

The County Board of Commissioners of Kanabec County ordains:

ORDINANCE #24

ADULT USE ORDINANCE

1.01 STATEMENT OF FINDINGS

The Kanabec County Board of Commissioners finds it necessary to provide for the regulation of businesses or commercial enterprises, which operate as Adult Uses, hereinafter defined. There are currently no permanently established Adult Use businesses within Kanabec County located beyond the limits of an incorporated City. The ordinance shall apply to municipalities that have requested inclusion pursuant to Minn. Stat. 394.24. The Kanabec County Board of Commissioners recognizes that Kanabec County has experienced an increase in residential and commercial development and that, with this increase; it is necessary to examine and anticipate the impact of Adult Uses on Kanabec County.

The Kanabec County Board of Commissioners makes the following findings regarding the likely effect of Adult Uses on the character of the County's neighborhoods. These findings are based upon the experiences of and reports and/or studies performed in other communities, reviewed in adopting these provisions, as well as evidence and testimony presented at public hearings, applicable state and federal judicial decisions (as set forth in appendix A, B, C, D and E), in addition to the Board's knowledge of actual conditions within Kanabec County and surrounding counties. The following findings are reached in addition to those set forth in the resolution accompanying this Ordinance, incorporated herein.

1. The Kanabec County Board of Commissioners finds that Adult Use businesses have the propensity to produce adverse secondary effects on their surrounding communities. Such adverse secondary effects include, but are not limited to, increased acts of prostitution, illicit sex, violent and other crimes, as well as public health problems presented by live entertainment, deterioration and blighting of adjacent land uses, and loss in property values and tax base.
2. Special regulation of Adult Uses is necessary to ensure that the adverse secondary effects will not contribute to or enhance criminal activity in the area of such uses, nor will it contribute to public health risks, blighting or downgrading of the surrounding property and lessening of its value.
3. The risk of secondary effects increases when such Adult Uses are accessible to minors and are located near residential property or when Adult Uses become concentrated in a particular geographic area. The nature of Adult Uses suggests that they should not be allowed within certain zoning districts or within certain distances from each other and/or residential uses.

4. The Kanabec County Board of Commissioners finds that the most effective way to reduce the adverse impact of harmful secondary effects, while allowing a reasonable opportunity for such businesses to exist, is to disperse such businesses throughout the county and to locate such businesses in areas with lower population density or with fewer sensitive uses including, but not limited to, daycare providers, foster care facilities, schools, libraries, parks or environmentally sensitive land uses.
5. The Kanabec County Board of Commissioners recognizes that by permitting Adult Uses in all areas but those with exceptional environmental concerns or land use conflicts, subject to the restrictions provided herein, the number of site locations for these uses is increased while at the same time providing for the disbursement of these uses from each other and those uses found to be vulnerable to their secondary effects.
6. The potential dangers to the health, safety and general welfare associated with Adult Uses require the County to establish a system of regulation for Adult Uses beyond consideration of their location in the community. The Kanabec County Board of Commissioners finds that the risk of secondary effects can be minimized through a licensing and regulatory arrangement as provided herein.
7. The concurrence of the sale and/or consumption of alcoholic beverages with Adult Uses leads to an increase in criminal activity and exacerbates neighborhood deterioration when in or near Adult Use establishments. Based on the recommendations of the studies considered, the Kanabec County Board of Commissioners believes it is necessary and advisable to prohibit the sale and consumption of alcoholic beverages in Adult Use establishments and near where these Adult Use activities occur.
8. Any form of physical contact between employees and/or patrons of Adult Use establishments featuring live entertainment increases the likelihood of spreading communicable and sexually transmitted diseases, which in turn poses a threat to the health and safety of the community and the participants. Requiring entertainers to remain on an elevated stage at least six feet away from patrons will serve to protect the public by discouraging direct physical contact.
9. The practice of requiring entertainers to earn their income from tips or gratuities encourages the exchange of money for prostitution or the exchange of illegal controlled substances, thereby contributing to the increased level of criminal activity associated with Adult Uses. The Kanabec County Board of Commissioners finds that it is necessary and reasonable to prohibit the exchange of pay or gratuity, in any form, exceeding that income which is provided to entertainers.

10. Without proper regulation, Adult Use businesses may fail to give regard to the appearance of signage associated with these businesses, depreciating the value of surrounding properties and further contributing to neighborhood blighting. Based on the recommendations of the studies considered, the Kanabec County Board of Commissioners finds that regulating Adult Use signage, including restrictions on placement, size and appearance, is appropriate and addresses harmful secondary effects while protecting the operator's right to advertise.
11. Requiring licensees to provide information about themselves and employees will help reduce the incidents of criminal behavior by facilitating the identification and applicable criminal history of these individuals in recent years. In addition, it will provide a safeguard by preventing minors from working in such establishments.
12. It is necessary to have a licensed manager on the premises of establishments offering adult entertainment at such times as such establishments are offering adult entertainment so that there will, at all necessary times, be an individual responsible for the overall operation of the establishment, including the actions of patrons, entertainers and other employees.
13. The Kanabec County Board of Commissioners finds that a licensing fee, which includes the costs of conducting a thorough but prompt investigation and review of license applications will facilitate the purposes listed in Paragraph 11. Requiring reasonable license fees is in recognition of the costs involved in processing license applications and accounting for County services further taxed by monitoring Adult Uses within the community.
14. Licensees of Adult Uses should be subject to penalties for allowing violations of this ordinance, and any other Kanabec County ordinance or other applicable law, in order to discourage violations of the law for purposes of increasing profit to the detriment of the surrounding community. Suspension or revocation of licenses based upon violation of applicable law, upon adequate proof at administrative proceedings of the occurrence of such acts, will serve to protect the community by deterring or ending the use of the establishment for criminal acts or acts which violate an ordinance.
15. Suspension and revocation procedures in the licensing of Adult Uses will be undermined if they could be avoided by licensees incorporating under new names or by attempts to transfer licenses or change control of land or the establishment. The Kanabec County Board of Commissioners finds that it is appropriate to restrict Adult Use licenses under any of these circumstances.
16. Permitting licensees recourse to the County Board and/or prompt judicial review for denial, suspension, or revocation of a license will permit the County to preserve its interest in protecting the health, safety and general welfare of its citizens against the secondary effects of Adult Uses while simultaneously safekeeping the rights of the licensee or applicant.

1.02 PURPOSE

The purpose of this Ordinance is to preserve and protect the quality of life, health, safety and general welfare of the citizens of Kanabec County, while providing a reasonable opportunity for such Adult Use businesses to exist and operate within the County. It is not the intent of the Kanabec County Board of Commissioners to regulate these businesses on the basis of the expression of unpopular views or otherwise protected activities, but rather on the basis of likely adverse secondary effects associated with Adult Uses.

1.03 DEFINITIONS

1. The following terms used throughout this ordinance are hereby defined:
 - A. **SPECIFIED ANATOMICAL AREAS.** As used herein, Specified Anatomical Areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or the full-areola, including nipple, of the female breasts; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - B. **SPECIFIED SEXUAL ACTIVITIES.** As used herein, Specified Sexual Activities means and includes any of the following: (1) physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification; (2) an act of sexual intercourse, actual or simulated including genital-genital, anal-genital or oral-genital, whether between human beings or between a human being and an animal; (3) masturbation, actual or simulated; (4) excretory functions as part of or in connection with any of the activities in an Adult Use establishment; (5) lewd exhibitions of the genitals; or (6) sadomasochistic abuse, meaning flagellation, torture, or similar demeaning acts inflicted by or upon a person who is nude or in a state of nudity as defined in 1.03 subd.(6) of this ordinance.
2. **ADULT USES.** An establishment, business or other commercial enterprise consisting of, including, or having the characteristics of any or all of the following:
 - A. **ADULT ARCADE.** An establishment, business or other commercial enterprise, where, for any form of consideration, one or more motion picture projectors, slide projectors, video cassette players, digital disk players, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas both as herein defined.

- B. **ADULT BOOKSTORE.** An establishment, business or other commercial enterprise engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, videodiscs or motion picture film when any or all of the materials previously mentioned are distinguished or characterized by an emphasis of the depiction or description of Specified Anatomical Areas or Specified Sexual Activities both as herein defined. An establishment, business or other commercial enterprise shall be defined as an “Adult Bookstore” if a substantial or significant portion of its merchandise or stock in trade comes from the distribution or sale of the materials described above.
 - C. **EXOTIC DANCE STUDIO.** A night club, bar, restaurant, or similar commercial establishment, or any premises or facility to which any member of the public is invited or admitted and where an entertainer provides live performances to any member of the public, which performances are characterized by an emphasis on the depiction, description or simulation of “specified anatomical areas” or “specified sexual activities,” or which emphasize and seek to arouse or excite the patron’s sexual desires.
 - D. **ADULT MOTION PICTURE ARCADE.** An establishment, business or other commercial enterprise wherein the public is permitted to enter allowing access and use of coin, token or slug-operated, whether electronically, electrically or mechanically controlled, motion picture machines, projectors or other image producing devices maintained to depict, describe or display, or with an emphasis on depicting, describing or displaying Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
 - E. **ADULT MOTION PICTURE THEATER.** An establishment, business or other commercial enterprise engaged in the business of presenting film, video tape or other similar motion pictures, which excludes minors from the premises, or which is distinguished or characterized by its emphasis on matter displaying, depicting, describing, or relating to Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
 - F. **ADULT SAUNA, STEAM ROOM OR BATHHOUSE FACILITY.** An establishment, business or other commercial enterprise providing a steam or heat room or heated bathing facility that is distinguished or characterized by an emphasis on displaying, depicting, describing, or relating to Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
 - G. **ADULT THEATER.** A theater, concert hall, auditorium, or similar establishment characterized by emphasis on Specified Anatomical Areas or Specified Sexual Activities both as herein defined.
3. **ENTERTAINER.** Any person who provides adult entertainment within an exotic dance studio as defined in this ordinance whether or not a fee is being charged.

4. **LICENSEE.** Each individual that is required to sign the application is considered a Licensee upon approval of the License.
5. **MANAGER.** Any person appointed by an owner or operator of an adult entertainment business who manages, directs, administers or is in charge of the conduct or operation of an adult entertainment business and includes assistant managers.
6. **NUDITY OR STATE OF NUDITY.** Nudity or state of nudity means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering of any part of the female areola and nipple.
7. **NUDE MODELING STUDIO.** Any place where a person who appears seminude, in a state of nudity, or who displays “specified anatomical areas” and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:
 - a. that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
 - b. where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - c. where no more than one nude or seminude model is on the premises at any one time.
8. **OPAQUE.** Opaque shall mean impervious clothing, having capacity to block out or obstruct the visual image of an object.
9. **SEMINUDE.** Seminude shall mean a state of dress in which any opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast as well as portions of the body covered by supporting straps or devices.
10. **SEXUAL CONTACT.** The intentional touching between a patron, an entertainer, or an employee involving the contact by or with a patron’s, entertainer’s, or employee’s sexual organ, buttock(s), or breast(s), whether covered or not, or kissing, when such contact can reasonably be construed as being for the purpose of sexual arousal or sexual gratification of either party or any observer.

11. SIGN. Any display, design, pictorial, or other representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of an Adult Use business and that is used to seek the attraction of the public to any goods, services or merchandise available at such Adult Use business. The term “sign” shall also include such representations painted on or otherwise affixed to any exterior portion of an Adult Use business as well as such representations painted on or otherwise affixed to any part of the tract upon which such an Adult Use business is situated. The term “sign” as used in this Ordinance means signs that are on the Adult Use business’s premises and not billboards or other advertisements that are not on the Adult Use business’s premises.

1.04 LICENSED USE

1. Adult Uses are allowed as a Licensed Use, subject to the requirements of this Ordinance.
2. Adult Uses shall not be established or maintained except as a licensed, permitted, conditional, or accessory use as provided for in this ordinance and other applicable ordinances.

1.05 LICENSE REQUIRED

1. It is unlawful for any person to conduct, manage, or operate an adult use establishment unless such person is the holder of a valid and subsisting license from the county to do so, obtained in the manner provided in this chapter.
2. The license shall be posted in a conspicuous, public place on the premises of the Adult Use.
3. The license is valid only for the space as specifically defined in the license. The license is not transferable from the Licensee(s) to another individual or entity.
4. Each license is valid for only one Adult Use Purpose as outlined in section 1.03 Subd. 2, clauses A through G of this ordinance, as was listed and requested on the license application.
5. No person shall work as a manager of an exotic dance studio, adult arcade, adult motion picture theater, or other adult entertainment businesses providing onsite entertainments without having first obtained a manager’s license from the county, the purposes being to require licensed managers at adult entertainment business establishments to monitor the conduct of patrons viewing adult entertainment on the premises and ensure compliance with this chapter. Onsite entertainment includes, but is not limited to, live entertainment, the viewing of films and videos and other such

entertainment on the premises, whether or not for a fee or other consideration, as opposed to strictly the sales or rental of adult books, magazines, novelties and videos.

1.06 LICENSE APPLICATION

1. General Requirements

- A. Application for an Adult Use Establishment or Manager license shall be made to the Kanabec County Environmental Services Department on a form provided by the County.
- B. To be considered complete, the license application must contain all required information and be submitted with all required fees.
- C. County shall not accept an incomplete application. Within fifteen (15) days of submission of an application, the County shall notify the applicant if the application is incomplete.
- D. All applications for an adult entertainment business license for places, that offer adult entertainment shall be submitted in the name of the person or entity proposing to conduct such adult entertainment on the businesses premises.

2. Identifying Information

- A. Individual applicants and Manager License applicants must provide their full name, any aliases or formerly used names, date of birth, and address.
- B. Partnership applicants must provide the following information for each partner who is involved in the adult use establishment's daily business: full names, any aliases or formerly used names; name of the partnership; any formerly used name of the partnership; dates of birth; and addresses. For each partner who is involved in the adult use establishment's daily business, partnership applicants must also provide a statement of the percent of business owned by such partner.
- C. Corporate applicants must provide the full name of the corporation; any formerly used name of the corporation; the date of incorporation and State where the business is incorporated; the name, address, and telephone number of the corporation's designated representative in the State; a copy of the Certificate of Incorporation and its Articles of Incorporation; evidence that the corporation is entitled to do business in the State of Minnesota; and the full names, any aliases, and formerly used names, the dates of birth, and addresses of each corporate officer and director.

D. All applicants for Adult Use Establishment Licenses shall provide all of the following information:

1. Identifying Information as specified in section 1.06(2).
2. Statement detailing whether the individual has been convicted of any of the following crimes whether as a misdemeanor, gross misdemeanor, or felony:
 - a. prostitution (Mn Stat. 609.321);
 - b. solicitation, inducement and promotion of prostitution (Mn Stat. 609.322);
 - c. other prostitution crimes (Mn Stat.609.324);
 - d. disorderly house involving prostitution or acts relating to prostitution (Mn Stat.609.33,subd.1(3));
 - e. criminal sexual conduct (Mn Stat.609.342, 609.343, 609.344, 609.345 or 609.3451);
 - f. solicitation of children (Mn. Stat. 609.352); or
 - g. any violation of any statute from any another jurisdiction whose elements are conformity with the above-listed crimes and/or the operation of Adult Uses; prostitution; and/or solicitation, inducement, and promotion of prostitution;
3. Signed release(s) requested by the Kanabec County Sheriff and/or State and County agencies that will be used for purposes of investigating and verifying applicant information as provided for in this Ordinance. Said releases will be used to ascertain information requested in subparagraph (4) above.
4. A statement detailing whether applicant(s) ever applied for or held a license to operate a similar type of business in other counties, municipalities, or states.
5. A statement detailing the purpose for the Adult Use license, as outlined in section 1.03 Subd. 2, clauses A through G of this ordinance;

E. All Manager License Applicants shall provide the following information

1. Full name(s) and any aliases or formerly used names, date(s) of birth, and address(es);
2. The following employment information for the past three years: the name of the business, the business address, the business phone number, the name of immediate supervisor; and dates of employment.

3. Statement detailing whether the manager has been convicted of any of the offenses listed in 1.06 Subd. 2 (D)(4);
 4. Statement detailing whether the manager(s) and/or other person(s) in charge ever applied for a license but was/were denied, or held a license that was suspended or revoked to operate a similar type of business in other counties, municipalities, or states with specific detail of the date of application and location.
 5. Upon request by the Kanabec County Sheriff's Office or any applicable State or County authority, Applicant(s) shall obtain all necessary signed releases from the manager(s) or other person(s) who will be in charge of the premises while it is open for business for purposes of verifying such information as required herein.
- F. Each applicant is requested to provide their social security number. Pursuant to its power to regulate businesses which operate as Adult Uses, the County requests the applicant's social security number for the purpose of conducting a thorough background check on the applicant(s). The disclosure of the applicant's social security number is voluntary.
3. Adult Use Establishment Information. All applicants shall provide all of the following information regarding the Adult Use for which the license is sought:
 1. Address at which the licensed Adult Use will be operated;
 2. Legal description of the parcel upon which the adult use will be operated;
 3. Name to be used by the licensed Adult Use;
 4. Hours of operation;
 5. Provisions made to restrict access by minors;
 6. Activities and type of business to be conducted;
 7. Building plan of the premises, drawn to scale, showing the type of activities which will be conducted in each area of the business including but not limited to the performance or display areas, seating areas, restrooms, service areas, and non-public areas. This requirement is for purposes of assisting enforcement personnel performing inspection or enforcement; and

8. Site plan showing location of all structures, roads, driveways, parking areas, utilities, easements, water and sewer systems, proposed signs on the parcel intended to be licensed.

1.07 PERSONS INELIGIBLE FOR LICENSE

1. The County shall not grant an Adult Use Establishment or Manager license to nor may one be held by any person who:
 - A. Is under eighteen (18) years of age;
 - B. Has been convicted of any of the crimes listed in 1.06 Subd. 2(D) of this ordinance, within the past three (3) years, whether in Minnesota or another jurisdiction;
 - C. Has had an Adult Use or similar permit or license revoked under an ordinance or statute similar to this Ordinance within the past three (3) years;
 - D. Has provided false or misleading information in the material submitted during the application process as prohibited by this Ordinance.
 - E. For Adult Use Establishment License:
 1. Is not an individual, partnership, or corporate applicant of the establishment for which the license is issued;
 2. Has not paid the license and investigative fees required by this Ordinance;

1.08 LICENSE FEES

1. An application shall not be deemed complete unless it is accompanied by the required Fee for License, Initial Investigation and Renewal License Investigation, as set by the County.
2. The Kanabec County Board of Commissioners shall establish the annual license fee by resolution.

1.09 APPLICATION EXECUTION AND VERIFICATION

1. Execution. All applicant(s) shall sign and swear, subject to the penalties for perjury, that:
 - A. The information contained in the application is true and accurate; and

- B. The applicant(s) have received, read, and understand the terms, conditions, and responsibilities contained in this ordinance, and
 - C. The applicant(s) shall abide by and remain consistent with all requirements of other applicable ordinances, codes and statutes and this Adult Use Ordinance as it pertains to the applicant(s) business operation.
2. Verification.
- A. The Kanabec County Sheriff, and applicable State and/or County entities shall investigate and verify the information contained in the initial license application and renewal application information.
 - B. The Kanabec County Sheriff shall submit a written report and recommendation to Kanabec County Environmental Services Director with regard to the issuance/renewal or non-issuance/renewal of a license.
 - C. The County may order and conduct such additional investigation, as it deems necessary.

1.10 LICENSE ISSUANCE OR NON-ISSUANCE

1. Approval.
- A. Within sixty (60) days of receipt of a completed application, the Kanabec County Board of Commissioners shall approve or deny the license application. The Board must approve the license for any person that is not determined ineligible according to Section 1.07.
 - 1. An extension of time may be granted in accordance with Minn. Stat. 15.99, subd. 3(f). The County may extend the time limit to approve or deny the license application before the end of the 60-day period by providing written notice of the extension to the license applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.
 - B. Issuance After Approval
 - 1. If a license is granted, each individual that is required to sign the application is considered a Licensee.
 - 2. After approval, the Licensee(s) may obtain the license by appearing in person at the Kanabec County Environmental Services Department, by scheduled appointment, no earlier than seven (7) days after the date of the approval of the license by the County Board of Commissioners.

3. A Licensee shall not transfer their license to another.
4. The license is valid only for the business establishment located at the address designated in the application.

2. Denial

- A. If the Kanabec County Board of Commissioners denies the license application, such denial shall be submitted to the applicant(s) in writing, sent by certified U.S. Mail to the address(es) contained in the application; along with an Affidavit of Service. Written denial shall be sent no later than sixty (60) days from receipt of a completed application, in accordance with this Ordinance.
- B. The written notice of denial shall contain specifically identified reasons for the denial.

1.11 LICENSE TERM, EXPIRATION, AND RENEWAL

1. **TERM.** All licenses are valid for a period of one calendar (1) year. If a license application is submitted when part of the license year has elapsed, the County shall issue a license for the remainder of the year.
2. **EXPIRATION.** All licenses shall expire on December 31 of each year.
3. **RENEWAL.** Licensees may apply for a renewal of the license as follows:
 - A. Renewal application shall be made no later than October 30 of each year.
 - B. Renewal applications shall be in substantially the same form as the initial application with any changes, modifications, and/or additions made as appropriate.
 - C. The renewal application shall not be considered complete and will not be accepted until the annual license fee is paid.

1.12 REGULATIONS

1. **SETBACKS.**
 - A. Adult Uses shall be located at least one thousand (1,000) radial feet, as measured in a straight line from the closest point of the property line upon which the Adult Use is located to the closest point on the property line of any of the following:

1. A dwelling predominantly used for residential purposes.
2. A licensed daycare center, family daycare, or group family daycare as defined by Minnesota Statute 245A.09;
3. A school;
4. A public library;
5. A public park;
6. Another Adult Use Establishment;
7. An on or off-sale liquor establishment;
8. A church;
9. Within 1,000 feet or within the area encompassing area of the Shoreland Management areas of Kanabec County;
10. Any government building; and
11. Boundaries of any state park, state forest, state wildlife management area, federal wildlife management area.

B. This Section contains standards that are additional to those set forth in any applicable local code or ordinance or state statute. Minimum setbacks from roads, building limitations, as well as minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in any other applicable code, ordinance or statute. In the event of a conflict between the setbacks listed in this section and those listed in other appropriate code, ordinance or statute, the most restrictive provision will apply.

2. LIVE ADULT ENTERTAINMENT.

A. Adult Use Business Employee Conduct. It is unlawful for any adult use business licensee or adult use business employee to knowingly or intentionally:

1. Allow persons under the age of 18 on the business premises.
2. Allow, offer or agree to gambling on the business premises.
3. Allow, offer or agree to the illegal possession, use, sale or distribution of controlled substances on the licensed premises;

4. Permit, commit, offer or agree to commit prostitution, solicitation of prostitution;
 5. Permit, commit, offer or agree to permit any specified sexual activity as defined in 1.03 Subd. (1) (B) of this ordinance;
 6. Permit, offer or agree to permit a patron or customer to masturbate within or upon the premises of an adult use business.
 7. Appear in a state of nudity before a patron on the premises of the adult use business, as defined in 1.03 Subd. (6) of this ordinance.
 8. Refuse to permit officers or agents of Kanabec County who are performing functions connected with the enforcement of the ordinance to inspect the portions of the adult use business premises where patrons are permitted, for the purpose of ensuring compliance with this ordinance, at any time the adult use business is occupied by patrons or open for business. An employee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this ordinance. The provisions of this section do not apply to areas of an adult motel currently being rented by a customer for use as permanent or temporary habitation.
 9. Allow consumption or distribution of alcoholic beverages on the premises of the adult use business.
- B. Stage Requirements. It shall be a violation of this ordinance for an Adult Use Business to knowingly or intentionally allow an entertainer to appear in a state of semi-nudity unless the entertainer is at least six feet from patrons and customers and on a stage at least two feet from the floor.
- C. Entertainer Prohibited Activities. It is unlawful for any entertainer during a performance in any establishment requiring a license as an exotic dance studio pursuant to this ordinance:
1. To touch in any manner any other person in any specified anatomical area as defined in section 1.03, Subd. 1, (A) of this ordinance;
 2. To throw any object or clothing off the stage area;
 3. To accept any money, drink or any other object directly from any person;
 4. To allow another person to touch such entertainer or to place any money or object on the entertainer or within the costume or person of the entertainer;

5. For the entertainer to place anything within the costume or adjust or move the costume while performing so as to render the entertainer in a state of nudity; or

6. To engage in any specified sexual activity.

D. Entertainer Costume Requirement. It is unlawful for entertainers in exotic dance studio to fail to comply with the following costume requirements:

1. No entertainer shall appear on stage in any business required to be licensed as a adult use business during a performance in a state of nudity and, in the case of a female entertainer, the areola and nipple of such entertainer shall be completely covered with opaque clothing in a shape and color other than the natural shape and color of the nipple and areola.

2. While not performing and on the portion of a business licensed as an adult use business used by patrons, entertainers shall be dressed in opaque clothing covering the entertainer's buttocks and pubic area and, in the case of a female the breasts.

E. Activities of Patrons. It is unlawful for any patron to knowingly or intentionally:

1. Touch in any manner an adult use business entertainer while the adult use business employee is semi-nude,

2. Place any money or object on or within the costume or person of any entertainer while is the entertainer is semi-nude, or

3. Appear in a state of nudity before any another person on the premises of an adult use business.

F. Responsibility of the Manager.

1. A licensed manager shall be on duty at an adult use establishment at all times adult entertainment is being provided or members of the public are present on the premises. The name and license of the manager shall be prominently posted during business hours.

2. The licensed manager on duty shall not be an entertainer.

3. The manager licensed under this ordinance shall maintain visual observation of each member of the public at all times any entertainer is present in the public or performance areas of the adult use establishment. Where there is more than one performance area, or the performance area is of such size or configuration that a manager is unable to visually observe, at all times, each adult entertainer, each

employee, and each member of the public, a manger licensed under this ordinance shall be provided for each public or performance area or portion of a public or performance area visually separated from the other portion of the adult use establishment.

4. The manager shall be responsible for and shall assure that the actions of the members of the public, the adult entertainers and all other employees shall comply with all requirements of this ordinance.

G. Violation by non-licensed entity.

1. It is unlawful for any individual or entity to furnish, book, or otherwise engage or permit any person to perform as a professional dancer, model, or entertainer in a state of semi-nudity, whether or not compensated, unless that person or entity is licensed pursuant to this ordinance.
2. An entity or individual who operates or causes to be operated an adult use business without a valid license is subject to a suit for injunction in addition to the civil and criminal violations provided herein and any other remedy available at law or in equity.

H. Exemptions. The provisions of this ordinance shall not apply to:

1. Any sex therapist or similar individual licensed by the State of Minnesota to provide bona fide sexual therapy or counseling, a licensed medical practitioner, licensed nurse, psychiatrist, or psychologist while providing professional services for which they are licensed. ,
2. Persons engaged in expressing a matter of serious literary, artistic, scientific, or political value.
3. Venues primarily devoted to the arts or theatrical performances.

3. SIGNS. The following sign regulations shall apply to Adult Uses in Kanabec County:

- A. Adult Uses shall be allowed one (1) sign advertising the establishment.
 1. The sign may be free-standing from the building in which the Adult Use is located and is not to exceed 32 square feet;
- B. The licensed premises shall prominently display a sign at the entrance, located within two (2) feet of the door opening device of the business establishment or section of the establishment devoted to media presentations or live presentations, which states, "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign shall be in clear, legible letters at least one (1) inch high.

4. **PROHIBITED ADULT USE ACTIVITIES.**
 - A. Activities classified as obscene as defined by Minnesota Statute §617.241 are prohibited.
 - B. Adult Use activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical, or other performance or exhibition presented to the general public where minors are permitted.
 - C. Adult Uses shall be prohibited from locating in any building, which is also utilized for residential purposes.
 - D. Adult Uses shall be prohibited from locating in any building in which another Adult Use is located.
 - E. Adult Uses shall be prohibited from locating in any place, which is also used to dispense or consume intoxicating beverages.
 - F. Adult Uses shall be prohibited if not conducted within an enclosed structure.
5. **HOURS OF OPERATION.** Adult Use establishments may remain open between the hours of 10:00 a.m. and 12:00 midnight. Adult Use establishments shall be closed from 12:01 a.m. to 9:59 a.m.
6. **INSPECTION.** An applicant or licensee shall permit representatives of the law enforcement, health department, fire department, Environmental Services department, or other County departments or agencies to inspect the premises of an Adult Use Establishment at any time it is occupied or open for business for the purpose of insuring compliance with the terms of this Ordinance and the license.
7. Licensee(s) shall inform the Kanabec County Environmental Services of any change in the manager(s) of the licensed business within 10 days of the change and the information shall be provided as soon as possible after that person(s)' hire date.
8. **PARKING.** Licensee(s) shall create and maintain a minimum of off-street parking spaces equal to one (1) parking space per each four (4) persons up to maximum occupancy of the establishment. Parking areas shall be covered with a concrete or bituminous surface.
9. **ACCESS ROADS.** Access roads, including driveways, shall meet the appropriate local road authority requirements.

10. PREMISES SECURITY.

- A. Licensee(s) shall provide adequate security personnel and/or technology for the premises, including the primary structure and parking lot(s).
- B. Adequate security lighting shall be used at doors to the establishment and in the parking lot(s) from sunset to sunrise.

11. INTOXICATING BEVERAGES. Consuming, possessing, or dispensing intoxicating beverages is prohibited on the licensed premises, which includes structure(s) and all lands contained within the legal description of the adult use parcel.

1.13 NON-CONFORMING USES

1. An Adult Use Establishment existing on the effective date of the adoption of this Ordinance may be continued subject to the following provisions:

- A. No such use shall be expanded or intensified except in conformity with this Ordinance, subject to all applicable laws including Minnesota Statutes §394.36 and any other applicable code or ordinance.
- B. Within 30 days of the effective date of this ordinance, a non-conforming use must apply for a license from the County.

The non-conforming adult use must demonstrate compliance with all applicable local and state statutes.

- C. Any non-conforming uses shall be eliminated within 24 months of the effective date of this Ordinance.

1.14 VIOLATION AND PENALTY

1. Violation. A violation shall consist of:

- A. Failure to comply with any or all of the terms, conditions, and requirements of this Ordinance; or
- B. Refusal to allow inspection of the premises by law enforcement or other designated agents of the Kanabec County Board of Commissioners for purposes of ensuring compliance with the terms of the license.

2. Non-criminal Penalties. The non-criminal penalties for violation(s) shall consist of:
 - A. Penalties for Violation
 1. First Violation: Suspension of license for thirty (30) days. License shall be reinstated on the thirty-first (31st) day upon a showing that the violation has been cured.
 2. Second Violation: For the second violation within twelve (12) months of the first violation, the license shall be suspended for ninety (90) days. License shall be reinstated on the ninety-first (91st) day upon a showing that the violation has been cured.
 3. Third Violation: For the third violation within twelve (12) months of the first violation, the license shall be revoked.
 - B. Revocation for Cause. License revocation, regardless of the number of prior violations within a twelve (12) month period, shall occur if the County determines that:
 1. A Licensee gave false or misleading information in the material submitted during the application process;
 2. A Licensee knowingly allowed possession, use, or sale of controlled substances or alcohol on the premises;
 3. A Licensee has knowingly allowed prostitution on the premises;
 4. A Licensee knowingly operated an adult entertainment business during a period of time when the licensee's license was suspended;
 5. A Licensee knowingly allowed any Specified Sexual Activities to occur in or on the licensed premises; or
 6. A Licensee is delinquent in payment to the County or State for any taxes or fees past due.
 - C. Effective date of Revocation or Suspension.

The revocation or suspension will take effect on the 11th day following delivery of the notice of the license revocation or suspension unless the licensee requests a hearing before the Kanabec County Board of Commissioners in accordance with this Section. If the licensee requests a hearing before the Kanabec County Board of Commissioners, the revocation or suspension will be stayed pending the Board's decision and for the period of time that the licensee has to appeal the Board's decision to a court of competent jurisdiction. If the licensee appeals the Board's decision to a court of competent jurisdiction within the time limits set forth by Minnesota law, the revocation or suspension will be stayed until the court's entry of a judgment.

- D. Notice of Suspension or Revocation.
1. Written notice of license suspension or revocation, stating with specificity the fact(s), the ordinance provision(s) violated, and the effective date of suspension or revocation, shall be sent to the Licensee via U.S. certified mail by the Kanabec County Environmental Services Department.
- E. Term of License Revocation.
1. If a license is revoked, the period of revocation shall be one (1) year from the date the license is revoked.
 - a. If the County finds that the cause(s) that gave rise to the revocation has been corrected or abated, the County may reduce the revocation period to not less than ninety (90) days from the date of the revocation. The revocation shall not be dismissed and shall be considered a revocation despite the modified revocation period.
 2. The Licensee shall not be granted or issued another Adult Use Establishment license in Kanabec County during the revocation period.
- F. Review of Suspension or Revocation.
1. Any licensee whose license has been suspended or revoked may request a hearing before the Kanabec County Board of Commissioners by delivering a written request for hearing to the Kanabec County Environmental Services Department within ten (10) days of delivery of the notice of license revocation or suspension.
 2. The hearing shall be conducted at a Kanabec County Board of Commissioner's regular meeting but not later than thirty (30) days after the County's receipt of the request for a hearing, unless the time period is extended by agreement of the parties.
 3. At the hearing, the County shall present evidence relevant to the reasons for the license suspension or revocation. The Licensee may present evidence showing cause, if any, for vacating the decision to suspend or revoke the license. Any witnesses are subject to cross-examination. An audio taped record of the proceeding shall be kept.
 4. The Kanabec County Board of Commissioners shall have the authority to either affirm or vacate the license suspension or revocation. The Kanabec County Board of Commissioners shall provide a written explanation of its decision on the license suspension or revocation to the Licensee within fourteen (14) days of the hearing.

3. Criminal and Civil Penalties.
 - A. A violation of this Ordinance is a misdemeanor, punishable by up to 90 days in jail and a fine up to \$1,000;
 - B. Each violation of this chapter shall require licensee to pay a civil penalty in the amount of \$500. In addition to the civil fines provided in this ordinance, the violation of any provision of this chapter shall be a misdemeanor punishable by the terms of this ordinance. Each violation shall be a separate offense;
 - C. A violation of this ordinance may result in injunctive relief being sought by the county.
4. The County may, at its option, pursue non-criminal and criminal penalties for the same alleged violation event.

1.15 JUDICIAL REVIEW

1. An Applicant or Licensee may seek prompt judicial decision of any action of the Kanabec County Board of Commissioners in any court of competent jurisdiction. This shall include a judicial decision involving any denial of application, denial of renewal of application, suspension of license, or revocation of license.

1.16 REPEALER

Ordinance #24, Adult Oriented Business, adopted January 14, 2004 is hereby replaced by this ordinance.

1.17 SEVERANCE CLAUSE

Should any section, subsection, paragraph, provision, clause or other subpart of this ordinance be found constitutionally defective or otherwise invalid, then such portion(s) found to be invalid shall be severed from this ordinance and all remaining provisions of this ordinance shall remain in full force and effect.

This Ordinance shall become effective on the 3rd day of May, 2007, which is the date of the first publication of this Ordinance in the official newspaper for Kanabec County.

This Ordinance Ordained and Enacted by the Board of County Commissioners of the County of Kanabec, State of Minnesota, on this 25th day of April, 2007.

Dated: _____

 Chair Kanabec County Board of Commissioners

ATTEST: _____
 Alan Peterson, Kanabec County Coordinator

INDEX OF CASE STUDIES

Appendix A

Adult Business Study	City of Pheonix 1979
The Relationship Between Crime and Adult Business Operations	City of Garden Grove, CA 1991
Adult Entertainment Businesses Study	Manatee County June 1987
Report of the Attorney General's Working Group On the Regulation of Sexually Oriented Businesses	Minnesota 1989
Adult Entertainment – A 40-acre Study of Selby-Snelling Area	St. Paul, MN 1993
Adult Use Study	Des Moines, IA 1984
Regulation of Adult Entertainment Establishments In St. Croix County	St. Croix County, WI 1993
Using Crime Mapping to Measure Effect of Adult Business Ft. Wayne, Indiana	2001
City of Sunnyvale, CA Study	Sunnyvale, CA 1998
Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Business	Environmental Reseach Group, 1996

INDEX OF UNITED STATES SUPREME COURT DECISIONS
Appendix B

Alexander v. United States, 509 U.S. 544 (1993)
Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991)
City Council v. Taxpayers for Vincent, 466 U.S. 789 (1984)
City of Erie et al v. PAP'S A.M., tdba "KANDYLAND", 529 U.S. 277 (2000)
City of Los Angeles v. Alameda Books, Inc., et. al., Decided May 13, 2002
Jenkins v. Georgia, 418 U.S. 153 (1974)
Miller v. California, 413 U.S. 15 (1973)
New York v. Ferber, 458 U.S. 747 (1982)
Osborne v. Ohio, 495 U.S. 103 (1990)
Paris Adult Theater I v. Slaton, 413 U.S. 49 (1973)
Redrup v. State of N.Y., 386 U.S. 767 (1967)
Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986)
Roth v. United States, 354 U.S. 476 (1954)
Schad v. Mount Ephraim, 452 U.S. 61 (1981)
Stanley v. Georgia, 394 U.S. 557 (1969)
U.S. v. X-Citement Video, Inc. (1994 decision) Docket number 93-723
United States v. O'Brien, 391 U.S. 367 (1968)
United States v. Reidel, 402 U.S. 351 (1971)
Young v. American Mini Theaters, 427 U.S. 50 (1976)

INDEX OF FEDERAL APPELLATE COURT DECISIONS

Appendix C

Heidean et al v. South Salt Lake City, Docket number 02-403, 10th Circuit Court of Appeals, Utah 2003

Jake's, Ltd., Inc. v. City of Coates, U.S. 8th Circuit Court of Appeals, March 26, 2002
Decision

Ronald G. Farkas v. Thomas J. Miller, 151 F.3d 900, Eighth Circuit (1998)

Scope Pictures v. City of Kansas City, U.S. 8th Circuit Court of Appeals, April 20, 1998
Decision

SOB, Inc., et. al., v. County of Benton, 317 F.3d 856 (8th Cir. 2003)

Ward v. County of Orange, #99-11283 U.S. 11th Circuit Court of Appeals, decided 7/13/2000

Ways v. City of Lincoln, 331 F.3d 596 (8th Cir. 2003)

INDEX OF MINNESOTA COURT OF APPEALS DECISIONS

Appendix D

City of Crystal v. Fantasy House, Inc., 569 N.W. 2d 225, Minn. App. 1997

City of Ramsey v. Holmberg, 548 N.W. 2d 302 (Minn. App. 1996)

Dima Corp. v. City of St. Cloud, 562 N.W. 2d 312 Minn. App. 1997

INDEX OF ORDINANCES

Appendix E

Minnesota Ordinances

Alexandria Township
Bemidji Township

City of Apple Valley
City of Bloomington
City of Kenyon
City of Orono
Benton County
Cass County
Clay County
Fillmore County
Houston County
Mille Lacs County
Olmstead County
Pine County

Other Ordinances

City of Kansas City, Missouri
Adams County, Colorado
Maicopa County, Arizona