



Inspections Department
Administrative Division

Enclosed is an informational packet for the 2012 Sexually Oriented License. The packet contains the 2012 license application, general requirements for all licensing and specific requirements for the sexually oriented business license.

You will need to complete the application and return with payment before January 1, 2012. Any application received after January 1, 2012 will be subject to a late fee of either \$25 or 20%, whichever is greater.

The council approved all fees at the October 3, 2011 meeting. The 2012 license fee is \$125 for low impact.

Payment is due at the same time the application is submitted. The application must be postmarked no later than December 31, 2011. Any applications received after that date will be subject to the late fee. We have the capability of accepting cash, check (payable to the City of St. Louis Park) or credit card (Visa, MasterCard, Discover, and American Express are accepted).

The City has received notice from the Minnesota Department of Labor and Industry that all licensed establishments must complete and submit a "Certificate of Compliance" form proving evidence of compliance with the workers' compensation insurance coverage requirement by MN Statutes Chapter 176. This **signed form is in addition** to any other required license insurance certificates and will be required with license renewals each year going forward. **Please complete and sign the enclosed form and return with your license application.**

If your Workers' Compensation policy is ever cancelled within the license period, you are required to notify the City by resubmitting this form. If you have any questions regarding the new policy please contact the Minnesota Department of Labor and Industry at 651-284-5005.

Please contact the Inspections Department at 952-924-2588 with any questions you may have regarding the 2012 Sexually Oriented Business license requirements or application.

The Inspections Department

St. Louis Park MINNESOTA

2012 Sexually Oriented Business License Application

Business Information: (Name and address of business located in St. Louis Park)

Business Name _____ Contact Name _____

Address _____

Phone () _____ FAX () _____ Alternate () _____

Corporate Information: (if information is different than listed above)

Corporate Name _____ Contact Name _____

Address _____

Phone () _____ FAX () _____ Alternate () _____

Must be completed by the applicant

Federal Tax ID No. _____ MN State Tax ID No. _____

Social Security No. (if Tax ID numbers are not available) _____

License Fees: Limited Impact - \$125
High Impact - \$4,500
Investigative Fee (High Impact only) \$500

Business License Fee: _____ **Late Fee (if applicable):** _____

Some or all of the information that you are asked to provide on the application is classified by State law as either private or confidential. Private data is information which generally cannot be given to the public but can be given to the subject of the data. Confidential data is information which generally cannot be given to either the public or the subject of the data. Our purpose and intended use of this information is to annually update our records and records of other governmental agencies required by law. If you refuse to supply the information, the license may not be issued.

The Undersigned acknowledges that this application has been read and that the above is correct and agrees to comply with all the ordinances and laws of the City of St. Louis Park code.

Applicant's Signature _____ **Date** _____

Office Use Only

Total Fee Paid: _____ Lic # _____ WC

Form of Payment: Check # _____ Charge _____ Cash _____ Date Issued _____ Initials _____

Zoning Approval _____ Inspections Approval _____ New Business

City of St. Louis Park * Inspections Department * 5005 Minnetonka Blvd * St. Louis Park, MN 55416
Phone 952-924-2588 * Fax 952-924-2663 Website www.stlouispark.org

Minnesota Department of Labor and Industry
 Construction Codes and Licensing Division
 Licensing and Certification Services
 443 Lafayette Road North
 St. Paul, MN 55155
 Phone: (651) 284-5034
 Fax: (651) 284-5743
 www.dli.mn.gov
 dli.license@state.mn.us

Certificate of Compliance Minnesota Workers' Compensation Law

**THIS FORM MUST BE COMPLETED AND SIGNED BY ALL
 BUSINESS TYPES**

PRINT IN INK or TYPE.

Minnesota Statutes, Section 176.182 requires every state and local licensing agency to withhold the issuance or renewal of a license or permit to operate a business or engage in any activity in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of Minnesota Statutes, Chapter 176. If the required information is not provided or is falsely stated, it shall result in a \$2,000 penalty assessed against the applicant by the commissioner of the Department of Labor and Industry.

A valid workers' compensation policy must be kept in effect at all times by employers as required by law.

CONTRACTOR'S LICENSE or CERTIFICATE NO (if applicable)	BUSINESS TELEPHONE NO.	FAX TELEPHONE NO.
BUSINESS NAME (Use the person(s) name if business structure is sole proprietor or partnership (i.e., John Doe, or John Doe and Jane Doe), otherwise it is the legal name of the business entity.)		
DBA ("doing business as" or also known as an assumed name) (if applicable)		
BUSINESS ADDRESS (must be physical street address, no PO boxes)	CITY	STATE ZIP CODE
COUNTY	E-MAIL ADDRESS	

YOUR LICENSE OR CERTIFICATE WILL NOT BE ISSUED WITHOUT THE FOLLOWING INFORMATION. You must complete number 1 or 2 below.

NUMBER 1 – Workers' compensation insurance policy information

INSURANCE COMPANY NAME (not the insurance agent)

POLICY NO.	EFFECTIVE DATE	EXPIRATION DATE
------------	----------------	-----------------

NUMBER 2 – Reason for exemption from workers' compensation insurance

I am not required to have workers' compensation insurance coverage because:

I have no employees.

I am self-insured for workers' compensation (include a copy of authorization to self-insure from the Minnesota Department of Commerce).

I have employees but they are not covered by the workers' compensation law. (See Minn. Stat. § 176.041 for a list of excluded employees.) Explain why your employees are not covered:

Other: _____

I certify that the information provided on this form is accurate and complete.

APPLICANT SIGNATURE (mandatory)	TITLE	DATE
---------------------------------	-------	------

NOTE: You must notify us if there is any change to your Workers' Compensation Insurance Information or Employee Status Change by resubmitting this form.
 This material can be made available in different forms, such as large print, Braille or on a tape. To request, call 1-800-342-5354 (DIAL-DLI) Voice or TDD (651) 297-4198.

ARTICLE I. IN GENERAL

Sec. 8-1. Definitions.

High impact sexually-oriented business means any business with materials or entertainment provided to the public which are principally related to sexual stimulation or gratification other than a limited impact sexually-oriented business. Examples of a high impact sexually-oriented business include the following:

- (1) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, exhibited or otherwise provided for use or entertainment on business premises;
- (2) A business where specified sexual activities are explicitly, verbally described or shown;
- (3) A business where specified anatomical areas are explicitly, verbally described or shown;
- (4) A business providing sexually-oriented materials for off-site use or entertainment, which has a separate area but does not meet the size of other restrictions to qualify as a limited impact sexually-oriented business; and
- (5) A business providing sexually-oriented materials for off-site use or entertainment where the sexually-oriented materials are dispersed within the business rather than isolated in a separate area.

Limited impact sexually-oriented business means a business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided to the public and which meets the following restrictions:

- (1) All sexually-oriented materials must be provided for use or entertainment off the business premises only;
- (2) All sexually-oriented materials must be provided from a separate area to which persons under the age of 18 years are prohibited access;
- (3) The separate area may not exceed a maximum of 20 percent of the retail floor area of the establishment, or 300 square feet, whichever is less;
- (4) No person outside the separate area shall be able to perceive or observe and sexually-oriented materials at any time, including when someone is entering or exiting the separate area, shopping or purchasing sexually-oriented materials;
- (5) A sign must be displayed on the entrance to the separate area which shall read: "No person under the age of 18 is allowed in this area." The sign letters shall be a minimum of two inches high; and
- (6) The entry into the separate area shall be visible to an employee of the business at all times.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 8-31. Application of article.

The general provisions provided under this article shall apply to all licenses required under this chapter unless otherwise provided under the applicable licensing criteria.

(Ord. No. 2181-00, § 4(16-101), 11-6-2000)

Sec. 8-32. Required.

It is unlawful for any person to engage in any business or activity for which a license or permit is required by any provision of this chapter or any other law or ordinance of the city without first obtaining the license or permit required under this chapter.

(Ord. No. 2181-00, § 4(16-103), 11-6-2000)

Sec. 8-33. Fees.

Except as otherwise provided in this chapter, all fees for licenses under this chapter, including investigation fees, shall be fixed and determined by the city council, adopted by resolution and uniformly enforced. Such license fees may, from time to time, be amended by council resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file by the city and open to inspection during regular business hours. In the case of contractor, business and

animal licenses, license applications received within the last 30 days of the license term will be issued a license for the following year in the fee amount set for the following calendar year.

(Ord. No. 2181-00, § 4(16-104), 11-6-2000)

Sec. 8-34. Refunds.

No part of a paid license fee shall be refunded, except as otherwise provided in this chapter or by state law.

(Ord. No. 2181-00, § 4(16-105), 11-6-2000)

Sec. 8-35. Applications.

(a) All applications for licenses under this chapter shall be made upon forms furnished by the city for such purpose. All information required on the application form must be completed by the applicant for the application to be considered by the city. All applications for a license under this chapter shall be signed and sworn to. If the application is that of a natural person, the application shall be signed and sworn to by such person; if that of a corporation, by an officer of the corporation; if that of a partnership, by one of the general partners of the partnership; and if that of an unincorporated association, by the manager or managing officer of the unincorporated association.

(b) All initial applications which require an investigation shall be accompanied by payment of a nonrefundable investigation fee which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code, to cover the cost of the investigation, if required by the specific provisions of the individual license.

(c) All applications shall be accompanied by the required fee and any and all other information or documentation required for issuance of the specific license.

(d) It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement or willful omission will result in automatic denial of the license, or if the license has already been issued, will render any license or permit void, and shall constitute an automatic revocation of the license without further action by the city council.

(e) The city may investigate the truth of statements made in an application as deemed necessary. The city may enlist the aid of the police department for such investigation.

(Ord. No. 2181-00, § 4(16-106), 11-6-2000)

Sec. 8-36. Refusal, suspension, revocation and reinstatement.

Except as otherwise provided in this chapter, the city may refuse, suspend, revoke and reinstate any license under this chapter as follows:

- (1) The city may refuse to grant a license or license renewal and may suspend or revoke any license at any time, for any reasonable cause, including failure of an applicant or licensee to comply with provisions of the this Code or other applicable federal, state or local laws or regulations.
- (2) Any applicant, within ten days of notice of denial, suspension or revocation of a license, may request in writing an administrative hearing before the city manager. The city manager shall promptly issue a written decision in the matter. The city manager's decision may be appealed to the city council by filing a written appeal to the city clerk within ten days of receiving written notice of the city manager's decision.
- (3) The city council may appoint a committee of the city council or an independent hearing officer to hear the matter, report findings of fact and a recommendation of disposition to the city council. Hearings on the appeal shall be open to the public and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in such person's behalf. At the conclusion of the hearing, the city council shall make a final decision.
- (4) If a license is reinstated following suspension or revocation, the city may require payment of the city's costs as a condition of reinstatement of the license. Such costs may include, but are not limited to, law enforcement costs, legal fees, investigations, inspections or other professional fees incurred due to the licensee's violation of applicable laws, ordinances, regulations and conditions of the license.

- (5) A license may be temporarily suspended if any condition of the license is not complied with during the term of the license. A reinstatement fee as shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code may apply and must be paid before the license is made active.
- (6) Suspension of any license as provided for in this chapter shall be approved by the director of inspections and revocations of any license shall be approved by the city manager.

(Ord. No. 2181-00, § 4(16-107), 11-6-2000)

Sec. 8-37. Insurance.

(a) Proof of insurance in effect for the period of a license under this chapter may be required by the city before certain specific licenses are issued. Such insurance must be maintained throughout the entire license term. The policies of insurance shall provide that the policies may not be canceled by the insurer except upon notice to the city. In case of cancellation or expiration of such insurance, such license shall be automatically suspended.

(b) The city reserves the right to require additional insurance for activities located or occurring on city property.

(Ord. No. 2181-00, § 4(16-108), 11-6-2000)

Sec. 8-38. Periods of effectiveness; termination.

(a) Licenses issued under this chapter shall terminate only by expiration or revocation.

(b) All licenses issued under this chapter shall terminate on December 31 of the calendar year in which such license is issued unless a different termination date with respect to the individual license category is set forth in this chapter.

(Ord. No. 2181-00, § 4(16-109), 11-6-2000)

Sec. 8-39. Renewal.

An application for the renewal of an existing license under this chapter shall be made prior to the expiration date of the license, and shall be made on a form provided by the city for such purpose. If, in the judgment of the city, good and sufficient cause is shown by the applicant for the applicant's failure to submit a renewal application before the expiration of an existing license, the city may grant the renewal application if the other provisions of this chapter are complied with.

(Ord. No. 2181-00, § 4(16-110), 11-6-2000)

Sec. 8-40. Duplicates.

Duplicates of all original licenses issued under this chapter may be issued by the city upon the licensee's signed statement that the original has been lost, and upon payment of the currently required fee for issuance of the duplicate which fee shall be set from time to time by the city and a schedule of such fees is listed in appendix A to this Code. All duplicate licenses shall be clearly marked "duplicate."

(Ord. No. 2181-00, § 4(16-111), 11-6-2000)

Sec. 8-41. Violation; penalty.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to punishment and penalties as set forth in section 1-13.

(Ord. No. 2181-00, § 4(16-112), 11-6-2000)

DIVISION 3. BUSINESSES

Subdivision I. In General

Sec. 8-186. Applicability of division.

The general provisions provided under this subdivision shall apply to all business licenses required under this division, except as otherwise provided under the specific business licensing provisions in this division.
(Ord. No. 2181-00, § 4(16-301(intro. ¶)), 11-6-2000)

Sec. 8-187. License required.

No person may operate a business for which a license is required under this division prior to issuance of the applicable business license.
(Ord. No. 2181-00, § 4(16-301A.), 11-6-2000)

Sec. 8-188. Payment of taxes on licensed premises.

(a) Any and all real estate taxes or special assessments levied against the property for which a license application is made under this division must be current before such license is issued or renewed.

(b) Upon receipt of evidence that such taxes or special assessments levied against any such premises have become delinquent during the term of a license under this division, the city manager shall notify the licensee of the delinquency and that all licenses issued for the premises shall be suspended 30 days after date of the notice unless such taxes and special assessments are paid and the county treasurer's receipt of such payment is delivered to the city manager. The license will remain suspended and all licensed activity must cease until such time that the taxes and special assessments are paid in full.

(Ord. No. 2181-00, § 4(16-301B.), 11-6-2000)

Sec. 8-189. Posting of license.

(a) Licenses under this division shall be posted within the licensed establishment in a visible and conspicuous location, and shall be made accessible to the public and city officials for inspection during reasonable and normal business hours. For licensees with multiple establishments operating under a common license, the posting location shall be at the establishment generating the primary amount of use.

(b) If a machine, vehicle or other device is required to be licensed in connection with the issuance of a business license under this division, the city may provide a sticker for the current license year, which sticker shall be affixed in a clearly visible location as specified by the city for each machine, vehicle or device requiring such license.

Sec. 8-190. Denial, suspension or revocation.

Any license issued under this division may be suspended, revoked or denied renewal, if any, of the requirements of this chapter or any provision of this Code is violated. Without a valid license, no business may continue to operate in the activity for which a license is required.
(Ord. No. 2181-00, § 4(16-301D.), 11-6-2000)

Sec. 8-191. Initial application; renewal.

(a) Initial application for a business license must be made a minimum of 30 days prior to commencement of the activity to be licensed.

(b) All business licenses must be current and renewed prior to the expiration date of such license. Applications for renewal must include a completed renewal application, payment of annual fees and must provide any other additional information as may be required by this division.

(c) Any renewal license application under this division submitted or postmarked after December 31 or the stated expiration date of such license shall be assessed a late fee in the amount which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code.

(d) Any person who commences operation of a business without a license may be charged an additional investigative fee at the time the license is initially issued in an amount established in the City's fee ordinance. Whether the person will be charged an investigative fee will be determined administratively by the City Manager or designee based upon the

amount of investigative time and effort expended by the City in generally policing the City for unlicensed businesses and in bringing the particular offending business into compliance.

(Ord. No. 2181-00, § 4(16-301E.), 11-6-2000, Ord. No. 2288-05, 2-22-05)

Sec. 8-192. Transferability.

(a) Licenses issued under this division shall be issued for a specific use at a specific location. Any change in the use or location of a licensed activity or business shall require a new application to be submitted and payment of applicable fees prior to beginning the licensed activity.

(b) A license may be transferred to the new owner of the licensed business, provided an application for a license transfer to a new owner is submitted to the city with the transfer fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code prior to the change in ownership. An applicant for a business license transfer must have submitted all additional information required for the license transfer, and must have completed any investigations and inspections required prior to transfer of the license, except where the license transfer is otherwise prohibited or restricted in this Code.

(Ord. No. 2181-00, § 4(16-301F.), 11-6-2000)

*Subdivision IX. Sexually-Oriented Businesses**

Sec. 8-346. Purpose and intent.

(a) The purpose of this subdivision is to regulate sexually-oriented businesses to promote the health, safety, morals and general welfare of the citizens of the city, to prevent criminal activity, to guard against the inception and transmission of disease, and to establish reasonable and uniform regulations. The provisions of this subdivision have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this subdivision to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to the intended market of such entertainment.

(b) The city council finds that experience from other cities demonstrates that sexually-oriented businesses conducted in private by members of the same or the opposite sex and employing personnel with no specialized training are susceptible to operation in a manner contravening, subverting or endangering the health, safety and welfare of members of the community by being the sites of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, licensing and regulation of such sexually-oriented businesses.

(Ord. No. 2181-00, § 4(16-310A.), 11-6-2000)

Sec. 8-347. Prohibition.

No person shall operate a sexually-oriented business except in conformity with the provisions of this subdivision.

(Ord. No. 2181-00, § 4(16-310B.), 11-6-2000)

Sec. 8-348. Exceptions.

The following are not subject to the requirements of this subdivision:

- (1) Any material with significant literary content or social commentary.
- (2) A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished or otherwise provided for off-site use or entertainment, if:
 - a. The material harmful to minors on each item is blocked from view by an opaque cover as required by M.S.A. § 617.293; and
 - b. Each item is behind the counter and accessible only by an employee of the business.
- (3) Any person or organization exempt by M.S.A. § 617.295.
- (4) Any activity regulated by M.S.A. § 617.251.

- (5) Displaying works of art showing specified anatomical areas as long as no sexually-oriented materials are for sale, and the business does not have a liquor license.
- (6) Movies which are rated G, PG, PG-13 or R.

Sec. 8-349. License application.

(a) Every person desiring a license to operate a sexually-oriented business shall file with the city an application in a form provided by the city. The application must be accompanied by a sketch or diagram showing the configuration of the premises to be licensed, including a statement of the 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 market dimensions of the interior of the premises to an accuracy of plus or minus six inches. In the case of a high impact sexually-oriented business, the application must include a drawing showing the parcel upon which the business is to be located, and the location of all residential zoning districts; other sensitive land uses including day care centers, parks, schools, libraries and religious institutions; other sexually-oriented businesses; and establishments which hold a liquor license which are located within 350 feet of such business.

(b) The applicant for a high impact sexually-oriented business license must be qualified according to the provisions of this subdivision, and the premises must be inspected and found to be in compliance with the law by the fire department and building official.

(c) No person shall make a false statement or material omission in a sexually-oriented business license application. Every person shall cooperate in a license investigation. Any false statement or material omission on the license application shall be grounds for denial, suspension or revocation of the license.

(d) If a person who wishes to operate a high impact sexually-oriented business is an individual, the individual must sign the application for such license as the applicant. If a person who wishes to operate a high impact sexually-oriented business is other than an individual, each individual who has a ten percent or greater interest in the business must sign the application for a license as the applicant. Each applicant for a high impact sexually-oriented business license must be qualified under this subdivision, and each applicant shall be considered a licensee if a license is granted.

(e) Throughout the period of the sexually-oriented business license, the licensee shall have the continuing duty to properly notify the city clerk of any change in the information or facts required to be furnished on the application for a license. Failure to comply with this subsection shall constitute cause for revocation or suspension of the license.

(f) Once the investigation has begun, there shall be no refund of the application or investigation fee for a high impact sexually-oriented business license.

Sec. 8-350. Renewal applications.

(a) The application for the renewal of an existing high impact sexually-oriented business license shall be made at least 90 days prior to the date of the expiration of the license, and shall be made in the form that the city council shall require.

(b) If the city manager believes that the public interest so warrants, a background and financial investigation may be required for a renewal of a high impact sexually-oriented business license. A background and financial investigation fee which shall be set from time to time by the city and a schedule of such fee is listed in appendix A to this Code must be submitted prior to issuance of the renewal license.

Sec. 8-351. Issuance of license.

The city manager shall approve the issuance of a sexually-oriented business license by the city clerk to an applicant within 60 days after receipt of the application for such license unless the city manager finds one or more of the following to be true:

- (1) For either a high impact sexually-oriented business or a limited impact sexually-oriented business:
 - a. The applicant is under 18 years of age at the time the application is filed;
 - b. The applicant is delinquent in his payment to the city of taxes, fees, fines or penalties assessed against him or imposed upon him in relation to a sexually-oriented business;

- c. The applicant has failed to provide information reasonably necessary for issuance of the license, or has falsely answered a question or request for information on the application form;
 - d. The application fee and/or license fee required by this subdivision have not been paid;
 - e. The applicant or the proposed establishment is in violation of, or is not in compliance with, this subdivision or chapter 36 of this Code.
- (2) For a high impact sexually-oriented business:
- a. The applicant has been convicted of any crime directly related to the licensed occupation, and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually-oriented business under M.S.A. § 364.03, subd. 3, or a person not of good moral character and repute;
 - b. The applicant is residing with a person who has been denied a license by the city to operate a sexually-oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually-oriented business has been revoked within the preceding 12 months;
 - c. The premises to be used for the sexually-oriented business have not been approved by the fire department and the building official as being in compliance with applicable laws and ordinances;
 - d. The applicant has been employed in a sexually-oriented business in a managerial capacity within the preceding 12 months, and has demonstrated that he is unable to operate or manage a sexually-oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers;
 - e. The applicant or his spouse has been convicted of a crime:
 - 1. Involving any of the following offenses as set forth in M.S.A. ch. 609 or 617:
 - i. Prostitution as set forth in M.S.A. § 609.321;
 - ii. Solicitation, inducement or promotion of prostitution as set forth in M.S.A. § 609.322;
 - iii. Receiving profit derived from prostitution as set forth in M.S.A. § 609.323;
 - iv. Other prohibited acts relating to prostitution as set forth in M.S.A. § 609.324;
 - v. Obscenity as set forth in M.S.A. § 617.241;
 - vi. Sale, dissemination, distribution, display or exhibition of harmful material to minors as set forth in M.S.A. §§ 617.293 and 617.294;
 - vii. Sexual performance by a child as set forth in M.S.A. § 617.246;
 - viii. Dissemination or possession of child pornography as set forth in M.S.A. § 617.247;
 - ix. Indecent exposure as set forth in M.S.A. § 617.23;
 - x. Criminal sexual conduct as set forth in M.S.A. §§ 609.342, 609.343, 609.344 and 609.345;
 - xi. Incest as set forth in M.S.A. § 609.365; or
 - xii. Criminal attempt, conspiracy or solicitation to commit any of the offenses set forth in this subsection (2)e.1.;
 - 2. For which:
 - i. 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;
 - ii. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. 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 convictions are of

two or more misdemeanor offenses, or a combination of misdemeanor offenses, occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or the applicant's spouse.

- f. In the judgment of the city, the applicant is not the real party in interest or the beneficial owner of the business operated under the license;
- g. The applicant has had a license for a sexually-oriented business or similar business revoked anywhere within five years of the license application.

Sec. 8-352. Appeals.

(a) *Procedure.* If the city manager denies the issuance of a sexually-oriented business license, or suspends or revokes a sexually-oriented business license, the city manager shall send to the applicant or licensee, by certified mail, return receipt requested, written notice of the action, and the applicant's or licensee's right to an appeal. The aggrieved party may appeal the decision of the city manager to the city council within ten days of receiving notice of the city's action. The city council may appoint a committee of the city council, or an independent hearing officer, to hear the matter, report findings of fact and recommendation for disposition to the city council. Hearings on the appeal shall be open to the public, and the licensee or applicant shall have the right to appear and be represented by legal counsel and to offer evidence in their behalf. At the conclusion of the hearing and within 30 days of the appeal of the decision by the applicant or licensee, the city council shall make a final decision on such appeal.

(b) *Additional requirements.* The city council may condition denial, suspension, revocation or nonrenewal of a license upon appropriate terms and conditions.

(c) *Stay of decision.* The filing of an appeal stays the action of the city manager in denying, suspending or revoking a sexually-oriented business license until the city council makes a final decision. If an applicant or licensee under this subdivision files an appeal to a federal or state court within 30 days of the city council's decision in denying, suspending or revoking a license under this subdivision, the city council's decision shall be stayed until a final court decision is rendered in the matter.

Sec. 8-353. High impact sexually-oriented businesses.

(a) *License required.* No person shall operate a high impact sexually-oriented business which offers sexually-oriented materials or entertainment for on-site consumption within the city unless the person is currently licensed under this section.

(b) *Regulations adopted.*

- (1) Every high impact sexually-oriented business license is subject to the conditions set forth in this section, all other provisions of this subdivision and any other applicable regulations, ordinances or state laws.
- (2) Every high impact sexually-oriented business licensee is responsible for the conduct of his place of business and conditions of order in such place of business.
- (3) The act of any employee of a high impact sexually-oriented business licensee is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this article equally with the employee, except criminal penalties.
- (4) Both the owner and manager of a high impact sexually-oriented business shall be responsible for the conduct of their employees and for compliance with this section.
- (5) The owner or manager of a high impact sexually-oriented business shall not employ a person under the age of 18 years.
- (6) The owner, manager or employee of a high impact sexually-oriented business shall not allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.

- (7) The owner, manager or employee of a high impact sexually-oriented business shall not have been convicted of a sex crime, as set forth in M.S.A. §§ 609.293--609.352, 609.746--609.749, 609.79 and 518B.01, or related statutes dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse.
- (8) The owner, manager or employee of a high impact sexually-oriented business shall ensure that no person under the age of 18 years enters the business.
- (9) The owner, manager or employee of a high impact sexually-oriented business shall not allow any person under the age of 18 years to have access to sexually-oriented materials, whether by sight, purchase, touch or any other means.
- (10) The owner, manager or employee of a high impact sexually-oriented business may not sell or display for sale any sexually-oriented materials except in original unopened packages.
- (11) Each high impact sexually-oriented business shall display a sign on the main entrance door to such business which reads: "This business sells sexually-oriented material or entertainment. Persons under the age of 18 are prohibited from entering." The sign letters shall be a minimum of two inches in height.
- (12) No high impact sexually-oriented business may have a 3.2 percent malt liquor license or intoxicating liquor license issued by the city, and no alcoholic beverages may be consumed in the business.
- (13) No high impact sexually-oriented business shall exceed 10,000 square feet in gross floor area.
- (14) No patron, employee or other person of a high impact sexually-oriented business may physically contact any specified anatomical area of himself or of any other person, except that a live performer may touch himself.
- (15) Each live performer in a high impact sexually-oriented business shall at all times remain a minimum distance of ten feet from all members of the audience, and shall perform on a platform intended for such purpose, which platform shall be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept any pay, tip or other time from any member of the audience.
- (16) No high impact sexually-oriented business shall have any booths, stalls or partitions, whether constructed with walls or the arrangement of objects which separate any area from a general public room. This restriction does not apply to restrooms, storage rooms or private offices of the owner, manager or employees of the high impact sexually-oriented business, if such storage rooms or offices are used solely for running the business and no person other than the owner, manager and employees of such business are allowed in the storage rooms or offices.

Sec. 8-354. Limited impact sexually-oriented businesses.

(a) *Licensed required.* No person shall operate a limited impact sexually-oriented business within the city unless the person is currently licensed under this section.

(b) *Regulations adopted.*

- (1) The owner, manager or employee of a limited impact sexually-oriented business shall not allow any sexually-oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
- (2) The owner, manager or employee of a limited impact sexually-oriented business shall ensure that no person under the age of 18 years enters the separate area where sexually-oriented materials are provided.
- (3) The owner, manager or employee of a limited impact sexually-oriented business shall not allow any person under the age of 18 years to have access to any sexually-oriented materials, whether by sight, purchase, touch or any other means.
- (4) The owner, manager or employee of a limited impact sexually-oriented business may not sell or display for sale any sexually-oriented materials, except in original unopened packages.

- (5) No limited impact sexually-oriented business may have a 3.2 percent malt liquor license or intoxicating liquor license issued by the city, other than an off-sale 3.2 percent malt liquor license.
- (6) Both the owner of a limited impact sexually-oriented business and the manager of such business shall be responsible for the conduct of their employees and for compliance with the requirements of this section.
- (7) The owner or manager of a limited impact sexually-oriented business shall not employ a person under the age of 18 years.
- (8) The owner, manager or employee of a limited impact sexually-oriented business shall not have been convicted of violating the requirements of this section three or more times within 24 months.

(Ord. No. 2181-00, § 4(16-310I.), 11-6-2000)