

SECTION 19 ADULT USES AND SEXUALLY ORIENTED BUSINESS ORDINANCE

A. PURPOSE

It is the purpose and intended effect of this Section to assist in controlling the negative secondary effects of adult use and sexually oriented establishments. It is not the intent of this Section to prohibit adult use and sexually oriented establishments from operating in the County of Wadena. It is intended to regulate their location and manner of operation while providing a reasonable opportunity for such establishments to exist.

B. AUTHORIZATION AND IMPLEMENTATION

1. **Authorization:** Section 19 of the Wadena County Zoning Ordinance is adopted pursuant to the authority delegated to Wadena County by Minnesota Statutes, Chapter 394, commonly known as Minnesota Counties' Planning and Zoning Enabling Legislation.
2. **Jurisdiction:** The provisions of Section 19 shall apply to all adult use and sexually oriented establishments located in the unincorporated areas of Wadena County.
3. **Compliance:** All adult uses and sexually oriented establishments shall be in full compliance with the requirements of the Wadena County Zoning Ordinance and any other applicable provisions of County, State, or Federal Laws, and applicable fire, health, and/or safety codes.
4. **Enforcement:** The Wadena County Board of Commissioners, the Wadena County Sheriff, the Wadena County Attorney, Wadena County Auditor, Wadena County Public Health Director and the Wadena County Zoning Administrator are responsible for the enforcement of this ordinance.
5. **Penalty:** Any person violating any provision of Section 19 is guilty of a misdemeanor. In addition, Wadena County may sue for injunctive relief for any violation. Wadena County may also sue for injunctive relief to prevent a violation. Wadena County may suspend or revoke any permits or licenses issued by the Board with cause.
 - a. **Suspension or Revocation of Adult Use/Sexually Oriented License.** Any violation of Section 19 shall be a basis for suspension or revocation of any permit or license granted hereunder. In the event the County Board of Commissioners proposes to suspend or revoke a license or permit issued under this Section, the County Board shall hold a hearing. The County will provide ten (10) days written notice before such hearing is held.
 - b. **Revocation of Liquor License.** Any violation of Section 19 shall be a basis for suspension or revocation of a Liquor License issued pursuant to Minnesota Statutes, Chapter 340A. The Wadena County Board of Commissioners or anyone they delegate shall follow the notice and hearing requirements for contested cases under Minnesota Statutes, Chapter 14.57 to 14.70 of the Administrative Procedures Act.
6. **Interpretation:** In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety, and welfare of the citizens of Wadena County by providing for the regulation of adult use and sexually oriented establishments. Section 19 is not intended to limit or repeal any other powers granted to Wadena County by the State of Minnesota.
7. **Severability:** If any part, clause, provision, or portion of Section 19 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

8. **Abrogation and Greater Restrictions:** It is not the intent of this Section to repeal, abrogate, or impair any existing ordinances or laws. When this Section is inconsistent with any other ordinance or law, that which poses the greater restriction shall prevail.
9. **Referral to Other Laws:** If any part, clause, provision, or portion of Section 19 references another ordinance, Statute, Rule, or other provisions of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future.

C. DEFINITIONS RELATING TO SECTION 19

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 Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

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.

Adult Use – Primary: 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) percent 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 matters depicting, describing, or relating to "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 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 matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by the 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 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 Activity" 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 a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on depicting or describing "Specified Sexual Activity" 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 provides 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

