

CHAPTER 9  
MORALS AND CONDUCT

SECTION 1

901.000.     **LOITERING.**

901.001.     **DEFINITIONS.**

- A.     "Loiter" means to stand around, move slowly about, or to linger.
- B.     "Public Building" means a structure or area owned and/or operated by the City or School District or other governmental unit for the conduct of governmental functions but shall also include, but not be limited to, public and private schools, churches, and business or commercial buildings which are open to the general public for the transaction of commercial business.

(Ord. 74-07, Sec. 1, 12/16/74)

901.002.     **RESTRICTIONS.**

- A.     No person or persons shall remain in a public building or upon the grounds thereof after being requested to leave said premises by persons lawfully responsible for the control and maintenance thereof when the continued presence of any person or persons therein or thereon shall injure or endanger the safety of said buildings, or property, or unreasonably interfere with the administration thereof.
- B.     No person or persons shall stand, liter, or assemble on any public sidewalks, public streets or other public ways so as to impede or obstruct the free passage or flow of pedestrian traffic thereon or to interfere with the use thereof.
- C.     No person shall stand or loiter in or upon the driveway of any public or commercial property, nor sit upon the steps, window sills, or railings of any building in such a manner so as to obstruct ingress and egress to and from such building or in such a manner so as to cause annoyance to the owner or occupant thereof or to the customers of such owner or occupant thereof, or to other persons lawfully within said building or while entering or leaving said building.

(Ord. 74-07, Sec. 2, 12/16/74)

9-1901.003. **PENALTY.** Any person who violates the provisions of this Ordinance is guilty of a misdemeanor and may be punished a fine not to exceed \$700.00 or by imprisonment of not more than 90 days, or both.

(Ord. 74-07, Sec. 3, 12/16/74)

## SECTION 2

### **902.000. CURFEW OF MINORS.**

### **902.001. DEFINITIONS.**

- A. CURFEW HOURS. "Curfew Hours" means:
1. In the case of persons 13 years of age or younger, on any day of the week, 9:00 p.m. until 6:00 a.m. the following day; and
  2. In the case of persons 15 years of age or younger, on any day of the week, 10:00 p.m. until 6:00 a.m. the following day; and
  3. In the case of persons 16 years of age on any day of the week, 11:00 p.m. until 6:00 a.m. the following day; and
  4. In the case of persons 17 years of age, on any day of the week, 12:00 a.m. until 6:00 a.m. the following day.
- B. EMERGENCY. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- C. ESTABLISHMENT. "Establishment" means any privately owned place of business operating for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment
- D. GUARDIAN. "Guardian" means:
1. a person who, under court order, is the guardian of the person of a minor; or
  2. a public or private agency with whom a minor has been placed by a court
- E. MINOR. "Minor" means any person under 18 years of age.
- F. OPERATOR. "Operator" means any individual, firm, association, partnership, or corporation, operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- G. PARENT. "Parent" means a person who is:
1. a natural parent, adoptive parents, or step-parent of another person; or
  2. at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- H. PUBLIC PLACE. "Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

- I. REMAIN. “Remain” means to:
  - 1. linger or stay; or
  - 2. fail to leave premises when requested to do so by a police officer or the owners, operator, or other person in control of the premises
  
- J. SERIOUS BODILY INJURY. “Serious Bodily Injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

**902.002. RESTRICTIONS.**

- A. It shall be unlawful for any minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
  
- B. It shall be unlawful for any parent or guardian of a minor to knowingly permit, or by insufficient control, allow the minor to remain in any public place or on the premises of any establishment within the City during curfew hours. The term “knowingly” includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.
  
- C. It shall be unlawful for any owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

**902.003 EXCEPTIONS.**

- A. The following shall constitute valid exception to the operation of the curfew. That the minor was:
  - a. Accompanied by the minor’s parent or guardian;
  - b. On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor’s residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Sheriff’s Office about the minor’s presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Winsted, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, and official school, religious or other recreational activity supervised by adults and sponsored by the City of Winsted, a civic organization, or another similar entity that take responsibility for the minor;

- h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religious, freedom of speech, and right of assembly, or
  - i. Married or has been married.
- B. It is a defense to prosecution under Section 2 that the owner, operator or employee of an establishment promptly notified the Sheriff's Office that a minor was present on the premises of the establishment during curfew hours and refused to leave.

**902.004 ENFORCEMENT.**

Before taking any enforcement action under this section, a Sheriff's Deputy shall ask the apparent offender's age and reason for being in the public place. The Deputy shall not issue a citation or make an arrest under this Section unless the Deputy reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3 is present.

**902.005 PENALTIES.**

- A. A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted.
- B. Any minor who is convicted of a violation of this code chapter after the case has been referred for prosecution in the trial court under Minnesota Statute 260.125, and any adult person having the care and custody of such minor, is guilty of a petty misdemeanor and shall be punished as provided by this code.
- C. That the terms and provisions of this code chapter are severable. If any provision is, for any reason, held to be invalid, such decision shall not effect the validity of the remaining portions of this chapter. It is intended that the code chapter be held inapplicable in such cases, if any, where its application would be unconstitutional.

(Ord. 78-01, Sec. 1, 1/3/78; Ord. 10-02, 4/6/10)

SECTION 3

903.000.     **REGULATING CONDUCT IN CITY PARKS AND RECREATION AREAS.**

903.001.     **PURPOSE.** This Ordinance is enacted pursuant to Minnesota Statutes Annotated, Section 471.62 as amended and other applicable laws of the State of Minnesota. The purpose of this Ordinance is to provide uniform rules of conduct for city parks and recreation areas in the City of Winsted.

(Ord. 79-03, Sec. 1, 7/3/79)

903.002.     **GENERAL RULES OF CONDUCT.**

A.     USE OF PARK OR RECREATION AREAS. No person in a city park or recreation area shall:

1.     Deface, destroy, tamper with, injure, or remove any city property including but not limited to furniture, structures, vegetation, signs or soils.
2.     Scatter or litter the grounds or any lake, pond, or water course within or draining into a park with any form of trash but shall place such material in the proper receptacles where these are provided; where receptacles are not provided, all such trash shall be carried away from the area by the person responsible for its presence.
3.     Start a fire, except a small fire for cooking purposes in a designated area and then only in a fire ring, grill or portable stove, or fail to fully extinguish such a fire.
4.     Sell, solicit or conduct any commercial enterprise unless authorized by written permit from the City Council or Park Director.
5.     Play games which interfere with appropriate use of the rinks, sledding or tobogganing areas or use hockey sticks or pucks in areas not designated for hockey play or loiter on the ice or in park buildings.
6.     Paste, affix or inscribe any handbill, poster or sign or distribute handbills, circulars or announcements of any kind for a commercial purpose.

B.     REGULATION OF HOURS AND CONDUCT. No person in a city park or recreation area shall:

1. Remain between 11:00 pm and 5:00 am without a written permit from the City Council or Park Director. No privately owned vehicle shall remain during these same hours without a written permit. Any vehicle remaining after 11:00 pm without authorization shall be towed at the owner's expense.
2. Use, possess, distribute, sell, or transfer alcoholic beverages in large quantities including, but not limited to, kegs, barrels or case lot quantities (i.e. more than 1 case per person aged 21 or more), except where authorized by written permit of the City Council or Park Director. The term alcoholic beverage used herein includes any beverage containing alcohol including, but not limited to, liquor, beer, non-intoxicating malt liquor, 3.2 beer, wine and wine coolers. No permit is necessary to consume or possess "non large" quantities of alcohol.
3. Appear nude, semi-nude, commit any nuisance or use threatening, abusing, insulting, obscene or indecent language or act in an indecent, lascivious, or improper manner or do any act which constitutes a breach of the public peace.
4. Harass any visitor or behave in a reckless manner which would endanger any visitor or visitor's property.
5. Swim or wade except in designated areas. Obey all swimming beach rules as posted.
6. Disobey any reasonable order or direction of any city employee, law enforcement officer, or other person designated by the City Council or Park Director to give such orders or directions.

(Ord. 07-08, 903.002.B, 08/07/07)

C. ANIMALS IN THE PARK. No person in a city park or recreation area shall:

1. Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any wildlife, except that fishing is permitted.
2. Bring any dog, cat or other creature unless caged, kept on a leash not more than six feet in length or under control of its owner.
3. Permit a creature to disturb, harass, or interfere with or endanger any visitor or visitor's property, or tether any creature to a tree, plant, building or park equipment.

4. Permit a creature to enter unauthorized areas. Unauthorized areas are active play areas, picnic areas and park buildings.
5. Release any insect, fish, animal or other wildlife or introduce any plant, chemical or other agent potentially harmful to the vegetation, water supply or wildlife of the area.

D. EQUIPMENT PROHIBITED. No person in a city park or recreation area shall:

1. Drive or park a vehicle except an authorized or emergency vehicle on any turf or other area not designated for parking or travel; wash, grease, dismantle, repair, change or deposit the oil of a vehicle anywhere in a park or recreation area.
2. Operate a motorized recreational vehicle except on marked trails and at times designated by the City Council and/or Park Director.
3. Operate any watercraft within designated swimming areas.

(Ord. 79-03, Sec. 2, 7/3/79)

903.003. **RULES AND REGULATIONS.** The City Council, Advisory Park Committee, or Park Director shall have the right to issue additional administrative rules and regulations relative to but not conflicting with this Ordinance. No person shall violate such rules or regulations and any such violation may be subject to penalties of this Ordinance.

(Ord. 79-03, Sec. 3, 7/3/79)

903.004. **CITY EMPLOYEES.** Nothing in this Ordinance shall prevent city employees including law enforcement officers from performing their assigned duties.

(Ord. 79-03, Sec. 4, 7/3/79)

903.005. **DISCRIMINATION IN PARKS.** No person involved in any event or in any use of the parks or recreation areas including, but not limited to sponsors of teams, shall deny another person access to, admission to, utilization of, or benefit from any such event or use because of race, age, sex, color, creed, religion or national origin.

(Ord. 79-03, Sec. 5, 7/3/79)

903.006. **PENALTY.** Any person who shall violate any provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700.00 together with taxable costs or by imprisonment not to exceed 90 days, or both.

(Ord. 79-03, Sec. 6, 7/3/79)

903.007. **INVALIDITY.** The invalidity of any part of this Ordinance as declared by a Court of competent jurisdiction shall not affect the validity of the remainder thereof.

(Ord. 79-03, Sec. 7, 7/3/79)

903.008. **CONFLICTING ORDINANCES REPEALED.** All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

(Ord. 79-03, Sec. 8, 7/3/79)

SECTION 4

904.000.     **REGULATION OF PUBLIC DANCES.**

904.001.     **DEFINITIONS.** As used in this Ordinance the following words and terms shall have the meanings stated:

- A.     PUBLIC DANCE. Public Dance means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.
  
- B.     PUBLIC DANCING PLACE. Public Dancing Place means any room, place, or space open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

(Ord. 94-06, Sec. 1, 10/18/94)

904.002     **Security.** Any public dance is required to have security personnel on duty at its own expense if more than 150 people are anticipated or in fact, do attend said dance.

(Ord. 94-06, Sec. 2, 10/18/94)

904.003     **Notice to Winsted Police Department.** At least 30 days prior to the holding of any dance whereat 500 or more people will attend, the person or entity holding the dance shall, in writing, notify the Winsted Police Department of the date, time and location of any said dance and such other information as the Chief of Police shall request. Any other dance (whereat less than 500 people will attend) shall only require 15 days prior written notification to said Winsted Police Department along with such information as the Chief of Police shall request.

(Ord. 94-06, Sec. 3, 10/18/94)

904.004.     A.     **LICENSE REQUIRED.** It is unlawful for any person or entity to operate a public dancing place, or hold a public dance, as herein defined, without first having obtained a license therefore from the City Clerk. Said license shall be issued upon the applicant's meeting the notification requirements to the Winsted Police Department previously described hereinabove, together with the payment of a fee as follows:

- 1.     \$10.00 license fee for each dance; or in lieu thereof;

2. If any person or entity desires to obtain a license for public dances for a one-year period may do so by paying a fee of \$150.00 on or before July 1 of any year for a 12-month period from July 1 of said year to June 30 of the following year.

Notwithstanding the fees mentioned herein, the applicant shall also pay an additional permit fee in a sum equal to the amount determined by the Chief of Police as is necessary to compensate the City of Winsted for its costs, including all salary, benefits and overhead that it incurs or is anticipated to incur as a result of the need (in the Winsted Police Chief's opinion) to hire additional police officers for the date upon which the dance is to be held. Whether the dance holder has paid a single dance permit fee or an annual permit fee, the additional permit costs mentioned in the preceding sentence shall be paid on or before 20 days prior to the date on which the dance is to be held. In the event such fees are not timely paid, said dance shall not be held and to hold same will be a violation of this Ordinance. All fees shall be paid to the City Clerk. If any conditions contained in this Ordinance or required by the Chief of Police have not been complied with prior to the holding of said dance or within the time limits mentioned herein, the Chief of Police (or in his/her stead, the acting Chief of Police) shall close down any dance and/or not allow any such dance to be held.

- B. Grievance Procedure. The person or entity applying for a dance license (i.e. the applicant) shall have the right to request that the Chief of Police reconsider the amount of police hours that are needed for the dance. This request for reconsideration must be made within 48 hours after the Chief of Police notifies the applicant of the amount of compensation being required to be made by the applicant for its dance license. If the Chief of Police and the applicant cannot settle on the appropriate amount of police hours necessary, the applicant shall have the right to request that the City Council determine whether the dance can be held with less police protection than is being requested by the Chief of Police.

(Ord. 94-06, Sec. 4, 10/18/94)

- 904.005. Nothing in this Ordinance shall be applicable to any dance sponsored by a local school or City of Winsted and held on said school's or said City's property and no license shall be required for same.

(Ord. 94-06, Sec. 5, 10/18/94)

- 904.006. **Misdemeanor.** Any person or entity who violates any term or condition of this Ordinance is guilty of a Misdemeanor and may be punished by such fine and/or jail as is allowed by State Statute.

(Ord. 94-06, Sec. 6, 10/18/94)

904.007. **REPEAL.** This Ordinance repeals Ordinance No. 18-05 and any other Ordinance or other portions of Ordinances inconsistent herewith or dealing with public dances.

(Ord. 94-06, Sec. 7, 10/18/94)

SECTION 5

905.000. **FIREARM REGULATIONS.**

905.001. **DEFINITIONS.** For the purposes of this Ordinance, the term "deadly weapon" as used herein shall include, but not limited to, the following:

- A. ALL FIREARMS. "Firearms" shall mean any device from which may be fired or ejected, one or more solid projectiles by means of a cartridge or shell or by the action of an explosive substance; or for which the propelling force is a spring, elastic band, carbon dioxide, air, or other gas or vapor;
- B. BOWS AND ARROWS;
- C. All instruments used to propel a high-velocity pellet of any kind, including, but not limited to, air rifles and compressed air guns;
- D. Any similar type instrument, whether such instrument is called by any name set forth herein or any other name.

(Ord. 81-09, Sec. 1, 12/7/81)

905.002. **CONCEALMENT, DISCHARGE AND USE PROHIBITED.** Except as herein specified authorized, the concealment, discharge or use of deadly weapons within the City of Winsted is hereby prohibited.

Ord. 81-09, Sec. 2, 12/7/81)

905.003. **AIMING PROHIBITED.** The aiming of any deadly weapon, whether loaded or not, at or toward any human being is hereby prohibited.

(Ord. 81-09, Sec. 3, 12/7/81)

905.004. **SELLING OR FURNISHING A DEADLY WEAPON TO A MINOR.** The selling, giving, loaning or furnishing in any way of any deadly weapon except bows and arrows to a minor under the age of eighteen (18) years without the written consent of his parent or guardian, or of a police officer or magistrate is hereby prohibited.

(Ord. 81-09, Sec. 4, 12/7/81 amended in total by Ord. 86-05, Sec. 1, 4/11/86)

905.005. **MINOR UNDER 14 YEARS.** No minor under the age of fourteen (14) years shall handle or have any deadly weapon except bows and arrows, in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian.

(Ord. 81-09, Sec. 5, 12/7/81 amended in total by Ord. 86-05, Sec. 1, 4/11/86)

905.006. **EXCEPTIONS:**

- A. Nothing in this Ordinance shall be construed to prohibit the use or discharge of a deadly weapon:
  - 1. In the lawful defense of persons or property; or
  - 2. In the enforcement of the law by peace officers; or
  - 3. In the training of peace officers or persons eligible to become peace officers, as authorized by the Chief of Police of the Winsted Police Department.
  
- B. Nothing in this Ordinance shall be construed to prohibit the use or possession of bows and arrows at any indoor archery range that is located in a "C-1" (as defined in Ordinance No. 79-02) (i.e. Chapter 15 herein) district.

(Ord. 81-09, Sec. 6, 12/7/81 amended in total by Ord. 86-05, Sec. 1, 4/11/86)

905.007. **MISDEMEANOR PENALTY.** Any person violating any of the provisions of this Ordinance shall upon conviction, be guilty of a misdemeanor and be subject to a fine of not more than \$700.00 or by imprisonment for a period not to exceed 90 days, or both.

(Ord. 81-09, Sec. 7, 12/7/81 amended in total by Ord. 86-05, Sec. 1, 4/11/86)

SECTION 6

906.000.     **CHARITABLE GAMBLING NET PROFITS PAYMENT.**

906.001.     **NET PROFITS.** That pursuant to Minnesota Statutes Section 349.213, and Minnesota Statutes Section 349.16, the City Council of Winsted does require each charitable gambling permittee to pay a sum equal to 5% of its net profits (from all of its charitable gambling locations). Said net profits shall be based on the calendar year or such other twelve (12) month fiscal period which the Council shall determine from time to time.

(Ord. 92-03, Sec. 1, 6/2/92, Ord. 99-05A, Sec. 1, 6-15-99)

906.002.     **MAXIMUM.** Notwithstanding anything to the contrary herein, each permittee shall not be required to pay in excess of \$2,500.00 per calendar year or fiscal period.

(Ord. 92-03, Sec. 5, 6/2/92)

906.003.     **NET PROFITS DEFINED.** "Net Profits" is defined as "gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling".

(Ord. 92-03, Sec. 1, 6/2/92, Ord. 99-05A, Sec. 1, 6-15-99)

906.004.     **USE OF PROCEEDS.** The monies (all proceeds) to be paid by the licensee shall be used for: lawful purposes authorized by statute, or amounts allocated to a city or county for police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations.

(Ord. 92-03, Sec. 1, 6/2/92, Ord. 99-05A, Sec. 1, 6-15-99)

906.005.     **APPLICABLE REVENUES.** All revenues earned by charitable gambling permittees subject to the 5% imposition placed thereon by this Ordinance shall be those revenues earned on or after July 1, 1992. The monies required to be paid by this Ordinance shall be paid quarterly. The quarterly payments for the quarter (three months) upon which the same is based shall be due within thirty (30) days after the end of said quarter.

(Ord. 92-03, Sec. 5, 6/2/92)

906.006.     **REPORTING.** The City shall, annually, no later than March 15 of each year, file a report with the Board, on a form the Board prescribes, that lists all such revenues collected and expenditures, and training, excluding pension obligations.

(Ord. 92-03, Sec. 1, 6/2/92, Ord. 99-05A, Sec. 1, 6-15-99)

SECTION 7

907.000.     **REPEAL OF MORALS AND CONDUCT ORDINANCES.**

907.001.     **REPEAL OF ORDINANCE NO. 19.** Ordinance No. 19 of the City of Winsted is hereby repealed and is of no force and effect hereafter.

(Ord. 81-11, Sec. 1, 12/7/81)

907.002.     **HISTORY OF OTHER REPEALS.** The following Ordinances have been repealed by action adopting this Ordinance codification:

Ordinances No. 3, No. 6, No. 7, No. 13 and No. 14.

## SECTION 8

### 908.000.     **ADULT ESTABLISHMENTS**

#### 908.001.     **Purpose and Intent**

1. Findings of the City Council. Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul; Indianapolis; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Winsted makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff. Based on these studies and findings, the city council concludes:

- (a) Adult establishments have adverse secondary impacts of the types set forth above.
- (b) The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
- (c) It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
- (d) Minnesota Statutes, Section 462.357, allows the city to adopt regulations to promote the public health, safety, morals and general welfare.
- (e) The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
- (f) Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.
- (g) Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

- (h) Adult establishments can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
  - (i) Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
  - (j) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
2. Purpose. It is the purpose of this Ordinance to regulate Adult Establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
- a) Prevent additional criminal activity within the City,
  - b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
  - c) To locate Adult Establishments away from residential areas, schools, churches, libraries, parks, and playgrounds;
  - d) Prevent concentration of Adult Establishments within certain areas of the City.
3. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

908.002.

**Definitions.** For purposes of this Ordinance the terms defined in this section have the meanings given them.

- 1. "Adult Establishment" means:
  - a) any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any

portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or

- b) any business that engages in any Adult Use as defined in Subdivision 2 of this section.
- c) the term "substantial or significant portion" as used in this ordinance is defined as 25 percent or more of the inventory, stock in trade or publicly displayed merchandize, or 25 percent or more of the floor area (not including store rooms, stock areas, bathrooms, basements, or any portion of the business not open to the public), or 25 percent or more of the gross revenues of the business. All adult establishments and all other businesses stocking any material depicting, exposing, simulating, describing or relating to Specified Sexual Activities or Specified Anatomical Areas shall make available all inventory records and all sales receipts and records for inspection by city staff upon request at all reasonable times.

2. Adult Use. Any of the activities and businesses described below:

- a) "Adult Body Painting Studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
- b) "Adult Bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

- c) "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- d) "Adult Companionship Establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- e) "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- f) "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- g) "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- h) "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- i) "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- j) "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

- k) "Adult Motion Picture Arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used 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.
- l) "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- m) "Adult Novelty Business" means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.
- n) "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- o) "Adult Steam Room/Bathhouse Facility" means 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, if the building or portion of a building restricts minors by reason of age and 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.

3. "Nude" or "Specified Anatomical Areas" means:

- a) Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts 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.

4. "Specified Sexual Activities" means:

- 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; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia;
- 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 regions, buttocks, or female breasts;
- e) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
- f) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- g) Human excretion, urination, menstruation, or vaginal or anal irrigation.

908.003. **Application of this Ordinance.**

Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Winsted, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by

other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

908.004. **Location.**

Adult Establishments are permitted uses in the Agricultural, I-1, and I-2 zoning districts. Adult Establishments must be located at least 1,000 feet from: (a) any R1- One and Two Family Residence District boundary or R2 Multiple Family Residence District boundary; (b) any site actually used for residential purposes; and (c) any church site, school site, library site, day care facility, park or playground. No Adult Establishment may be located within 1,000 feet of another Adult Establishment. For purposes of this Ordinance, this 1,000 foot distance shall be a horizontal measurement from the nearest existing R1 or R2 district boundary or lot line or site used for residential purposes, church, school, library, day care, park or playground, or another Adult Establishment site, to the nearest point of the proposed Adult Establishment structure.

908.005. **Hours of Operation.**

No Adult Establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m. weekdays and Saturdays, nor at any time on Sundays or national holidays.

908.006. **Operation.**

1. Off-site Viewing. Any business operating as an Adult Establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
2. Entrances. All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way. The main entrance of the business shall be on the front (public street) side of the building.
3. Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
4. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

5. Signs. Signs for Adult Establishments shall comply with the City's Ordinance for signs addressed in Ordinance 169. Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
6. Parking. An Adult Establishment shall provide a minimum of one off-street parking space per employee, the total minimum number of such parking spaces to equal the highest number of employees scheduled to work on any shift, and one off-street parking space per customer for the total number of customers for which the facility is designed at full occupancy. Each parking space shall be a minimum of 9 feet wide by 18 feet long, plus sufficient driveway space to allow safe access to and from adjoining public rights of way.
7. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
  - a) No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
  - b) No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.
  - c) The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth and any aliases.
  - d) No dancer, live entertainer or performer shall be under 18 years old.
  - e) All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
  - f) No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.
  - g) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
  - h) No patron shall pay or give any gratuity to any dancer or performer.
  - i) No dancer or performer shall solicit or receive any pay or gratuity from any patron.

1. Licenses Required. All Adult Establishments, including any Adult Establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the City of Winsted. A person or entity is in violation of this Ordinance if the person or entity operates an Adult Establishment without a valid license, issued by the City.
2. Applications. An application for a license must be made on a form provided by the City and must include:
  - a) If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;
  - b) The name, address, phone number, and birth date of the operator and manager of the Adult Establishment, if different from the owner's;
  - c) The address and legal description of the premises where the Adult Establishment is to be located;
  - d) A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an Adult Establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;
  - e) The activities and types of business to be conducted;
  - f) The hours of operation;
  - g) The provisions made to restrict access by minors;
  - h) A building plan of the premises detailing all internal operations and activities;
  - i) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or

diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

- j) A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building inspector;
- k) The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business;
- l) If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation; and
- m) Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

### 3. Disqualifications.

- a) All Adult Establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate an Adult Establishment shall be prohibited if the license fees and background investigation fees required by this Ordinance have not been paid.
- b) All Adult Establishments, including any business operating at the time this Ordinance becomes effective, shall be prohibited if an applicant, operator, or manager has been convicted of a crime involving any of the following offenses:
  - (1) Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;
  - (2) Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

- (3) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
4. Requalification. An applicant who has been convicted of an offense listed in Section 7, Subdivision 3(b), may qualify for an Adult Establishment license only when the time period required by Section 7, Subdivision 3(b), has elapsed.
5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Establishment. The license shall be posted in a conspicuous place at or near the entrance to the Adult Establishment so that it may be easily read at any time.

6. An Adult Establishment license will not be granted to or held by a person:
  - a) Who is under 21 years of age;
  - b) Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
  - c) Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or Adult Establishments;
  - d) Who has been or is residing with a person who has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or who has or is residing with a person whose license to operate an Adult Establishment has been suspended or revoked within the preceding twelve (12) months; or
  - e) Who has not paid the license and investigative fees required by this Ordinance.
  
7. An Adult Establishment license will not be granted for:
  - a) Any Adult Establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this Ordinance, or where a license has been revoked for cause, until one year has elapsed after the conviction or revocation;
  - b) Any Adult Establishment that is not in full compliance with the City Code and all provisions of state and federal law; the City shall be entitled to inspect the premises for compliance with this Ordinance and all other Ordinances of the City and of the State, including building and fire code and health code violations, at any time; or
  - c) Any premise that holds an intoxicating liquor, beer, or wine license.

908.008. **Fees.**

1. The license fee for Adult Establishments are as follow:
  - a) The annual license fee is \$2,000.00.
  
  - b) An application for a license must be submitted to the city administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.

- c) Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.
  - d) No part of the fee paid by any licensee will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the city council within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
    - 1. Destruction or damage of the licensed premises by fire or other catastrophe;
    - 2. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed Adult Establishment;
    - 3. The licensee's death; or
    - 4. A change in the legal status making it unlawful for the licensed business to continue.
  - e) An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the city council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.
- 2. The one-time non-refundable background investigative fee for an Adult Establishment license is \$500.00 and shall be charged for each person identified on the application as an owner, operator, or manager of the business and for each successor, owner, operator or manager.
  - 3. The procedures for granting an Adult Establishment license are as follow:
    - a) The City will conduct and complete an investigation within 30 days after the city administrator receives a complete application and all license and investigative fees.

- b) If the application is for a renewal, the applicant will be allowed to continue business until the city council has determined whether the applicant meets the criteria of this Ordinance for a renewal license.
- c) If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the city council within 30 days after the investigation is completed. If the city council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
- d) A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult Establishments existing at the time of the adoption of this section must obtain an annual license.

908.009. **Inspection.**

1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspector, to inspect the premises of an Adult Establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
2. Refusal to Permit Inspections. A person who operates an Adult Establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspector at any time it is occupied or open for business. Refusal to permit inspections may result in nonrenewal, suspension or revocation of the license as provided in Section 11.
3. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.
4. Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.

908.010. **Expiration and Renewal.**

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 7. Application for renewal must be made at least 60 days before the expiration date.
2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

908.011. **Suspension.**

1. Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:
  - a) Violated or is not in compliance with any provision of this Ordinance.
  - b) Engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel.
  - c) Refused to allow an inspection of the Adult Establishment as authorized by this Ordinance.
  - d) Knowingly permitted gambling by any person on the Adult Establishment premises.
  - e) Demonstrated inability to operate or manage an Adult Establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

908.012. **Revocation**

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended at least once before within the preceding 12 months.
2. Causes of Revocation. The City may revoke a license if it determines that:

- a) A licensee gave false or misleading information in the material submitted to the City during the application process;
  - b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - c) A licensee or an employee has knowingly allowed prostitution on the premises;
  - d) A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended;
  - e) A licensee has been convicted of an offense listed in Section 7, Subdivision 3(b), for which the time period required in Section 7, Subdivision 3(b), has not elapsed;
  - f) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 7, Subdivision 3(b), for which a conviction has been obtained, and the person or persons were employees of the Adult Establishment at the time the offenses were committed.
  - g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
3. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
4. Exceptions. Section 12, Subdivision 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked under Section 12, Subdivision 2 (e), an applicant may not be granted another license until the appropriate number of years required under Section 7, Subdivision 3 b), has elapsed.
6. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges

against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

908.013. **Procedures.**

Issuances, suspensions, revocations, and nonrenewals of Adult Establishment licenses are governed by the following provisions:

- a) In the event that the city council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.
- b) If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or federal court challenging the council's action, the suspension or revocation is stayed until the conclusion of such action.
- c) If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
- d) If the city council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor.

908.014. **Transfer of License.**

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Establishment under the authority of a license at any place other than the address designated in the application.

908.015. **Minimum Age.**

No adult establishment shall permit a person under the age of 18 years to be

admitted or allowed to remain in the premises where the adult establishment is operating.

908.016. **Severability.**

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof. The City Council specifically declares that the licensing requirements in this Ordinance are severable from any and all of the other requirements of this Ordinance. The City Council further declares that it would have adopted the other requirements in this Ordinance regardless of the validity or invalidity of the licensing requirements.

908.017. **Enforcement/Penalty.**

Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. If an act which is a violation of this ordinance is also a violation of any other state or federal law, this clause shall not preclude the appropriate authorities from also charging the perpetrator with such separate crime or crimes, subject to the appropriate penalty for each such separate crime. Violations of this ordinance may also be enforced by an appropriate civil action in either state or federal court.

908.018. **Effective.**

This Ordinance shall be effective immediately upon its publication.

## SECTION 9

### 909.000.     **Trespass**

909.001.     A person is guilty of a Misdemeanor if the person intentionally returns to the property of another within one (1) year after being given written notice to not to return to said property. The written notice shall be given by the owner or authorized agent of the owner directed to the person who is not to return to the property of the owner. Said written notice can be served by the property owner or by their agent. The property owner or its agent can request service of said notice by the Winsted Police Department or McLeod County Sheriff's Department upon payment of the appropriate fees. If the person to be served does not reside within McLeod County, or cannot be found therein, said person may be served by certified mail to the person's last known address or the address stated in the person's driver's license or state identification card. A copy of the written notice shall be provided by the owner of the property or its authorized agent, to the Winsted Police Department. Said notice will remain in effect until its expiration date, one year from the date said notice is given to the actor, or until the property owner or its agent withdraws said trespass Order by written notification, which ever occurs, first.

909.002.     The written trespassing notice must clearly state a duration, (not exceeding one year) during which the actor is not allowed upon the premises of the owner. This notice must contain the following information:

- A.     Property owner's name.
- B.     Full name and date of birth of the actor.
- C.     The street address, apartment number or other identifiable location where the actor must not trespass.
- D.     The name of the person making the service.
- E.     Date and time of service upon the actor.
- F.     Signature of the owner or its authorized agent.

909.003.     This trespass shall be in addition to other incidents of trespass contained in Minnesota Statutes, including, but not limited to, Minnesota Statutes ' 609.605.