

ORDINANCE NO. 42

ADULT USES ORDINANCE

THE CITY OF ROYALTON HEREBY ORDAINS:

SECTION 1. Purpose and intent.

- (a) The purpose of the Adult Uses Ordinance shall be to:
1. Define Adult Uses.
 2. To define and provide zoning districts for Adult Use/Principal.
 3. To define and provide zoning districts for Adult Use/Accessory.

SECTION 2. DEFINITIONS.

- (a) "Adult Uses" shall include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steamroom/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses, or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statute § 617.241 shall not be included.

SECTION 3. Specified Anatomical Areas. "Specified Anatomical Areas" shall mean:

- (a) Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SECTION 4. Specified Sexual Activities. "Specified Sexual Activities" shall mean:

- (a) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty.
- (b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence.

- (c) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation.
- (d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast.
- (e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons.
- (f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being.
- (g) Human excretion, urination, menstruation, vaginal, or anal irrigation.

SECTION 5. Adult Use/Accessory. "Adult Use/Accessory" shall mean:

(a) The offering of goods and/or services which are classified as adult uses on a limited scale (no more than 10 percent of floor area, as measured using the square footage of the floor) and which 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.

SECTION 6. Adult Use/Principal. "Adult Use/Principal" shall mean:

(a) The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

1. Adult Use Body Painting Studio - An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when the body is wholly or partially nude in terms of "specified anatomical areas"

2. Adult Use Bookstore - A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if the building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of the items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

3. Adult Use Cabaret - A building or portion of a building used for providing dancing or other live entertainment, if the building or portion of a building excludes minors by virtue of age or if the dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of "specified sexual activities" or specified anatomical areas

4. Adult Use Companionship Establishment - A companionship establishment which excludes minors by reason 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 the service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

5. Adult Use Conversation/Rap Parlor - A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if the service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

6. Adult use Health/Sport Club - A health/sport club which excludes minors by reason of age, or if the club is distinguished or characterized by an emphasis on "specified sexual activities" or specified anatomical areas

7. Adult Use Hotel/Motel - Adult hotel/motel shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities or specified anatomical areas

8. Adult Use Massage Parlor/Health Club - A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if the service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

9. Adult Use Mini-Motion Picture Theater - A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if the building or portion of the building as a prevailing practice excludes minors by virtue of age, or if the material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

10. Adult Use Modeling Studio - An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by the customers.

11. Adult Use Motion Picture Arcade - Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five 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 activities or specified anatomical areas

12. Adult Use Motion Picture Theater - A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if the building or portion of a building as a prevailing practice excludes minors by virtue of age or if the material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

13. Adult Use Novelty Business - A business which has as a principal activity, the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

14. Adult Sauna - A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or specified anatomical areas

15. Adult Steam Room/Bathhouse Facility - A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

SECTION 7. General Provisions. Adult use as defined in this Ordinance shall be subject to the following general provisions:

- (a) Activities classified as obscene as defined by Minn. Stat. § 617.241 shall not be permitted.
- (b) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
- (c) An adult use which does not qualify as an accessory use shall be classified as an adult use/principal.

SECTION 8. No live on site Adult Use Permitted:

- (a) This section reflects recent changes to Minnesota State Statutes regarding proximity and is as follows.
As long as an adult entertainment establishment as defined by M.S. 617.242 is located within 50 miles of the City of Royalton, no Live on Site Adult Use will be permitted in the City of Royalton pursuant to M.S. 617.242 Sub. 3.
- (b) If no adult entertainment establishment is within 50 miles of either the City of Royalton or the County of Morrison then to provide specific opportunity for adult uses to exist within the City, an analysis of the existing City Ordinance text and map has been conducted. It was determined that the I-2 zoned district provides the most appropriate zone to accommodate adult uses classified as principal activity. Only amendments to the 1-2 text shall therefore be proposed to accommodate adult uses/principal. Principal adult uses shall be permitted only in the I-2 zoned districts.

SECTION 9. Adult Use/Principal:

- (a) Adult use/principal activities shall be located at least five hundred (500) radial feet, as measured in a straight line from the closest point of the property line of the building upon which the adult use/principal is located to the property line of the following:
 - 1. Residentially zoned property;
 - 2. A licensed daycare center;
 - 3. A public or private educational facility classified as an elementary, junior high, or senior high;
 - 4. A public library;
 - 5. A public park;
- (b) Adult use/principal activities shall be located at least five hundred (500) radial feet as measured in a straight line from the closest point of the property lines from one another.
- (c) Each adult use/principal activity shall be a separate use and no two adult use/principal activities shall be located in the same building or upon the same property and each use shall be subject to the above.
- (d) Adult use/principal activities shall adhere to the following signing regulations.
 - 1. Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.
 - 2. Sign messages shall not contain material classified as advertising.
 - 3. Sign messages shall comply with the requirements of size and number for the district in which they are located.
- (e) Adult use/principal activities shall be prohibited in establishments where liquor is served.
- (f) Adult use/principal activities shall be prohibited at any place or event where minors are permitted.

SECTION 10. Adult Use/Accessory:

- (a) Adult use/accessory activities are permitted only in the C-1 or C-2 zoned district.
- (b) Adult use/accessory activities shall comprise no more than ten (10) percent of the floor area of the establishment in which it is located.

- (c) Adult use/accessory activities shall be restricted and prohibited from access to minors by the physical separation of such items from areas of general public access:
 - 1. Movie Rentals. Display areas shall be restricted from general view and shall be located within a separate room, the access of which shall be in clear view and under the control of the persons responsible for the operation.
 - 2. Magazines. Publications classified or qualifying as adult uses shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - 3. Other Use. Adult uses/accessory activities not specifically cited shall comply with the intent of this section subject to the approval of the Zoning Administrator.
- (d) Adult use/accessory activities shall be prohibited from both internal and external advertising and signing of adult materials and products.
- (e) Adult use/accessory activities shall be prohibited in establishments where liquor is served.
- (f) Adult use/accessory 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 admitted.

SECTION 11. ENFORCEMENT AND PENALTIES

- (a) Administration. This ordinance shall be administered and enforced by the Zoning Administrator who is appointed by the City Council. The Zoning Administrator may institute in the name of the City any appropriate actions or proceedings against a violator as provided by statute, chapter or ordinance. Such actions are permitted in addition to and not in lieu of the criminal sanctions hereinafter provided.
- (b) Violation. Any person who violates any of the provisions of this ordinance shall, upon conviction thereof, be fined and/or incarcerated for not more than the maximum penalty for a misdemeanor prescribed under state law. Each day that a violation is permitted to exist shall constitute a separate offense.

THIS ORDINANCE SHALL SUPERSEDE AND REPEAL ALL PRIOR AND CONSISTENT ORDINANCES. THIS ORDINANCE SHALL BE EFFECTIVE UPON PASSAGE AND PUBLICATION REQUIRED BY LAW.

March, 6, 2007

Andrea Lauer, Mayor

Carol Madsen, City Clerk/Treasurer