the license and investigative fees required by this Ordinance;

E. Is not legally able to work or do business in the United States or the State of Minnesota.

F. Has had an adult use or similar permit or license revoked under an ordinance or

statute similar to this ordinance.

### **3.6 PLACES INELIGIBLE FOR LICENSE.**

A. No license shall be granted for adult uses or sexually oriented business on any premises where a licensee has been convicted of a violation of this ordinance, or where any license hereunder has been revoked for cause until at least one (1) year has elapsed after such conviction or revocation.

B. Except uses lawfully existing at the time of this Ordinance, no license shall be granted for any adult use or sexually oriented business that does not meet all Township Ordinance requirements, all building and fire codes requirements, all applicable septic ordinances, rules or regulations and all provisions of State and Federal Law.

### **3.7 NON-CONFORMING USES.**

Any adult use or sexually oriented business existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

A. No such adult use or sexually oriented business shall be expanded or enlarged except in conformity with the provisions of this Ordinance;

B. A non-conforming adult use or sexually oriented business shall be required to apply for and receive an adult use license from the Township. The Township requires a public hearing before issuing a license for the non-conforming adult use or sexually oriented business.

### **3.8 CONDITIONS OF LICENSE GENERALLY**

A. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this Ordinance and of any applicable county, state and federal law.

B. All licensed premises shall have the license posted in a conspicuous place.

C. No minor shall be allowed in or on the premises of an adult use or sexually oriented business.

D. Any designated inspection officer of the Township or law enforcement officer of the County or Township shall have the right to enter, inspect, and search the premises of a licensee during business hours.

E. Every licensee shall be responsible for the conduct of their place of business and shall maintain conditions consistent with this Ordinance and Township Ordinances generally.

F. No adult goods, materials or services shall be offered, sold, transferred, conveyed,

given, displayed or bartered to any minor.

### **3.9 CONDITIONS OF LICENSE - ADULT PRINCIPAL**

The Township permits adult use principal and sexually oriented businesses only in the SGBCD (B-2) Zoning District, subject to the following conditions:

A. No adult use principal or sexually oriented business shall be located closer than 500 feet from any other adult use principal or sexually oriented business in any City or Township. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.

B. No adult use principal or sexually oriented business shall be located closer than 1320 feet from any place of worship, school, public park, group home, licensed family day care home, public building, licensed child care or day care center, hotel/motel, nursing home or senior housing in any city or township. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residential use regardless of zoning, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

C. No adult principal use or sexually oriented business shall be located closer than 1320 feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in any township, city or county. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).

D. All adult uses and sexually oriented businesses must meet the requirements of all Sylvan Township Ordinances.

E. The Township prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure, but not limited to the following:

- Adult body painting studio;
- Adult book store;
- Adult cabaret;
- Adult car wash;
- Adult companionship establishment;
- Adult entertainment facility;

Adult hotel or motel;  
Adult modeling studio;  
Adult sauna/steam room/bath house;  
Adult motion picture theater;  
Adult mini-motion picture theater;  
Adult massage parlor;  
Adult health/sports club;  
Adult novelty business;  
Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

F. An adult use principal and sexually oriented business shall not sell or dispense non-intoxicating or intoxicating liquors, nor shall it be located within 1320 feet of a building that contains a business that sells or dispenses intoxicating beverages or intoxicating liquors. An adult use principal and sexually oriented business shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business or upon adjoining or abutting parcels held under the same owner or an entity controlled by the same owner as the subject parcel.

G. No adult use principal and sexually oriented business' entertainment shall engage in any activity or conducts or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Sylvan Township, Cass County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

H. No adult use principal or sexually oriented businesses shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or relating 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.

I. All adult use principal and sexually oriented businesses shall prominently display a sign at the entrance and located within two (2) feet of the door opening device of the adult use establishment or section of the establishment devoted to adult books or materials which states: "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter".

K. Adult use principal and sexually oriented businesses shall not be open between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 1:00 a.m. and 12:00 p.m. (Noon) on Sunday.

### **3.10 CONDITIONS OF LICENSE - ADULT USE ACCESSORY.**

The Township may issue Adult Use Accessory licenses to businesses or establishments located in SGBCD (B-2) Zoning Districts subject to the following requirements:

A. No adult use accessory or sexually oriented business shall be located closer than 500 feet from any other adult use principal or sexually oriented business in any Township. Measurements shall be made in a straight horizontal line, without regard to Township, or City or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest point of the actual business premises of any other adult use principal or sexually oriented business.

B. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any place of worship, school, public park, open space, licensed family day care home, public building, licensed child care or day care center, hotel/motel, nursing home or senior housing in any Township, city or county. Measurements shall be made in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use principal or sexually oriented business to the nearest property line of the premises or building used as a dwelling or residential use regardless of zoning, place of worship, school, public park, open space, licensed family day care home, licensed group family day care home, public library or licensed child care or day care center.

C. No adult use accessory or sexually oriented business shall be located closer than 1320 feet from any residential lot line, any residential zoning district or any residential planned unit development (PUD) in any city or county. Measurements shall be in a straight horizontal line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the actual business premises of the adult use or sexually oriented business to the nearest residential lot line, boundary of the residential zoning district or planned unit development (PUD).

D. All adult uses and sexually oriented businesses must meet the requirements of all Sylvan Township Ordinances.

E. The Township prohibits any building owner or operator from having more than one (1) of the following uses, tenants or activities in the same building structure, but not limited to the following:

- Adult body painting studio;
- Adult book store;
- Adult cabaret;
- Adult car wash;
- Adult companionship establishment;
- Adult entertainment facility;
- Adult hotel or motel;

Adult modeling studio;  
Adult sauna/steam room/bath house;  
Adult motion picture theater;  
Adult mini-motion picture theater;  
Adult massage parlor;  
Adult health/sports club;  
Adult novelty business;  
Any business or establishment in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" that the public can see.

F. The adult use accessory shall comprise no more than twenty (20) percent of the floor area, or up to five hundred (500) square feet, whichever is smaller, of the establishment, space, structure or building in which it is located.

G. Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

### **3.11 REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSE.**

A. The Township may revoke, suspend, or not renew a license upon recommendation of assigned Township staff or the County Sheriff that shows that the licensee, its owners, managers, employees, agents or any other interested parties have engaged in any of the following conduct:

1. Fraud, deception or misrepresentation about securing the license.
2. Habitual drunkenness or intemperance in use of drugs defined in Minnesota Statutes Section 618.01, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers.
3. Engaging in conduct involving moral turpitude or permitting or allowing other within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers, or employees in engaging in conduct involving moral turpitude.
4. Failure to follow any requirements of Sylvan Township zoning requirements, Sylvan Township Ordinances, County Ordinances, MN State Statutes. The violation of which involves moral turpitude, or failure to follow the requirements of this Ordinance, or any condition affecting Public Health, Safety, or Welfare.
5. Conviction of an offense involving moral turpitude.
6. Conviction of a felony.

B. The license holder may appeal such suspension, revocation, or non-renewal to the Board of Adjustment. The Board of Adjustment shall consider the appeal at a regularly scheduled public hearing within (30) thirty days from the service of the notice of appeal to the Township.

C. At the conclusion of the hearing the Township Board of Supervisors may order:

1. The revocation, suspension or non-renewal be affirmed;
2. That the revocation, suspension or non-renewal be lifted and that the license be returned to the certificate holder.

D. An appeal must be accompanied by a letter of credit, cashier's check, or cash in the amount of \$1000.00 as well as an Agreement to reimburse the Township for any costs above \$1000.00 incurred by the Township as a result of the appeal. If the decision of the Township is upheld, the Township is entitled to recover expenses actually incurred and return any balance of the \$1000.00 that may remain.

#### **4.0 SIGN RESTRICTIONS:**

The following sign regulations shall apply to all adult use sexually oriented businesses in Sylvan Township. These regulations are to protect children from exposure to sexually oriented or shocking signs and materials and to preserve the value of property near adult use and sexually oriented businesses. These regulations are aside from and in addition to any other provisions of the Township's regulations.

1. All signs shall be flat wall or freestanding signs. No sign shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.
2. The Township's sign regulations outlined in the SGBCD Ordinance.
3. No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the adult use or sexually oriented business is located.
4. No signs shall be placed in any window. A two (2) foot square sign may be placed on the door to state hours of operation and admittance to adults only.

#### **5.0 PENALTY.**

Any person violating any provisions of this Ordinance is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by State law.

The Township reserves the right to proceed with any available civil remedy, including injunctive relief, which it deems necessary to enforce this ordinance and to protect the public health, safety and welfare.

## **6.0 SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of ordinance. The Township Board of Supervisors declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase of it irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid.

## **7.0 EFFECTIVE DATE.**

This ordinance shall be in full force and effect immediately following its passage and publication.

## **8.0 SIGNATURE**

APPROVED by the Sylvan Township Board of Supervisors this 29th day of July 2010.

By: \_\_\_\_\_  
Greg Booth, Chairperson

ATTEST:

By: \_\_\_\_\_  
Faith Broberg, Town Clerk

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