

Ordinance No. 3
THE SOLWAY TOWN BOARD OF THE TOWN OF SOLWAY DOES HEREBY
ORDAIN:

SECTION 1. It shall hereafter be unlawful for any person or persons to exhibit or cause to be exhibited or assist in exhibiting any public show, caravan, exhibits, circus, theatrical, or other performance or other exhibit whatever or present, perform or assist in performing any public game, play, performance, exhibition, show, display, or concert for which or compensation of any kind shall be demanded or received within the limits of the Town of Solway without first having obtained a license therefore.

SECTION 2. Any person or persons desiring to provide entertainment as above described shall make application for a license therefor to the Township Clerk who shall forthwith forward said application to the Town Board for consideration. The application shall be reviewed by the Town Board within 30 days of receipt thereby or at the next regular Town Board meeting, whichever shall first occur. The Town Board shall approve said application, except where the Town Board finds that the proposed entertainment is in violation of law. The Town Board's action on the application shall be immediately conveyed to the applicant and a failure by the Town Board to act within the time herein specified shall be deemed an approval of the application period. After approval and upon presentation of the fee hereinafter provided, it shall be the duty of the Township Clerk to issue a license to said applicant(s) to give said exhibition within the limits of the Town of Solway.

SECTION 3. Any person or persons applying for such license shall pay a license fee in an amount which shall be fixed by the Town Board from time to time by township resolution. Each application for a license shall specify the time period for which the license is being sought. The license, as issued, shall be for the period so specified. No license issued hereunder shall, however, be for a period in excess of one year from date of issuance. All licenses which do not otherwise first expire shall expire at the end of each calendar year subject to renewal upon appropriate application.

SECTION 4. This ordinance does not prohibit any person or persons or association of persons from giving any public performance, shows, exhibits, or other forms of entertainment and receiving compensation therefor where the proceeds thereof are used solely for any religious, charitable, or literary purpose.

SECTION 5. Any person or persons found to be giving any entertainment or show as defined by this Ordinance without first having obtained a license as herein provided shall be guilty of a misdemeanor and upon conviction shall be punished as provided the laws of the State of Minnesota for conviction of a misdemeanor offense.

This Ordinance shall take effect from and after its passage and publication.

Passed by the Town Board of Town of Solway this 22nd day of March, 1999.

TOWN OF SOLWAY ORDINANCE NO. 3

AN ORDINANCE REGULATING THE LOCATION OF SEXUALLY-ORIENTED BUSINESSES; INCLUDING DEFINITIONS RELATING TO SEXUALLY ORIENTED BUSINESSES

THE TOWN BOARD OF THE TOWN OF SOLWAY DOES HEREBY ORDAIN:

SECTION 1. PURPOSE / FINDINGS / CONCLUSIONS

A. Purpose. The purpose of this ordinance is to control and regulate certain land uses that have a direct and detrimental effect on the character of the Town of Solway's residential and commercial neighborhoods.

B. Findings. The Town Board of the Town of Solway makes the following Findings regarding the effect sexually-oriented businesses have on the character of the Town. The Findings are based on the Town Board's study of experiences of other areas in the nation where sexually-oriented businesses are located.

(a) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending licensed daycare homes, persons using public parks, and children and other persons attending public schools;

(b) Sexually-oriented businesses can contribute to an increase in criminal activity in the area where such businesses are located, taxing local law enforcement services;

(c) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the value of the residential housing in the area in which such businesses are located;

(d) The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating as other businesses and residences move out of the vicinity. Declining real estate values, which can result from the concentration of such business, erode the township's tax base.

C. Authority. This Board has the authority under M.S. 365.10, Sub 17. to regulate the location of this type of business.

D. Conclusions. In order to minimize the detrimental effect sexually-oriented businesses have on adjacent land uses, the Town Board adopts the following ordinance, recognizing that it has a great interest in the present and future character of the township's residential and commercial neighborhoods.

SECTION 2. DEFINITIONS

A. Adults-only bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material , for sale to patrons therein.

B. Adults-only motion picture theater. An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation by patrons therein.

C. Massage parlor. A massage parlor which restricts minors by reason of age, or which provides the service of "massage", if such service is distinguished by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

D. Nudity. The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

E. Adult Rap parlor. A conversation / rap parlor which excludes minors by reason of age, and which provides the service of engaging in listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

F. Adult Sauna. An establishment or place primarily in the business of providing (i) a steam bath or hot air bathing, and/or (ii) massage services which excludes minors by reason of age where such service(s) is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for patrons.

G. Sexual conduct. Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.

H. Sexual excitement. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

I. Sadomasochistic abuse. Flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

J. Adult entertainment center. An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, wherein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

K. Adult cabaret. A building or portion of a business used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

L. Adult health / sport club. A health / sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

M. 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 such 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 nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.

N. Sexually-oriented business. An adult bookstore, adult theater, adult massage parlor, adult conversation / rap parlor, adult sauna, adult entertainment center, adult cabaret, adult health / sport club, adult steam room / bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein.

SECTION 3. LOCATION RESTRICTIONS.

A. Adult use only bookstores, adult theaters, adult massage parlors, adult conversation / rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult health / sport clubs, adult steam room / bathhouse facilities, and other sexually-oriented businesses may be operated or maintained within commercially zoned areas only.

B. Adults-only bookstores, adult theaters, adult massage parlor, adult conversation / rap parlor, health / sport club, adult steam room / bathhouse facility, or other sexually-oriented businesses shall not:

- (a) be operated or maintained within 500 feet of the property lines of private residences
- (b) be operated or maintained within 500 feet of a church, licensed daycare facility, public library, public educational facility which serve persons age 17 or younger, elementary school, high school, place of worship, or elderly housing facility
- (c) be operated or maintained within 2000 feet of another such sexually-oriented business
- (d) in regard to distance limitations set forth herein, be measured in a straight line from the main public entrances of said premises or from the lot lines of properties in commercially zoned districts or from property lines of private residences.
- (e) be located in the same building or upon the same property as another such use.

- (f) be located in any place which is also used to dispense or consume alcohol.

SECTION 4. REGULATED USES.

A. Signs. Notwithstanding any other provision of this code, a sexually-oriented business shall not be permitted more than one sign advertising its business. In addition, a one square foot sign may be placed on the door to state hours of operation and admittance to adults only. All signs:

- (a) shall be on-premise only
- (b) shall be flat wall signs
- (c) shall not exceed 50 sq. ft
- (d) shall not contain any flashing lights, moving elements, or mechanically changing messages.
- (e) shall not contain any depiction of the human form or any part thereof.

B. Windows. Notwithstanding any other provision of this code, a sexually-oriented business:

- (a) shall not display merchandise or pictures of the products or entertainment in window areas or any area where they can be viewed from the road frontage.
- (b) shall not be covered or make opaque in any way.
- (c) shall not place a sign in any window.

C. Hours of Operation. Notwithstanding any other provision of this code, a sexually-oriented business:

- (a) may operate between 10:00 AM and 10:00 PM
- (b) shall be closed on Sundays and holidays

D. Physical Contact. Notwithstanding any other provision of this code, a sexually orientated business;

(a) employing dancers or other live entertainers shall not allow physical contact between the dancers/entertainers and the patrons of the business

(b) employing dancers or other live entertainers shall maintain a distance of four (4) feet at all times between the dancers/entertainers and the patrons of the business.

E. Gratuities. Notwithstanding any other provision of this code, a sexually orientated business;

(a) shall not allow its dancers or other live entertainers to solicit payments/gratuities from the patrons of the business

(b) shall not allow the patrons of the business to make direct payments/gratuities to its dancers or other live entertainers

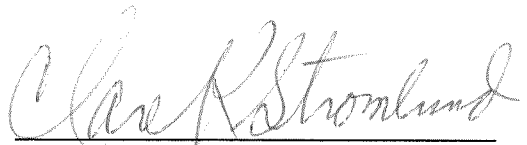
SECTION 5: PENALTY. A violation of this ordinance shall be a misdemeanor under Minnesota law.


SECTION 6. SEVERABILITY. If any sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have adopted this Ordinance and each sub-section, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared invalid.

This Ordinance shall take effect from and after its passage and publication.

Passed by the Town Board of the Town of Solway this 22 day of March, 1999.

SEAL / ATTEST:


Clare R. Stromlund, Chairman


Cynthia Whiting, Clerk