

MARTIN COUNTY
ADULT USE
ORDINANCE

Section 1. Preamble

101 STATUTORY AUTHORIZATION

Subpart 1. Statutory Authorization. The Adult Use Ordinance is adopted pursuant to the authority delegated to Martin County by Minnesota Statutes, Chapter 394, commonly known as the Minnesota County's Planning and Zoning Enabling Legislation and as amended.

Subpart 2. Findings and Purpose. This section is intended to regulate "adult uses", those 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.

This Ordinance is adopted for the purpose of protecting the best interest of the public health, safety, comfort, convenience and general welfare of the citizens of Martin County.

Section 2. Title and Short Title

201 Title

Pursuant to Minnesota Statutes, Chapter 394, the Planning and Zoning Enabling Legislation, the Martin County Board of Commissioners ordains this document the Martin County Adult Use Ordinance.

202 Short Title

This Ordinance shall be known, and may be referred to, as the Adult Use Ordinance. When referred to herein, it shall be known as "this Ordinance."

Section 3. Implementation

301 Jurisdiction

The provisions of this Ordinance shall apply to all adult uses located in unincorporated areas within the boundaries of Martin County.

302 Compliance

All adult uses shall be in full compliance with requirements of this ordinance; the Martin County Zoning Ordinance, the Martin County Sewage

& Wastewater Treatment Ordinance, other applicable provision of County, State, or Federal laws, and applicable fire, health, and/or safety codes.

303 Non-Conforming Adult Uses

Non-conforming adult uses shall be subject to the provision contained in the Martin County Zoning Ordinance, Non-conforming Uses.

304 Enforcement

The Martin County Board, the Martin County Sheriff, and the Land Use Administrator are responsible for the enforcement of this Ordinance.

305 Penalty

Any person, firm or corporation who shall violate any of the provisions hereof, or who shall fail to comply with any of the provisions hereof, or who shall make any false statement in any document required to be submitted under the provision hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

In addition, Martin County may sue for injunctive relief on any violation, or to prevent a violation, or may suspend and/or revoke any permits issued by the Board with cause.

306 Interpretation

In the interpretation and application, the provisions of this Ordinance shall be interpreted to protect the public health, safety and welfare of the citizens of Martin County by providing for the regulation of adult uses. This Ordinance is not intended to limit or repeal any other powers granted to Martin County by the State of Minnesota.

307 Severability

If a court of competent jurisdiction adjudges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

308 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

309 Referral to Other Laws

If any section of this Ordinance references another Ordinance, Statute, Rule, or other provision of law, the reference shall be for that other provision of law as currently enacted and as it may be amended or re-codified in the future.

Section 4. Definitions

401 Word Usage

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the words “must” and “shall” are mandatory and not permissive.

For the purposes of this section, the following definition shall apply:

- (1) **Adult Uses.** Adult uses include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, 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.
- (2) **Adult Bookstore.** A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, “Substantial or significant portion of items,” for the purposes of this ordinance, shall mean more than fifteen (15) percent of usable floor area.
- (3) **Adult Cabaret.** A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of 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 “specified sexual activities” or “specified anatomical areas.”

- (4) **Adult Conversation/Rap Parlor.** A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (5) **Adult Health/Sports Club.** A health/sports club, which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (6) **Adult Massage Parlor.** A massage parlor which restricts minors by reason of age, or which provides the service of “massage”, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- (7) **Adult Mini-Motion Picture Theater.** A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- (8) **Adult Motion Picture Theater.** A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- (9) **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 is provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
- (10) **Liquor License.** Any of the following licenses issued or approved by the County of Martin pursuant to Minnesota Statute, Chapter 340A:
 - A. On-sale or Off-sale 3.2 percent Malt Liquor License, or
 - B. On-sale or Off-sale Intoxicating Liquor License, or
 - C. On-sale Wine License, or

- D. Consumption and Display Permit (set-ups).**
- (11) Minor.** Person(s) under eighteen (18) years of age.
- (12) Specified Anatomical Areas.**
1. Less than completely and opaquely covered:
 - a. Human genitals;
 - b. Pubic region;
 - c. Buttocks; and,
 - d. Female breast 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.
- (13) Specified Sexual Activities.**
1. Human genitals in a state of sexual stimulation or arousal;
 2. Acts of human masturbation, sexual intercourse or sodomy; and
 3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Section 5. Location Requirements

- (A)** Adult Uses shall be permitted in areas zoned “HB, “I”, provided the following requirements are met:

No adult uses shall be located within one thousand (1000) feet of:

- (1) Any area zoned “R-1”, “SL-1”, “SL-2”, “SL-B”, “SL-C”.
 - (2) Any school, as defined in Minnesota Statutes 120.101.
 - (3) Any church or church related organization.
 - (4) Any licensed daycare facility, or any residential/nonresidential program, as defined in Minnesota Statutes 245A.02.
 - (5) Any hotel or motel.
 - (6) Any public park.
 - (7) Hospitals/Clinics
 - (8) Any youth establishment
 - (9) Any nursing home
- (B)** Adult uses shall not be established or maintained as a permitted, conditional or accessory use in any area other than those described in paragraph (A) above.

Section 6. Additional Building Placement Restrictions

The Adult Use Ordinance Regulations of the Martin County Zoning Ordinance, contains standards that are additional to those set forth in other sections of the Ordinance. Minimum setbacks from roads, minimum lot and building dimensions, shall be determined by referring to the specific standards set forth in the underlying zoning districts (e.g., “HB”, “I”). In the event of a conflict between the setbacks listed in this ordinance and those listed in other appropriate section of the zoning ordinance, the most restrictive setback shall apply.

Section 7. Adult Use Operational Restrictions

701 General Provisions. Adult uses as defined in Section 401 of this Ordinance shall be subject to the following provisions:

- A.** No person(s) under eighteen (18) years of age shall be permitted in any adult use-principal premises, enterprise, establishment, business or place.
- B.** No liquor license, as defined, shall be issued to any adult use related premises, enterprise, establishment, business, or place open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, description of, or participation in “specified sexual activities” or “specified anatomical areas.”
- C.** No adult use related premises, enterprise, establishment, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be consumed on the premises of such premises, enterprise, establishment, business, or place.
- D.** Activities classified as obscene are not permitted and are prohibited. In no instance shall the application or interpretation of this Ordinance be construed to allow an activity otherwise prohibited by law.
- E.** Adult uses, either principal or accessory, shall be prohibited from locating in any building that is also utilized for residential purposes.

- F. The owner/operator shall hire and employ their own security personnel who shall provide crowd control to maintain orderly conduct at such establishment. These employees are not required to be law enforcement personnel.
- G. Off-street parking shall be provided.

Section 8. Repeal and Adoption

801 Repeal

It is not intended by this Ordinance to repeal any Ordinance. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

802 Public Hearing and Planning Commission Recommendation

The Martin County Planning Commission, after proper notice and publication, held a public hearing on the adoption of this Ordinance and as amended on the 25th day of May 2004, at the Martin County Courthouse. After hearing public testimony and with due deliberation, the Planning Commission voted to recommend adoption of this Ordinance to the Martin County Board of Commissioners.

803 Adoption

The Martin County Board of Commissioners, after proper notice and publication, held a public hearing on the adoption of this Ordinance on the 15th day of June 2004, at the Martin County Courthouse. After hearing public testimony and with due deliberation, the Martin County Board of Commissioners voted to adopt this Ordinance.

Adopted this 15th day of June 2004.

Jack Potter
Chairperson, Martin County Board of Commissioners

Attest:

Scott Higgins
Martin County Coordinator