

**Subd. 9. Expenditures for Lawful Purposes.**

- A. Each organization licensed to conduct lawful gambling within the City must contribute 10% of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City, without cost to such fund, for disbursement by the City of such receipts for (1) charitable contributions as defined in Minnesota Statutes § 349.12, Subd. 7a, or (2) police, fire, and other emergency or public safety related services, equipment and training, excluding pension obligations. For purposes of this Subdivision, “net profits” means gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling.
- B. Each organization licensed to conduct lawful gambling within the City must expend 30% of its expenditures on lawful purposes conducted or located within the county’s trade area. This 30% of its expenditures shall be in addition to the 10% of its net profits contributed to the City pursuant to Subdivision 9A. The county’s trade area is hereby defined to be the geographical limits of Wright County, Minnesota. Franklin Townships, and the City of Independence.

**SECTION 413.01. ADULT USES.**

**Subd. 1. Definitions.** When used in this Section, the following words and terms shall have the meanings stated:

- A. “Adult uses” includes adult bookstores, adult motion picture theaters, adult DVD or CD sales or rentals, adult on-line web services, adult motion picture sales or rentals, adult mini-motion pictures theaters, adult massage parlors, adult steam room/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 Statutes § 617.241 are not included.
- B. “Specified anatomical areas” includes:
  - 1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the top of the areola; and
  - 2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- C. “Specified sexual activities” includes:

1. 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, zooerastia; or
  2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
  3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
  5. 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; or
  6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
  7. Human excretion, urination, menstruation, vaginal or anal irrigation.
- D. “Accessory adult uses” includes the offering of goods and/or services which are classified as adult uses on a limited scale, as defined in City zoning provisions, and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines and the sale or rental of adult motion pictures, DVDs or CDs.
- E. “Principal adult uses” includes the offering of goods and/or services which are classified as adult uses and which do not meet the definition of accessory adult uses, including 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 the body of a patron when such 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, DVD’s, CD’s, or motion picture film if such 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 and if a substantial or significant

portion of such items are distinguished and 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 such building or portion of a building excludes minors by virtue of age and if such dancing or other live entertainment is distinguished and 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 establishing which excludes minors by reason of age, and which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished and 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, and which provides the service of engaging in or listening to conversation, talk, or discussion, if such services is distinguished and 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, if such club is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
7. Adult Use – Hotel or Motel. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished and 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 such service is distinguished and 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 fewer than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age, and if such material is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
10. Adult Use – Modeling Studio. An establishment, if such establishment excludes minors by reason of age, which provides to customers, figure models who are so

provided with the intent of providing sexual stimulation of 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 such customers.

11. Adult Use – Motion Picture Arcade. Any place, which excludes minors by reason of age, to which the public is permitted or invited wherein credit or debit card, coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, DVDs or CDs projectors or other image-producing devices are maintained to show images to five or fewer person per machine at any one time, and where the images so displayed are distinguished and 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 50 more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age and if such material is distinguished and 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 excludes minors by reason of age, which has, as a principal activity, the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
14. Adult Use – Sauna. A sauna which excludes minors by reason of age, and 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 and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
15. Adult Use – Steam Room/Bathhouse/Whirl Pool/Hot Tub Facility. A building or portion of a building used for providing a steam bath, heat bathing room, whirl pool or hot tub, used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air or water if such 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 and characterized by an emphasis on “specific sexual activities” or “specified anatomical areas.”

**Subd. 2. License Required.** No person, firm, or corporation shall operate a principal or accessory adult use without having first secured a license.

**Subd. 3. Applications.** In addition to such information as the City may require, the application shall also include:

- A. The name, residence, phone number and birthdate of the applicant, if an individual; and if a corporation, partnership or other business entity, the names, residences, phone number and birthdates of those owners holding more than five percent of the equity interest in the corporation, partnership or other business entity;
- B. The name, address, phone number and birthdate of the manager of such operation, if different from the owners;
- C. The location of the premises where the adult use is to be located;
- D. A statement detailing each misdemeanor, gross misdemeanor and felony relating to a sex offense and/or the operation of adult uses, the keeping of a disorderly house or disorderly conduct, prostitution, or nuisance and related activities of which the applicant or, in the case of a corporation, partnership or business entity, the owners of more than five percent of the equity has been convicted, and whether or not the applicant has ever applied for or held a license to operate a similar type of business in other communities;
- E. The activities and types of business to be conducted; Applicant shall provide a description of product line on sale in the premises;
- 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.

**Subd. 4. Granting of License.**

- A. The Council shall investigate all information supplied by the applicant. Opportunity shall be given to any person to be heard supporting or opposing the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application. Criteria for evaluating a license shall include the following:
  - 1. The Application is completed in full and accurate in all respect;
  - 2. The Applicant is in all respects eligible for license;
  - 3. the Location is eligible for license;
  - 4. The Applicant has proven that it can restrict access by minors and will not employ minors on the adult use premises;
  - 5. The Applicant has provided property owner's name and address and business owner's name and address;
  - 6. The Applicant has proven that the use is in compliance with all applicable code regulations;

7. Guarantying the license will not create a risk of harm to the health, safety or welfare of the residents of Delano.
- B. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without Council approval.

**Subd. 5. Persons Ineligible for License.** No license shall be granted to or held by any person or entity:

- A. Under 21 years of age.
- B. Convicted of violating any federal, state or local law or ordinance relating to sex offenses and/or adult uses, prostitution, nuisance, the keeping of a disorderly house or disorderly conduct.
- C. Who is not the proprietor of the establishment for which the license is issued.
- D. Where the owner, manager, or employee have been convicted of a sex crime, as identified in Minnesota Statute §§ 609.293 through 609.352, 609.746 through 609.749, 609.79, 518B.01, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic assault within the past five years, or of any federal, state or local law or ordinance relating to sex offenses and/or adult uses, prostitution, nuisance, the keeping of a disorderly house or disorderly conduct.
- E. Any other person or entity determined to be not in compliance with the Chapter or unsuitable to hold such a license because of legitimate concerns for the health, safety or welfare of Delano residents.

**Subd. 6. Places Ineligible for License.**

- A. No license shall be granted for adult uses on any premises where a licensee has been convicted of a violation of this Chapter, or where any license hereunder has been revoked for cause, until one 1 year has elapsed after such conviction or revocation.
- B. No license shall be granted for any adult use which is not in compliance with the City's zoning regulations.
- C. No license shall be granted for any premises not in compliance with this Chapter or that is determined by the Council to be unsuitable based upon legitimate health, safety or welfare concerns.
- D. No licensed premises may exceed 10,000 square feet in gross floor area.

**Subd. 7.        Conditions of License.**

- A. All licensed premises shall be operated in compliance with this Code and all other applicable city or state laws and regulations.
- B. All licensed premises shall have the license posted in a conspicuous place at all times.
- C. No person under the age of 18 shall be permitted on the licensed premises for any purpose.
- D. Any designated inspection officer of the City shall have the unqualified right to enter, inspect and search the premises of a licensee during business hours.
- E. Every licensee shall be responsible for the conduct of the licensee's place of business and shall maintain conditions of order.
- F. No owner, manager, or employee of a licensed premises may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- G. No owner, manager, or employee may allow a patron, employee, or other person on the premises to physically contact a specified anatomical area of himself or herself, or of another person, except that a live performer may touch himself or herself if the performance is otherwise in compliance with law.
- H. A live performer must remain at all times a minimum distance of 10 feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item or article from a member of the audience.
- I. No licensed premises may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
  - 1. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rest rooms, and there are no chairs, benches or reclining surfaces in the rest room; and
  - 2. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the administrative functions of the business and no person other than the owner, manager, and employees is allowed in them.
- J. A licensee must not be open for business to the public:
  - 1. Between 1:00 a.m. and 8:00 a.m., on the days of Monday through Saturday; and

2. Between 1:00 a.m. and 12:00 noon, on Sundays.

## **SECTION 414.01. SWIMMING POOLS.**

**Subd. 1. Definition.** For purposes of this Section a swimming pool is defined as any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing and having a depth of more than 24 inches at any point and a surface area exceeding 150 square feet.

### **Subd. 2. Fencing Required Around Outdoor Residential Swimming Pools.**

- A. All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four, but not more than six, feet high and located at least four feet from the edge of the pool. The bottom of the fence or wall shall be no higher than four inches above the surface of the ground. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.
- B. The enclosure for outdoor swimming pools may utilize a wall or walls of a house or building as a part thereof provided the wall or walls are at least six feet high and the enclosure is completed by a fence or wall conforming to the provisions of subparagraph A hereof.
- C. This Subdivision and the fencing requirements contained herein do not apply to: (1) above-ground outdoor swimming pools having at least four foot high, vertical or outward inclined sidewalls, provided sole access is by means of a removable ladder, ramp, or stairs which must be removed when the pool is not in use; (2) swimming pools which are wholly enclosed within a building or structure.

### **Subd. 3. Electrical Requirements.**

- A. All electrical installations provided for, installed and used in conjunction with residential swimming pools shall be in conformance with this code.
- B. No electrical conductors carrying current shall cross residential swimming pools, or be installed underground within 15 feet of such pools.
- C. All metal fences, enclosures, or railings near or adjacent to residential swimming pools, which might become electrically alive as a result of contact with broken overhead conductors, or from any other cause, shall be effectively grounded.
- D. Lighting for the pool shall be directed toward the pool and not toward adjacent property.

**Subd. 4. Location.** No portion of a swimming pool or appurtenances thereto shall be located at a distance less than 10 feet from any side or rear property line, nor in front of the building line, nor in a location that does not conform with applicable setback standards, whichever is more restrictive.