

ORDINANCE

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Amending Title 13, Chapter 267 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Amusements.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 267.1110 of the above-entitled ordinance be amended to read as follows:

267.1110. Definitions. When used in this article, the following terms shall mean:

Entertainment includes shows, plays, skits, musical revues, children's theater, dance productions, public dance, musical concerts, opera and the production or provision of sights or sounds or visual or auditory sensations which are designed to or may divert, entertain or otherwise appeal to members of the public who are admitted to a place of entertainment, which is produced by any means, including radio, phonograph, television, video reproduction, tape recorder, piano, orchestra or band or any other musical instrument, slide or movie projector, spotlights, or interruptible or flashing light devices and decoration.

Place of entertainment means any privately owned place wherein entertainment is offered or given to the public, whether or not a fee is charged for admission thereto and whether or not sales of property are made upon the premises, other than religious associations or corporations organized for at least three (3) years, pursuant to Minn. Statutes Chapter 315 or 317A, and the following activities licensed by the city pursuant to provisions of this Code of Ordinances: Theaters under Article XVI, dance halls under Article XIII, carnivals under Article V, places licensed for "on-sale" beer, wine or liquor under Chapter 362, 363 or 366, food establishments licensed under Section 188.160 as a restaurant or food manufacturer having a public area less than two thousand five hundred (2,500) net square feet which provide limited entertainment as defined under section 360.50 of this code, or places primarily devoted to the display and sale of radios, phonographs, tape recorders, pianos, musical instruments, records and tapes, moving pictures, television, and stage equipment.

Public dance means any event in which dancing, wherein the public may participate, is carried on, and to which admission may be had by the public by payment, either directly or indirectly, of an admission fee, price for dancing, or a fee for a membership in a club.

The phrase *booths, stalls, or partitioned portions of a room or individual rooms* means enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee. The phrase *booths, stalls, or partitioned portions of a room or individual rooms* does not mean enclosures which are private offices used by the owners, managers, or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee and are not open to any persons other than employees.

The phrase *doors, curtains, or portal partitions* means full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.

The phrase *open to an adjacent public room so that the area inside is visible to persons in the adjacent public room* means either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be viewed or seen by persons outside the enclosure.

Section 2. That Section 267.1180 of the above-entitled ordinance be amended to read as follows:

267.1180. Regulations applicable to adult entertainment. (a) *Applicability and enforcement.* Any establishment required by this Code to hold a business license which qualifies as an adult entertainment center as defined in the zoning code shall comply with all requirements of this section. Any violation of a requirement of this section shall constitute a violation of this Code subject to all authorized penalties and methods of enforcement and shall additionally and alternatively constitute good cause for the imposition of reasonable, progressive, and appropriate adverse license action. The requirements of this section shall be enforced by the licensing official or the licensing official's designee and enforcement shall be in accord with any applicable standard protocols.

(b) *Physical space and maintenance requirements.* The following space and maintenance requirements shall apply to all adult entertainment centers.

(1) No facility shall contain any partition 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 opposite sides of the partition. All portions of the facility shall comply with the building standards of section 219.520 as applicable to any booths, stalls, or partitioned portions of a room, or individual rooms, in addition to any further requirements imposed on such areas by this section.

(2) All portions of the facility shall comply with all applicable building and fire code requirements, in addition to any other applicable local, state or federal law, rule, requirement or ordinance. All entertainer dressing rooms shall comply with applicable conditions of the United States Occupational Safety and Health Administration (OSHA), including but not limited to 29 CFR 1910.141(c)(1)(i) regarding toilet facilities.

(3) All areas of the facility shall be illuminated to an average of one (1) foot candle or greater as measured four (4) feet from the floor.

(4) All areas of the facility shall be clean and maintained in good repair, including any dressing room and stage areas. All walking surfaces, including those limited to staff or entertainer use, shall be free of uneven surfaces or tripping hazards. All seating, chairs, or other furniture designed or utilized for customer seating as a performance area shall feature cleanable, non-porous surfaces. Any dance or performance poles used by entertainers shall be cleaned with an appropriate sanitizer by a non-entertainer staff member of the facility prior to entertainment on stage beginning each business day, and upon request of any entertainer.

(5) No facility shall contain booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of entertainment, having doors, curtains, or portal partitions, unless such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one (1) side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. No door, curtain, material or other obstruction may be installed or present over the entrance to any semi-enclosed or private space which entertainers are able to occupy with any customers. The entrance to any such

space shall be a minimum of twenty-eight (28) inches in width. Any non-transparent partition or wall enclosing such a space shall be no greater than five (5) feet in height. No couches, sofas or other furniture designed for seating and greater than four (4) feet in length may be present in any such space. No bed, daybed, futon, mattress or other piece of furniture designed for sleeping may be present in any such space, nor may any sheets or bedding be present. Such space shall be lighted in a manner that the persons in the space are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of any motion pictures or other offered entertainment.

(6) Any spill involving bodily fluids shall be immediately cleaned by a non-entertainer staff member with an approved sanitizer using appropriate personal protective equipment. Standard procedures to address such spills including staff training shall be developed and maintained by the establishment. The standard procedures and training materials required by this subsection shall be maintained at the establishment and made available to the licensing official or the licensing official's designee upon request.

(7) A notice detailing the legal rights of entertainers as provided by city, state or federal law, in a format approved by the licensing official, shall be posted in any entertainer dressing room in an approved location that is readily observable by entertainers.

(8) A notice detailing the rules of conduct as required by applicable law to be followed by customers, in a format approved by the licensing official, shall be posted in each semi-enclosed or private space, the primary entrance to the establishment, and in each restroom in approved locations that are readily observable by customers. The notice shall state that customers must remain fully clothed at all times, abide by all laws prohibiting indecent conduct and are not allowed in dressing rooms or other nonpublic areas of the establishment. The notice shall further state that the premises are subject to video surveillance and that customers must act respectfully towards entertainers and staff and may not use derogatory or harassing language. The notice may also contain any other lawful content deemed appropriate by the licensing official.

(c) *Security camera plan required.* All establishments shall submit an approved security camera plan to the licensing official, detailing the security camera system utilized at the facility and providing a map of the placement and scope of each security camera. The security camera plan shall ensure that the camera system is operable and that the footage from each camera is secured and maintained for a minimum of fourteen (14) days and a maximum of thirty (30) days, unless otherwise required by law, court order, or for legitimate evidentiary spoliation considerations. Any footage may only be accessed by individuals approved by the establishment in its security plan for legitimate security, legal defense or law enforcement purposes and no footage may be disseminated or accessed for any other purposes not specified in this subsection or in the approved security plan, subject to all penalties and enforcement actions authorized in subsection (a). The plan shall ensure that the cameras are positioned in a manner such that they cover all areas of the facility in which entertainers may interact with or perform for customers. Cameras shall not cover dressing rooms or other spaces in which entertainers have a reasonable expectation of privacy and do not interact with or perform for customers. All establishments shall provide, or make available for inspection, such camera footage or associated data to the licensing official, at such times and in a format and manner prescribed by the licensing official. Data provided pursuant to this section shall be deemed to be not public data to the extent permissible under the Minnesota Government Data Practices Act or other applicable law. The licensing official shall promulgate a policy to ensure that any such data received by or provided to city staff is protected and safeguarded to the fullest extent permitted by law, and that access is strictly limited to appropriate and identified individuals for legitimate purposes. To the extent required by applicable law, a licensed establishment

shall be entitled to an opportunity for pre-compliance review which may entail an expedited review of any objected-to security camera footage request by a municipal hearing officer. The hearing officer shall affirm the footage request upon a showing by the city that access to the footage is reasonably calculated to effectuate and further the lawful regulatory duties created by this section and existing law, and that no other lawful reason to quash or modify such request has been demonstrated. To the extent permitted by law, the decision of the hearing officer may be appealed to and reviewed by the district courts of the State of Minnesota. Nothing in this subsection shall preclude a law enforcement agency from obtaining such footage or data by warrant, subpoena, court order or other lawful method.

(d) *Entertainer contracts or employment agreement requirements.* All entertainers employed at or contracted to perform in establishments covered by this section shall be provided a written or electronic copy of their employment agreement or independent contractor agreement prior to performing any employment or contractor services and thereafter upon request. All such entertainers shall also be provided with written information from the establishment, prior to performing any employment or contractor services and thereafter upon request or upon any alteration of such policies, procedures, processes, or rules, detailing the establishment's anti-discrimination and sexual harassment policies, procedures and reporting processes, as well the rules and expectations of the establishment including any house fees or charges and an explanation of reasons that would justify termination of the employment agreement or independent contractor arrangement. All such entertainers shall also be provided with written notice, in a form approved by the licensing official, of their rights under city, state and federal law. Copies of the information and agreements required by this subsection, excluding any personal identifying information, shall be provided to, or made available for inspection by, the licensing official or the licensing official's designee.

(e) *Staff training requirements.* All staff members, including employees and independent contractors, shall be provided materials approved by the licensing official, addressing sexual harassment, sexual assault and nondiscrimination in addition to any other relevant topic. Additionally, all employees shall be provided training by the establishment covering the same topics on at least an annual basis, in a format approved by the licensing official.

(f) *Required security for entertainers.* All establishments covered by this section shall provide adequate and equitable security services and personnel to maintain a safe and orderly environment on the premises and in any parking areas, and to protect the personal safety of all entertainers. Security escorts shall be made available to all entertainers to their means of transportation when departing the establishment.

(g) *Manager and security staff requirements.* For purposes of this subsection, the term "manager" shall mean an on-site staff member of an establishment covered by this section who exercises significant control and administration over the operation of the establishment in a supervisory capacity oftentimes inclusive of hiring and scheduling authority. All managers must be disclosed on the license application on file with the licensing official and the appointment of any new managers shall require an immediate update to such application. All establishments shall perform a criminal history record check on all managers and security staff, as well as any candidates for such positions, using a service or method approved by the licensing official, and no person with a criminal conviction within the previous five (5) years for a qualified domestic violence-related offense, as that term is defined in Minn. Statutes, Section 609.02, Subd. 16, shall be permitted to serve in such a capacity.

(h) *Prohibition on employer participation in gratuity sharing.* Pursuant to Minn. Statutes, Section 177.24 Subd. 3, no employer may participate in any agreement to share gratuities between employees or coerce

employees to share gratuities. For the purposes of this subsection, "participation" includes acceptance by any owner or manager of any gratuity from any employee or independent contractor. For purposes of this subsection, "manager" has the same meaning given to that term in subsection (g).

(i) *Retaliation prohibited.* No establishment shall engage in retaliation of any kind, as that term is defined in section 139.20 of this Code, against individuals, employees, or contractors who have made good faith reports or complaints of violations of this section.

(j) *Severability.* If any portion of this section is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the section, and such determination shall not affect the validity of the remainder of the section. If the application of any provision of this chapter to a particular person, class, entity or establishment is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the application of said provision to any other person, class, entity or establishment.