

SECTION 11. ADULT USE REGULATIONS

Subsection 11.1: Purpose

- A. The Swift County Board of Commissioners adopts the following land use and permitting regulations, recognizing that it has an interest in the present and future character of the County'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 protect and promote the health, safety and welfare of the residents of Swift County.
- B. It is the further purpose of this ordinance section to protect the well-being of the youth of the community from objectionable operational characteristics of these adult uses and sexually oriented businesses by regulating and restricting their close proximity to established facilities such as, but not limited to churches, parks, schools, and residential areas.
- C. The County further intends by this ordinance section to minimize the negative impact of traffic, glare and noise generated by the normal operation of sexually oriented businesses on adjacent properties, and to minimize any potential negative impact on the value and marketability of land adjacent to sexually oriented businesses.
- D. 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 ordinance section to inhibit the freedom of speech or the press. The provisions herein have neither the purpose nor the 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 ordinance section 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 ordinance section represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time and manner of regulation of sexually oriented entertainment to sexually oriented businesses without limiting alternative avenues of communication, and at the same time, requiring businesses to carry its financial share of law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance section.

Subsection 11.2: Conditional Uses

- A. Adult uses and sexually oriented businesses shall not be permitted in any zoning district within Swift County unless a conditional use permit for such use has been obtained. Requirement for a conditional use permit shall be in addition to all other requirements of the Swift County Code of Ordinances, and shall be in addition to all other requirements of all other applicable ordinance sections.

- B. Any person desiring a conditional use permit for any use specified in this ordinance section shall apply in the manner provided by this ordinance section for a Conditional Use. In addition, persons applying for a permit under this section shall provide the following information
1. Applications. In addition to such applicable information as the County may require, an application required by this section shall include the following information:
 - a. The name, residence, phone number and birth date of the applicant, if an individual; and if a corporation, the names, residences, phone numbers and birthdates of the those owners holding more than five percent (5%) of the outstanding stock of the corporation;
 - b. The name, address, phone number and birth date of the manager of such operation, if different from the owners;
 - c. The premises wherein the adult use 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, in the case of a corporation, the owners of more than five percent (5%) of the outstanding stock of the corporation, have been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
 - e. The activities and types of business to be conducted;
 - f. The hours of operation;
 - g. The provisions made to restrict access to minors;
 - h. A building plan of the premises detailing all internal operations and activities.
- C. Each permit shall be issued to the applicant only and shall not be transferable to another holder. Each permit shall be issued only for the premises described in the application. No permit shall be transferred to another place without the approval of the County Board.
- D. Persons Ineligible for Permit. No permit shall be granted to or held by any person:
1. Under twenty-one (21) years of age.
 2. Who has been convicted of a felony or of violating any law of this state or local ordinance section relating to sex offenses and/or adult uses.
 3. Who is not the proprietor of the establishment for which the permit is issued.
- E. Location.
1. No adult use or sexually oriented business may be located or operated within one-half (1/2) mile of:
 - a. Another adult use or sexually oriented business; or
 - b. A business which sells or serves alcoholic beverages, including, but not limited to, beer, wine, malt liquor or other intoxication spirits.
 2. No adult use or sexually oriented business may be located or operated within one-quarter (1/4) mile of:

- a. A church or other building which is used primarily for religious worship and related religious activities; or
- b. A public or private educational facility including, but not limited to, childcare facilities, nursery schools, preschools, kindergartens, elementary schools, high schools, intermediate schools, junior high schools, middle schools, private schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; schools include the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school; or
- c. A public park or recreational area which as been designated for a park or recreational activities including, but not limited to, a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle paths, wilderness areas, or other similar public land with the County; or
- d. A public theater; or
- e. A shopping center; or
- f. An airport; or
- g. A private residence; or
- h. Any hotel or motel; or
- i. A Public Library.

F. Building Standards

1. No commercial building, structure, premises, or part thereof, or facilities therein used by a sexually oriented business shall be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in sexual activities as defined in this ordinance section, except an adult hotel or motel.
2. No person shall own, operate, manage, rent, lease, or exercise control of any commercial building, structure, premises, or portion or part thereof, which contains:
 - a. Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition;
 - b. Booths, stalls, or partitioned portions of a room, or individual rooms, used for adult uses, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions or a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for adult uses are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures or other offered adult uses.
3. All viewing areas or booths in movie arcades shall be accessible from a continuous main aisle.
4. All viewing areas or booths shall be located together along a continuous main aisle to eliminate the possibility of secluded booths elsewhere on the premises.

5. No more than one person shall be permitted to enter or remain in a viewing area or booth at any time.
 6. The viewing areas or booths shall be maintained at all times in a clean and sanitary manner.
 7. All entrances to the business, with the exception of emergency fire exits not useable to enter the business, shall be visible from a public right-of-way.
 8. All performances shall be on a raised stage. The stage must be raised from the surrounding floor by at least two feet (2').
 9. All persons viewing any performance shall be at least three feet (3') from the stage.
- G. Sale/Consumption of Alcoholic Beverages. No adult use or sexually oriented business shall sell, give, provide, or permit the consumption of alcoholic beverages, intoxicating liquors or non-intoxicating liquors (as defined in Minnesota Statutes, Chapter 340A) on the premises of the adult use or sexually oriented business.
- H. Hours of Operation. No adult use or sexually oriented business, except for an adult hotel or motel, shall remain open at any time between the hours of 1:00 A.M. and 11:00 A.M.
- I. Multiple Uses. The operation, establishment, or maintenance of more than one adult use or sexually oriented business in the same building, structure, or portion thereof is prohibited.
- J. Sign and Lighting Restrictions. The following sign regulations shall apply to all adult uses and sexually oriented businesses in Swift County. These regulations are aside from any other provisions of the County's regulations.
1. All signs for sexually oriented business shall be flat wall or freestanding signs. No signs shall be located on the roof, or contain any flashing lights, moving elements or electronically or mechanically changing messages.
 2. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner except to the extent specifically allowed herein.
 3. No merchandise, photos, or pictures of any products or entertainment characterized by an emphasis on visual display of "specified sexual activities" or "specified anatomical areas" 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. Signs otherwise permitted pursuant to this ordinance section shall contain only:
 - a. The name of the sexually oriented business; and/or
 - b. The specific type of sexually oriented business conducted on the business premises. Temporary signage shall not be permitted in connection with any sexually oriented business.

5. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show; and to any window, door, or other opening.

K. Conditions of Conditional Use Permit.

1. Every Conditional Use Permit shall be granted subject to all the conditions of this ordinance section, and of any other applicable county, state or federal law.
2. All Conditional Use Permitted premises shall have the permit posted in a conspicuous place at all times.
3. No minor shall be permitted on the permitted premises. Provision to restrict access by minors shall prohibit any entry or view into the portion of the premises in which the adult use or sexually oriented business is carried on.
4. Any duly designated agent or officer of the County shall have the unqualified right to enter and inspect all public areas of the premises of a permittee during regular business hours and during non-business hours to determine compliance with this ordinance section.
5. Every permittee shall be responsible for the conduct of the place of business and shall maintain conditions of order at all times.
6. No person to whom a Conditional Use Permit has been issued shall permit to be or remain in any adult use or sexually oriented business establishment any obviously intoxicated person.
7. No adult use or sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material or any entertainment depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located.

Subsection 11.3: Measurement from Other Uses

- A. For purposes of this ordinance section, measurement from the uses listed in Section 10.04 (E) shall be made in a straight line, without regard to the intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where an adult use or sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Section 10.04 (E). Presence of a city, county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this ordinance section. Such distances shall be measured across property lines, regardless of ownership of the property.
- B. For purposes of this ordinance section, the distance between any two adult uses or sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

Subsection 11.4: Penalty

- A. It shall be a misdemeanor for a person to knowingly or intentionally, in a sexually oriented business, appear in a nude or semi-nude condition unless the person is an employee who, while nude or semi-nude, shall be on a stage which complies with the provisions of this ordinance section.