

CITY OF HASTINGS, MINNESOTA

ORDINANCE NO. 2008-11, THIRD SERIES

*AN ORDINANCE OF THE CITY OF HASTINGS, MINNESOTA
AMENDING CHAPTER 114 OF THE HASTINGS CITY CODE PERTAINING TO MASSAGE AND
ADULT USES AND AMENDING PROVISIONS OF THE ZONING CODE CHAPTER 155
PERTAINING TO ADULT USES*

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HASTINGS AS FOLLOWS:

Chapter 114 of the Hastings City Code is hereby amended and Sections 114.20 through 114.27, inclusive, are deleted in their entirety and replaced as follows:

Section 114.20 Authority, Purpose and Intent.

- (A) Authority. The United States Supreme Court has ruled that sexually-explicit speech, including nude dancing, is entitled to some level of protection under the First Amendment to the United States Constitution. As a result, municipalities may not ban adult establishments. However, the Supreme Court has ruled that cities may adopt content-neutral zoning and licensing provisions to regulate and control the adverse secondary effects of adult establishments on the community.
- (B) Findings of the City Council. The Minnesota Attorney General's Office and the cities of St. Paul, Alexandria, and Rochester, Minnesota, as well as St. Croix County, Wisconsin have conducted studies of the impact of adult establishments on their respective 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 Hastings is relying on the studies, many of which were conducted in larger cities, recognizing that the same or similar adverse impacts could occur in a smaller city such as the City of Hastings. The findings are based on the experiences of other cities where such businesses have located. Based on these studies, the City Council makes the following findings regarding the need to regulate adult establishments:
1. Adult establishments have adverse secondary impacts of the types set forth above.
 2. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by location and licensing requirements.
 3. The city may adopt regulations to promote the public health, safety, morals and general welfare.
 4. The public health, safety, morals and general welfare will be promoted by regulations governing adult establishments.
 5. Adult establishments can contribute to increased criminal activity and police calls in the area in which they are located, taxing law enforcement services.
 6. 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.
 7. 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.

8. Many members of the public perceive areas within which adult establishments are located as less safe than other areas that do not have such uses.
 9. The adverse impact that adult establishments have on the surrounding area diminishes as the distance from the adult establishments increases.
 10. A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable regulation on the owners, operators, employees and performers of the adult establishment. A licensing procedure will place an incentive on the operators to see that the adult establishment is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually-oriented business, fully in possession and control of the premises and activities occurring therein.
 11. The fact that an applicant for an adult use license has been convicted of a sexually-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance.
 12. The barring of individuals with sexually-related criminal convictions from the management and operation of adult establishments for a period of years serves as a deterrent to and prevents conduct which may lead to the transmission of sexually-transmitted diseases.
 13. The general health, safety, and welfare of the community is promoted by prohibiting nudity in adult establishments. This prohibition is based on concerns of potential adverse effects such as prostitution, the transmission of sexually-transmitted diseases, exposure to minors, obscenity and unsanitary conditions in public areas.
 14. Small cities experience many of the same adverse impacts of adult establishments present in larger communities.
- (C) 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:
1. Prevent criminal activity within the City;
 2. Allow for efficient and effective law enforcement services in the City;
 3. Prevent deterioration of neighborhoods and its consequences adverse effect on real estate values of properties within the neighborhood.
 4. Locate adult establishments away from residential areas, schools, parks and places of worship;
 5. Provide a content-neutral, objective, licensing scheme that allows the City to monitor adult establishments for violations of building and health codes; and
 6. Prevent ownership of adult establishments by persons with prior, relevant criminal convictions.
- (D) Reasonable Opportunity. The provisions of this Ordinance do not prohibit adult establishments from having a reasonable opportunity to locate in the city. This Ordinance is not for the purpose of, nor is it intended to, impose a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is neither 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 or exhibitors of adult-oriented entertainment to their intended market.

Section 114.21 Definitions. For the purposes of this Ordinance the terms defined in this section have the meanings given them.

- (A) “Adult Establishment” means:
1. 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
 2. any business that engages in any Adult Use as defined in section 114.21(B).
- (B) “Adult Use” means any of the activities and businesses described below:
1. “Adult Body Painting Studio.” 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.
 2. “Adult Bookstore.” 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 a 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.
 3. “Adult Cabaret.” A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (a) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (b) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
 4. “Adult Companionship Establishment.” A business or establishment that provides the service of engaging or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 5. “Adult Conversation/Rap Parlor.” A business or establishment that provides the services of engaging or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 6. “Adult Health/Sport Club.” A health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 7. “Adult Hotel or Motel.” 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.
 8. “Adult Massage Parlor/Health Club.” A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
 9. “Adult Modeling Studio.” 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.

10. “Adult Motion Picture Arcade.” 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.
 11. “Adult Motion Picture Theater.” A motion picture theater 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.
 12. “Adult Novelty Business.” 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 of merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.
 13. “Adult Sauna.” A sauna 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.
 14. “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, 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.
- (C) “Nude” or “Specified Anatomical Areas” means:
1. 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
 2. Human male genitals in a discernibly turgid state, even if completely opaquely covered.
- (D) “Specified Sexual Activities” means:
1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal;
 2. Sadoomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed;
 3. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed; and
 4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
- (E) “Substantial or Significant Portion” means 10% or more of floor area or 350 square feet, whichever is less, or 20% of gross receipts.
- (F) “Premises” means the real property and all building and structures located on the real property.

- (G) “Accessory Adult Establishment” means any business which maintains any inventory, stock in trade, or publicly-displayed merchandise, or devotes any 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 any 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, and which is not an Adult Establishment as defined in 114.21(A) above.

Section 114.22 Application of this Ordinance.

- (A) Other Laws. No Adult Establishment or Accessory Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in the establishment that is prohibited by an ordinance of the City of Hastings, the laws of the State of Minnesota, or the laws of 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 specified materials to minors.
- (B) Existing Adult Establishments. Except as otherwise provided in this Ordinance, existing Adult Establishments and Accessory Adult Establishments must comply with all requirements of this Ordinance immediately upon its effective date.

Section 114.23 Hours of Operation. No Adult Establishment shall be open to the public from the hours of 1:00 a.m. until 8:00 a.m. weekdays and Saturdays, and from the hours of 1:00 a.m. to 12:00 p.m. (noon) on Sundays.

Section 114.24 Operation. Adult Establishments and Accessory Adult Establishments are subject to the following business regulations.

- (A) Off-site Viewing. An Adult Establishment or Accessory Adult Establishment must prevent off-site viewing of its merchandise or any materials depicting, describing or relating to “Specified Sexual Activities” or “Specified Anatomical Areas” by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
- (B) Prohibition on Liquor.
1. Adult Establishments shall not sell or dispense intoxicating liquor or 3.2 percent malt liquor nor shall the Adult Establishment be located in a building or on a premises that contains a business that sells or dispenses intoxicating liquor or 3.2 percent malt liquor.
 2. The sale and consumption of alcohol is prohibited on the premises of an Adult Establishment, including, but not limited to, any parking areas or lots that are owned or leased by the Adult Establishment or its owner, or used by patrons when they are at the Adult Establishment.
 3. No Adult Establishments may be operated in a building or structure lying immediately adjacent to, or having a common wall with, a business that sells or dispenses intoxicating liquor or 3.2 percent malt liquor.
- (C) Entrances. All entrances to an Adult Establishment, 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.

- (D) Layout. The layout of any display areas shall be designed so that the management of the Adult 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 materials, or any live dancers or entertainers. Booths, partitions and curtains which interfere with such observations are prohibited. Accessory Adult Establishments must maintain all inventories of 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 in a separate room in clear view of management personnel to prevent access by minors.
- (E) Illumination. Illumination of the premises exterior of Adult Establishments shall be adequate to observe the location and activities of all persons on the exterior premises.
- (F) Signs. Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation. Interior and exterior advertising of Accessory Adult Establishments is prohibited. An Adult Establishment must prominently display at the entrance of the business, or no more than two feet from the door-opening device of the establishment, a sign that states "This business sells or displays materials containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign must contain letters between three-eighths (3/8) inch and two (2) inches in height.
- (G) Access by Minors. No minor shall be permitted on the premises of an Adult Establishment. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor, or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the licensed premises.
- (H) Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 1. No dancer, live entertainer or performer shall be under 18 years old.
 2. All dancers, live entertainers and performers must be licensed pursuant to this Ordinance.
 3. 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 and which provides at least 10 feet of separation between the patrons and all dancers, live entertainers and performers.
 4. No dancer or performer shall fondle, caress, or touch any patron or other dancer or performer and no patron shall fondle, caress, or touch any dancer or performer.
 5. All soliciting, payment and exchange of gratuity, exchange of money or any other items between performers, patrons, or others involved in live entertainment is prohibited.
- (I) No Nudity. No person may be nude on the premises of any Adult Establishment or Accessory Adult Establishment.

Section 114.25 License Required.

- (A) License Required – Adult Establishment or Accessory Adult Establishment. It is unlawful for any person or entity to own, lease, rent, manage or operate an Adult Establishment or Accessory Adult Establishment without a valid license issued by the City pursuant to this Ordinance.
- (B) License Required – Dancer, Live Entertainer or Performer. It is unlawful for any person to perform as a dancer or live entertainer within an Adult Establishment without a valid license issued by the City pursuant to this Ordinance.
- (C) Existing Businesses. Within ten (10) working days of the effective date of this Ordinance, any existing Adult Establishment or Accessory Adult Establishment must

apply for a license from the City. Failure to apply for a license is a violation of this Ordinance and is subject to penalty under Section 114.36. An existing Adult Establishment or Accessory Adult Establishment may continue to operate pending review of the license application by the City.

Section 114.26 License Applications. An application for an Adult Establishment or Accessory Adult Establishment license must be made on a form provided by the City. The completed application must contain the information in (A) to (E) below:

(A) All applicants. For all applicants:

1. Whether the applicant is a natural person, corporation, partnership, or other form of organization.
2. The legal description of the premises to be licensed, along with a sketch or diagram showing the floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan 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.
3. The name and street of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minn. Stat. §333.01 shall be submitted.
4. Whether the applicant has had a previous Adult Establishment or Accessory Adult Establishment license suspended or revoked.

(B) Applicants who are natural persons. If the applicant is a natural person:

1. The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.
2. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
3. The street and city addresses at which the applicant has lived during the preceding two years.
4. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two years.
5. Whether the applicant has ever been convicted of a gross misdemeanor or felony or any crime relating to sex offenses, obscenity offenses, or Adult Establishments.

(C) Applicants that are partnerships. If the applicant is a partnership:

1. The name(s) and address(es) of the partnership, the name(s) and address(es) of all partners and all of the information concerning each partner that is required of applicants in paragraph (B) of this section.
2. Whether the partnership is general or limited.
3. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minn. Stat. §333.01, a certified copy of the certificate shall be attached to the application.

(D) Corporate or other applicants. If the applicant is a corporation or other organization:

1. The name of the corporation or business form, and if incorporated, the date and state of incorporation.
2. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and Bylaws shall be attached to the application. If the applicant is a foreign

corporation, a Certificate of Authority as required by Minn. Stat. §303.06, shall be attached. If the entity is a limited liability company, then true and accurate copies of the Articles of Organization and any Membership Agreements shall be attached to the application.

3. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in paragraph (B) of this section.
 4. Accurate and complete business records showing the names, addresses, and dates of birth of all officers, directors and controlling stockholders for the business.
 5. The name of the registered corporate agent and the address of the registered office for service of process.
- (E) Changes in information provided on the application. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city clerk in writing. A failure by an applicant or licensee to report such a change may result in denial or revocation of a licensee.
- (F) License Application – Dancer, Live Entertainer or Performer. An application for a Dancer, Live Entertainer or Performer license must be made on a form provided by the City. The completed application must contain the following information:
1. Proof of the applicant's age.
 2. The name, place, and date of birth, street, city and mailing address, and phone number of the applicant.
 3. Whether the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
 4. The street and city addresses at which the applicant has lived during the preceding two years.
 5. Whether the applicant has ever been convicted of a gross misdemeanor or felony or any crime relating sex offenses, obscenity offenses, or Adult Establishments.

Section 114.27 Disqualifications and Requalifications.

- (A) The City will issue an Adult Establishment or Accessory Adult Establishment license to an applicant within 30 days of the application unless one or more of the following conditions exist:
1. The applicant is under age 21;
 2. The applicant failed to supply all of the information requested on the license application;
 3. The applicant gives false, fraudulent, or untruthful information on the license application;
 4. The applicant has been convicted of a misdemeanor relating to sex offenses, obscenity offenses, or Adult Establishments, a gross misdemeanor relating to sex offenses, obscenity offenses, or Adult Establishments, or a felony relating to sex offenses, obscenity offenses, or Adult Establishments.
 5. The Adult Establishment or Accessory Adult Establishment is not in full compliance with the Hastings City Code and all provisions of state and federal law;
 6. The applicant has not paid the required license fee;
 7. The applicant has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or such license has been suspended or revoked, within the preceding twelve (12) months;
 8. The applicant is not the proprietor of the establishment for which the license is issued; or

9. The Adult Establishment premises holds an intoxicating liquor, beer or wine license, or a license as a tanning, tattoo, pawn shop or therapeutic massage premises.
- (B) An Adult Establishment or Accessory Adult Establishment license applicant may qualify for a license:
1. After one year has elapsed in the case of a previous license revocation;
 2. After two years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor or gross misdemeanor offense;
 3. After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or
 4. After five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or a combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.
- (C) The City will issue a Dancer, Live Entertainer or Performer license to an applicant within 30 days of the application unless one or more of the following conditions exist:
1. The applicant is under age 18;
 2. The applicant failed to supply all of the information requested on the license application;
 3. The applicant gives false, fraudulent, or untruthful information on the license application;
 4. The applicant has been convicted of a misdemeanor relating to sex offenses, obscenity offenses, or Adult Establishments, a gross misdemeanor relating to sex offenses, obscenity offenses, or Adult Establishments, or a felony relating to sex offenses, obscenity offenses, or Adult Establishments;
 5. The applicant has not paid the required license fee; or
 6. The applicant is shown to have committed an act which resulted in suspension or revocation of an Adult Establishment or Accessory Adult Establishment license.
- (D) A Dancer, Live Entertainer or Performer license applicant may qualify for a license:
1. After one year has elapsed in the case of a previous license revocation;
 2. After two years have elapsed since the date of a conviction or the date of release from confinement in the case of a misdemeanor or gross misdemeanor offense;
 3. After five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense; or
 4. After five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is later, if the conviction is of two or more misdemeanor or gross misdemeanor offenses or a combination of misdemeanor or gross misdemeanor offenses occurring within any 24-month period.

Section 114.28 Expiration and Renewal.

- (A) Expiration. All licenses issued pursuant to this Chapter expire at the end of the calendar year.
- (B) Renewal. A licensee may renew a license by completing an application as provided in section 114.26.

Section 114.29 Suspension.

- (A) Causes of Suspension. The City may suspend a license for a period not to exceed 60 days if it determines that the licensee or an employee of a licensee has:
1. Violated or is not in compliance with any provision of this Ordinance;

2. Allowed or engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel;
 3. Refused to allow an inspection of the Adult Establishment or Accessory Adult Establishment as authorized by this Ordinance; or
 4. Knowingly permitted unlawful gambling by a person on the Adult Establishment premises.
- (B) 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.

Section 114.30 Revocation.

- (A) Suspended Licenses. The City may revoke a license if a cause of suspension in Section 114.29 occurs and the license has been suspended at least once before within the preceding 14 months.
- (B) Causes of Revocation. The City may revoke a license if it determines that:
1. A licensee gave false or misleading information in the material submitted to the City during the application process;
 2. A licensee or an employee knowingly allowed possession, use, or sale of controlled substances on the premises;
 3. A licensee or an employee has knowingly allowed prostitution on the premises;
 4. A licensee or an employee knowingly operated the Adult Establishment or Accessory Adult Establishment during a period of time when the licensee's license was suspended;
 5. A licensee has been convicted of an offense listed in the applicable provisions of section 114.27, for which the time period required in section 114.27 has not elapsed; or
 6. Except in the case of an Adult Hotel or Motel, a licensee or an employee knowingly allowed an act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- (C) Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (D) 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, an Accessory Adult Establishment license, or a Dancer, Live Entertainer or Performer 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 due to a criminal conviction under the applicable provisions of section 114.27, an applicant may not be granted another license until the appropriate number of years required under section 114.27 have elapsed.

Section 114.31 Procedures for Appeal. Non-renewals and revocation of all licenses issued pursuant to this Chapter are governed by the following:

- (A) Notice and Hearing. In the event that the City proposes not to renew or revoke a license, the City will notify the licensee in writing of the basis for the action. The council will hold a hearing for the purpose of determining whether or not to renew or revoke the

license. The hearing must be held within 30 days of the date of the notice. The city council must determine whether or not to renew 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) Revocation. If the council determines to revoke a license, the 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 revocation is stayed until the conclusion of such action.
- (C) Non-renewal. 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 the 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) Prompt Judicial Review. After denial of an application or a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction. The court shall promptly review such action.

Section 114.32 Posting. The license, if granted, must state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the Adult Establishment or Accessory Adult Establishment, if applicable. The license must be posted in a conspicuous place at or near the entrance to the Adult Establishment or Accessory Adult Establishment.

Section 114.33 Fees.

- (A) The annual license fee for Adult Establishments and Accessory Adult Establishments is \$2,000.00. The annual fee for a Dancer, Live Entertainer or Performer license is \$100.00. If eight (8) months of any licensing year have elapsed when an application is made, the fee shall be reduced to one-half of the regular amount. The fee is non-refundable. The City may also require the applicant to escrow additional funds sufficient for the City's cost of research and performing background checks.

Section 114.34 Inspections.

- (A) 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 or Accessory 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.
- (B) Refusal to Permit Inspections. Refusal to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, or building inspector at any time it is occupied or open for business is a violation of this Ordinance. Refusal to permit inspections may result in non-renewal, suspension or revocation of the license.
- (C) Exceptions. The provisions of this section do not apply to areas of an Adult Hotel or Motel that are currently being rented by a customer for use as permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.

Section 114.35 Transfer of License. A licensee shall not transfer a license to another, nor shall a licensee operate an Adult Establishment or Accessory Adult Establishment under the authority of a license at any place other than the address designated in the application.

Section 114.36 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. The City may also enforce any provision of this Ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

Section 114.37 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.

Further, Chapter 155 of the Hastings City Code is hereby amended and Section 155.32 is deleted in its entirety and replaced as follows:

155.32 C-4 REGIONAL SHOPPING CENTER

(A) *Intent.* The intent of this chapter in establishing a regional shopping center district is in recognition of future needs for one or more large commercial areas to serve the city and surrounding areas.

(B) *Uses permitted.* All uses permitted in C-3 Community Regional Commerce District.

(C) *Uses by special permit.*

(1) All uses permitted by special use in the C-3 Community Regional Commerce District and the following.

(2) Adult Establishments and Accessory Adult Establishments (as defined in Chapter 114) subject to the following minimum requirements:

(a) Adult Establishments and Accessory Adult Establishments shall be located at least 500 feet away from any residential property;

(b) Adult Establishments and Accessory Adult Establishments shall be located at least 500 feet away from any church, school, library, park and public recreation area;

(c) Adult Establishments and Accessory Adult Establishments shall be located at least 500 away feet from any other Adult Establishment or Accessory Adult Establishments; and

(d) Adult Establishments and Accessory Adult Establishments shall obtain all city licenses required in Chapter 114 before commencing operation.

(3) Towers as regulated by § 155.07.
(Prior Code, § 10.21)

(4) (a) Temporary auto sales may be allowed to support the activities of a non-profit community organization (such as a fundraiser for a sports team or school). Each auto dealership may be allowed 1 sale per year, with the sale not to exceed 14 calendar days per year. Each parcel of land in the C-4 district is allowed 1 sale per year. If a business consists of more than 1 parcel, only 1 sale may be allowed.

(b) The following shall be considered in granting a special use permit:

1. The effect on the total number of parking spaces at the business the sale is held.
2. The effect of the ingress and egress at the parking lot.
3. The effect on accessibility of emergency services.
4. The effect on neighboring businesses or residential areas from an increase in traffic.

(Am. Ord. 555, 2nd Series, passed 8-7-2006; Am. Ord. 2007-02, 3rd Series, passed 7-16-2007)
Penalty, see § 10.99

Council member Slavik moved a second to this Resolution, and upon being put to a vote it was unanimously adopted by all Council members present.

Adopted by the Hastings City Council on this 15th day of September, 2008, by the following vote:

Ayes: Mayor Hicks, Councilmembers Alongi, Hazæet, Hollenbeck, Riveness, Schultz and Slavik

Nays: None

Absent: None

CITY OF HASTINGS



Paul J. Hicks, Mayor

ATTEST:



Melanie Mesko Lee, City Clerk

I hereby certify that the above is a true and correct copy of the Resolution presented to and adopted by the City of Hastings, County of Dakota, Minnesota, on the 15th day of September, 2008, as disclosed by the records of the City of Hastings on file and of record in the office.



Melanie Mesko Lee,
City Clerk