

**DULUTH TOWNSHIP
ADULT USE / SEXUALLY ORIENTED BUSINESSES**

***TOWN OF DULUTH
ST. LOUIS COUNTY, MINNESOTA
ORDINANCE 3A: ADULT USE/SEXUALLY ORIENTED BUSINESSES***

The Board of Supervisors of the Town of Duluth Ordains:

Purpose and Findings: The purpose of this ordinance is to regulate all Sexually Oriented Businesses as identified herein in order to protect the health, safety and general welfare and property values of the citizens of Duluth Township through reasonable and uniform regulation of said businesses throughout the Township. It is not the intent or purpose of this ordinance to prohibit sexually oriented businesses from having a reasonable opportunity to locate in this township.

The town board directed the planning commission to study whether sexually oriented businesses have adverse impacts upon surrounding properties and neighborhoods, the nature of those impacts, the effect of regulation upon those impacts, and asked the commission to make recommendations about appropriate regulations.

The planning commission studied the Report of the Minnesota Attorney General's Working Group on Sexually Oriented Businesses Reports and reports completed for the cities of Minneapolis, St. Paul, Indianapolis, Phoenix and Los Angeles. The planning commission concluded that:

- 1) Studies have concluded that sexually oriented businesses may have adverse impacts on the surrounding properties and neighborhoods.
- 2) The adverse effects caused by sexually oriented businesses tend to diminish if adult establishments are governed by local requirements.
- 3) Minnesota Statutes, section 462.357, allows the township to adopt regulations to promote the public health, safety, and general welfare.
- 4) The public health, safety, and general welfare will be promoted by this township adopting regulations governing sexually oriented businesses.
- 5) The planning commission found, based upon the studies described above, that:
 - Studies have shown a close association between sexually oriented businesses, high crime rates and low property values in a neighborhood.
 - Arrests for sexual crimes and the location of sexually oriented businesses were directly related.
 - A concentration of sexually oriented businesses has serious impacts upon the surrounding neighborhood.
 - Community impacts of sexually oriented businesses are primarily a function of two variables, proximity to residential areas and concentration. Property values are directly affected within a small radius of the location of a sexually oriented business. Concentration may compound depression of property values and may lead to an increase in crime sufficient to change the quality of life and perceived desirability of property in a neighborhood.

- When sexually oriented businesses have multiple uses (i.e., theater, bookstore, nude dancing, peep booths), one building can have the impact of several separate businesses.
- The presence of bars in the immediate vicinity of sexually oriented businesses also compounds impacts upon the neighborhood.
- Evidence on a national level highlights the vulnerability of sexually oriented businesses to criminal control.
- The limitation on the hours of operation and the regulation of exterior appearance, including signage, of sexually oriented business activities is necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts associated with those activities, and otherwise address, mitigate, and if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such activities are located or taking place.

The Duluth Town Board of Supervisors hereby adopts the Planning Commission's findings and conclusions.

Scope: This ordinance applies to all adult use and sexually oriented businesses as defined herein. It is not designed to effect or to place limitations or restrictions on the content of any materials nor to deny access to adult oriented materials as protected by the First and Fourteenth Amendments of *the Constitution of the United States*. It is designed to place limitations on locations and to prevent concentrations of said businesses and to prevent additional criminal or otherwise harmful or undesirable behavior in residential neighborhoods, protect property values, and otherwise accomplish and promote the purposes of this ordinance.

Section I

Section 1.1 – Definitions – The definitions below have the following meanings.

101 – Administrator: The person or body appointed by the Town Board of Supervisors to administer the ordinance within the limits of the Township.

102 – Adult Uses: Adult body painting studios, adult book stores, adult car washes, adult hotels and motels, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcade, adult modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed or registered persons. Activities classified as obscene are defined by Minnesota Statutes Section 617.241, are not lawful and are not included in the definitions of adult uses.

103 – Adult Use – Accessory:

The offering of goods and/or services classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include adult magazines, adult movies, adult novelties and similar items.

104 – Adult Uses - Principal:

The offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment. They include but are not limited to the following:

104a -Adult Body Painting Studio: An establishment or business that provides the services of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of “specified anatomical areas”.

104b - Adult Book Store: An establishment, building or business or portion thereof engaging in the barter, rental or sale of items or merchandise consisting of printed matter, pictures, slides, records, audio tapes, video tapes, computer or video disks, motion picture film or any similar material if more than 10 percent of the useable floor area of the establishment, building or business, or if at least 100 square feet , whichever is less, has products or materials distinguished or characterized by an emphasis on matters depicting, describing or related to “specified sexual activities” or “specified anatomical areas”.

104c - Adult Cabaret: An establishment, building or business that provides dancing or other live entertainment if such dancing or live entertainment is distinguished or characterized by an emphasis on the performance or presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas”.

104d - Adult Car Wash: A wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of “specified anatomical areas”.

104e - Adult Companionship Establishments: An establishment of business which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

104f - Adult Entertainment Facility: A building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are sold or intended for consumption, and in which may be observed live presentation of entertainment distinguished by an emphasis on matters depicting, describing or relating to “specified Sexual activities” or “specified anatomical areas”.

104g - Adult Establishment: An establishment, building, or business engaging in any of the following activities or which uses any of the following business procedures or practices:

- (1) Any business conducted exclusively for the patronage of adults and about which minors are specifically excluded from patronage thereat whether by law or by the operator of said business; or,
- (2) Any other business that offers its patrons services, products or entertainment characterized by an emphasis on matters depicting, exposing, describing, discussing or relating to “specified sexual activities” or “specified anatomical areas”

104h - Adult Hotel or Motel: A hotel or motel in which material is presented that is distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual acts “ or “specified anatomical areas”.

104i - Adult Massage Parlor, Health/Sport Club: A massage parlor or health/sport club which provides the services of massage if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

104j - Adult mini-motion Picture Studio: A business, building, or establishment in an enclosed building with a capacity for less than fifty (50) persons used for the presenting of visual media material if said material is distinguished or characterized by an emphasis on “specified sexual activities” or “ specified anatomical areas” for observation by patrons.

104k - Adult Modeling Studio: An establishment or business whose primary or secondary business is the provision to customers of figure models who are provided with the intent of providing sexual stimulation or sexual gratification to such customers who engage in “specified sexual activities” or “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

104l - Adult Motion Picture Arcade: Any building or place to which the public is allowed or invited in which coin or slug operated or electronically or mechanically controlled still or motion picture machines, projectors, computers, or other image producing devices that show images to five (5) or fewer persons per machine at once, and characterized by an emphasis on depicting or describing “specified sexual acts” or “specified anatomical areas”.

104m - Adult Motion Picture Theater: A business premises within an enclosed building with a capacity of fifty (50) or more persons used for presenting visual media material if the material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas”.

104n - Adult Novelty Business: A business that has as a principal adult use or accessory adult use the sale of materials or devices that stimulate human genitals or devices designed for sexual stimulation or which depict or which relate to “specified sexual activities” or “specified anatomical areas”.

104o - Adult Sauna/Steam Room/Bathhouse: A business which provides a steam bath or heat bathing room used for bathing, pleasure, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by same is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

104p – Private Club – A business that excludes the public through membership fees, gender, race, age or other means of distinguishing for the purpose of adult uses.

105 - Planning Commission: The Town of Duluth Planning Commission.

106 - Township Board: The Town of Duluth Board of Supervisors as elected by the citizens of Duluth Township.

107 - Licensed Family Day Care: A home occupation or business or permitted facility holding a license from St. Louis County.

108 - Licensed Group Family Day Care: A fully licensed and permitted facility whose primary activity is to care for children or adults.

109 - Minor: Any person under the age of eighteen (18) years.

110 - Nudity: The showing of the human genital, male or female, or pubic area with less than full opaque covering; the showing of the female breast with less than fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the coverage of male genitalia in a discernibly turgid state even if completely opaquely covered.

111 - Public Library: Any library that provides free access to all residents of the Township without discrimination and is organized according to law.

112 - Public Park: A park, reservation, playground, beach, or recreation or community center in the Township owned or leased by the Town or another governmental entity or used by the residents of the Township for recreational purposes.

113 - Place of Worship: A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

114 - School: A building or space that is primarily or secondarily used as a place where ten (10) or more persons receive a course of instruction. Any post secondary or post high school education building, including any college of any kind or any vocational-technical school, shall not be deemed a school for purposes of this ordinance.

115 - Sexually Oriented Business: An adult body painting studio, adult book store, adult car wash, adult hotel/motel, adult motion picture theater, adult mini motion picture theater, adult massage parlor, adult health/sport club, adult steam room/sauna/ bathhouse, adult companionship establishment, adult rap/conversation parlor, adult novelty business, adult motion picture arcade, adult modeling studio and other 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 or display, depiction or description of “specified sexual activities” or “specified anatomical areas” which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State licensed or registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

116 - Specified Anatomical Areas: Anatomical areas consist of: 1) Less than completely covered and opaquely covered human genitals, pubic region or pubic hair, anus, or female breast or breast below a point immediately above the top of the areola or any combination thereof and 2) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

117 - Specified Sexual Activities: Activities consisting of the following:

- 1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, or female breast, flagellation, or torture in a sexual relationship, and any of the following sexually oriented acts or conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zoerasty, or:
- 2) Human genitals in the state of sexual stimulation, arousal or tumescence or:
- 3) Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus, or masturbation, or:
- 4) Fondling or touching of human genitals, pubic regions or pubic hair or female breasts or;
- 5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such person; or
- 6) Erotic or lewd touching, fondling, or the sexually oriented contact with an animal by a human being; or
- 7) Human excretion, urination, menstruation, vaginal or anal irrigation; or
- 8) Any combination of the above.

Section II

Application of Ordinance

No structure shall be erected, converted, or altered in any manner nor existing land use be converted for the purpose of engaging in adult uses as identified in this ordinance except as permitted by this Ordinance. All adult uses shall be in conformity with this ordinance and the ordinances of St. Louis County and the Laws of the State of Minnesota as they apply to sexually oriented businesses. Minn. Laws 2006, Ch. 240 (HF3779) shall be applied except to the extent that this ordinance is more restrictive than Minn. Laws 2006, Ch. 240. Nothing in this ordinance shall be construed as authorizing or permitting conduct that is prohibited or otherwise regulated by other laws of the township, county, state of Minnesota or Federal Government of the United States of America.

201 – Conditional Use Permits required: All businesses engaging in adult uses as defined in this ordinance shall require a conditional use permit as defined and administered, including a public hearing, in the Town of Duluth Land Use Ordinance. An application form provided by the Township shall be completed and fees paid before any public hearings will be scheduled.

201.1 – Applications: An application for an adult use facility or business shall be made on a form provided by the administrator and approved by the Township. The application for an Adult Use/Sexually Orientated Business Permit shall be submitted on a form provided by the Town of Duluth and shall include:

(1) If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, members, and creditors furnishing credit for the establishment or the acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishings of the establishment including the purchase of any items of personal property for use in said operation.

(2) Application for conditional use permit shall contain the address and legal description of the property to be used; the names, addresses phone numbers, date of birth, of the owner, lessee, if any, the operator or manager; the name, address, and phone number of two persons, who shall be residents of the state, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or

acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.

(3) A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult use/sexually orientated business or adult business by the applicant, operator, or manager, and whether or not the applicant has ever applied for or held a license to operate a similar type business in any other community(s). In the case of a business entity applicant, a statement detailing any felony convictions by any owner of five percent (5%) or more of the applicant entity and whether or not any owner of five percent (5%) or more of the applicant entity has ever applied for or held a license to operate a similar type of business in other community(s).

(4) A detailed statement of all activities and types of business to be conducted on the premises. Statement shall be in sufficient detail to determine the extent to which said business fits the definitions of adult uses.

(5) The hours of operation.

(6) Provisions to be utilized to restrict access by minors.

(7) A building plan of the premises detailing all internal operations and activities.

(8) Provisions made to provide security for employees and patrons.

(9) A signature to a statement attesting to the fact that any withholding of facts or information or the providing of false information through the course of the application and investigation process and subsequent operation of the business shall be grounds for denial or revocation of the conditional use permit.

(10) A statement attesting to the fact that failure to report changes in information provided on the application shall result in denial or revocation of the conditional use permit. The application is not complete until the appropriate fee has been paid.

(11) The permit shall expire five (5) years from the date of issue.

201.2 - Responsibility to Obtain Other Permits/Licenses.

The granting of any permit pursuant to requirements of this Ordinance, shall not relieve applicants of their responsibility to obtain any required county, state or federal permits or licenses.

202 - Granting of Adult Use/Sexually Orientated Business Conditional Use Permit.

The Adult Use/Sexually Orientated Business Permit shall be issued only for the premises described in the application.

203 - Persons Ineligible for Adult Use/Sexually Orientated Business Conditional Use Permit. No permit shall be issued to any individual or business entity:

- (1) Under eighteen (18) years of age.
- (2) Who is overdue in payments to a township, city, county, state, or federal government of taxes, fees, fines, or penalties or charges for municipal services and utilities assessed against them or imposed upon them.
- (3) If the individual or if any owner of five percent (5%) or more of the business entity has been convicted of a gross misdemeanor or felony, or of violating any law of this state or local Ordinance relating to sex offenses, obscenity offenses, or adult establishments.
- (4) Who is not the proprietor of the establishment for which the conditional use permit is issued.
- (5) To any applicant who is acting as an agent for an individual who would be disqualified pursuant to the above criteria.
- (6) Who has not paid the required investigation/permitting fees required by this Ordinance.

204 - Places Ineligible for Issuance of Adult Use/Sexually Orientated Business conditional use permit.

- (1) No conditional use permit shall be granted for adult use/sexually orientated business establishments on any premises where any conditional use permit hereunder has been revoked for a violation, until five (5) years has elapsed after such revocation.

- (2) No conditional use permit shall be granted for any adult use/sexually orientated business establishment which is not in compliance with the County's land use regulations fire, health, and safety codes, and all other provisions of federal and state law.

**205 - Adult Use/Sexually Orientated Business Operational Restrictions
Adult Uses - Principal**

- (1) All adult use-principal business shall be confined to the interior of the building. The permittee must cover or otherwise arrange all windows, doors, and apertures to prevent any person outside the permitted premise from viewing any items or merchandise inside the premises depicting specified sexual activities or specified anatomical areas.
- (2) No person(s) under eighteen (18) years of age shall be permitted in any adult use/sexually orientated business-principal premises, enterprises, establishments, business or place. All adult uses shall prominently display a sign at the entrance within two (2) feet of the door that clearly states; "This establishment sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter."
- (3) No adult use facility or business shall sell, provide, barter, or serve non-intoxicating imitation liquors, wines, beer or intoxicating beverages. Said business shall not allow the consumption of said beverages on the premises, including all portions of the property parcel.

(4) No adult use/sexually orientated business related premises, enterprise, establishments, business or place shall allow or permit the sale or service of set ups to mix alcoholic drinks. No alcoholic beverages shall be sold or consumed on the premises of such premises, enterprise, establishment, business, or place.

(5) Activities classified as obscene under Minn. Stat. § 617.241 or other state or federal statute are not permitted and are prohibited from locating in any building which is also utilized for residential purposes.

(6) Adult uses/sexually orientated business, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(7) An adult use which does not qualify as an accessory use shall be classified as an adult-use principal.

(8) All adult use businesses shall prominently display hours of operation. Said businesses shall not operate between the hours of 12:00 midnight and 12:00 noon Monday through Saturday. All said businesses shall not be open or sell products on Sunday. Sunday starts at 12:01 a.m. central time.

(9) Persons with prior gross misdemeanor or felony convictions concerning sexually related offenses or assault behavior shall not be granted a conditional use permit for an adult facility.

(10) All permitted premises shall have the conditional use permit posted in a conspicuous place at all times.

(11) The Planning Director of the Town of Duluth shall have the right to enter, inspect, and search the premises of a permitted use during business hours.

(12) No adult goods or materials shall be offered, sold, transferred, conveyed, given, displayed, or bartered to any minor.

(13) The permittee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the Town upon request.

206 - Permitted Locations for Adult Use-Principal.

(1) Adult use-principal, shall only be allowed in the LIU-3A Limited Industrial Use District comprised of Parcel Code Numbers 315-0010-00790, 315-0010-00795, 315-0010-00770, 315-0010-00800, 315-0010-00805, 315-0010-00810, 315-0010-00975, 315-0010-00950 and 315-0010-00976 as of 2002.

A. Access, parking, screening, lighting, and other relevant site related criteria for all Adult Uses shall be as set forth in the Duluth Township Land Use Ordinance.

B. Adult-use principal, shall be located at least 1000 lineal feet, as measured in a straight horizontal line, without regard to governmental boundaries, intervening structures or other objects, from the nearest point of the actual business structure to the property line of:

1. Any residentially used or zoned property.

2. Any licensed day-care center.
 3. Any public or private educational facility classified as a preschool, elementary, junior high, or senior high school.
 4. Any hotel or motel.
 5. Any public park or trails system.
 6. Any nursing home.
 7. Any youth establishment.
 8. Any place of worship
 9. Another adult establishment.
 10. Hospitals/Clinics
 11. Another adult use-principal business
- C. No adult uses facility/business shall be located closer than 500 feet from any other establishment selling intoxicating beverages either onsale or offsale.
- D. No adult use-principal shall be located in the same building, facility or upon the same property as another adult use-principal.
- E. There shall be only one adult use business/facility per tax parcel of land.

206a - Adult Cabaret Regulations.

The following additional restrictions apply to Adult Cabarets:

- (1) An Adult Use/Sexually Orientated Business shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons engaged, hired, or employed as dancers or performers by the permittee.
- (2) An adult cabaret shall be prohibited in establishments where alcoholic beverages are served.
- (3) No owner, operator, or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude unless as provided in #7 and #8 below.
- (4) No patron or any person other than a dancer or live entertainer, as provided in areas #7 and #8 below, shall be nude in an adult cabaret.
- (5) No dancer, live entertainer, or performer shall be under eighteen (18) years of age.
- (6) All dancing shall occur on a platform intended for that purpose which is raised at least two (2) feet above the level of the floor.
- (7) No dancer or performer shall perform or dance closer than (10) feet from any patron unless such dancer or performer is enclosed behind a floor to ceiling glass partition.
- (8) No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (9) No person under eighteen (18) years of age shall be admitted to an adult cabaret.

206b - Viewing Booth Regulations.

The following additional regulations apply to viewing booths:

- (1) Individual Motion Picture viewing booths must be without doors and the occupant must be visible at all times.
- (2) Only one person may be in a viewing booth at a time.
- (3) Walls separating booths must be such that the occupants cannot engage in sexual activity.
- (4) Each booth must be kept clean and sanitary.

207 - Adult Use, Accessory - Permitted Location for Accessory Adult Use. Adult use-accessory may be permitted in the COM-3, SCO-8A and SCO-8B Districts provided the accessory use conforms with the provisions of this subdivision. Adult Use/Sexually Orientated Business-Accessory shall:

- (1) Comprise no more than ten (10%) percent of the floor area of the establishment in which it is located or shall comprise an area no greater than 100 sq. ft. of floor area in which it is located, whichever is greater.
- (2) Comprise no more than twenty (20%) percent of the gross receipts of the entire business operation.
- (3) Not involve or include any activity except the sale or rental of merchandise.
- (4) Adult uses/sexually orientated business, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

207a - Separation of Areas. Adult use-accessory shall be restricted from, and prohibit access to minors, by physically separating the following and similar items from areas of general public access:

- (1) Movie Rental display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view of, and under the control of, the persons responsible for the operation.
- (2) Magazines or publications classified as adult uses shall not be physically accessible to minors or shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

207b - Advertising. Adult use-accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.

208 – Signs: All signs for adult use businesses shall be permitted separately in accordance with the provisions regulating signs in the Town of Duluth Zoning Ordinance with the following additional restrictions:

- a) All signs shall be affixed to the building in which the adult use is conducted. Freestanding signs and roof mounted signs are not allowed. There shall be no directional signs allowed in the township.
- b) Signs shall not contain any flashing lights, electronic or mechanical message boards, or moving elements.
- c) Merchandise, photos, caricatures or pictures of the products or entertainment on the premises shall not be displayed either on the sign

or in the windows or other areas where they may be viewed from the public rights-of way or adjoining properties.

- d) Signs shall be limited to the size and number of signs permitted in the district in which the use is located.
- e) With the exception of a sign stating the hours of operation, no signs may be placed in any windows.

Section III

Enforcement

301 – General:

It is the responsibility of the Town Board of Supervisors to enforce and administer this ordinance. They may appoint an administrator, delegate the oversight to the Town of Duluth Planning Commission or divide the work among the supervisors or any combination thereof.

301.1 – Administration:

All requests for a Conditional Use Permit shall be submitted to the administrator on the appropriate Township forms. A complete application includes a complete form, all supporting documentation, diagrams, and the appropriate fee as determined by the Duluth Town Board. An application shall not be accepted until the administrator determines that all information and documentation is complete.

301.1 a – Files:

All files regarding the application and process shall be maintained in the individual parcel file for a particular parcel of land. Each parcel of land requires a separate Conditional Use permit.

301.1 b – Change of Ownership:

Change of ownership of the adult use shall require a new Conditional Use Permit with all of the process and investigation being completed prior to opening for business.

301.2 – Appeals

An appeal may be made to the Board of Adjustment.

301.3 – Violations

301.3a – Refusal to Comply. In the event that an applicant or their authorized representative violates, neglects or refuses to comply with the conditions, performance standards or dimensional requirements imposed upon the proposed or established use or structure as a condition of granting the permit for said use or structure, they shall be notified by the Planning Director in writing by mail or in person of those requirements that have not been complied with (for purposes of computation of time, notification is complete upon mailing), in which:

1. He/she shall have no more than five (5) days from the date of the notification to satisfy said requirements or be subject to the revocation of said permit; or
2. Upon notification of a third violation the permit shall be revoked.

301.3b In the event of a violation of this ordinance, any costs of enforcement, including administrative and legal expenses incurred in the enforcement proceedings may be assessed against the party found to have violated the ordinance. Within forty-five (45) days after the conclusion of a civil or criminal case, The Town of Duluth may certify the costs of enforcement for assessment against the violator's property where the violator has either been found to have violated this Ordinance by the court or has admitted the violation.

The Town clerk shall prepare a bill for the amount certified. The Town Clerk shall mail a copy by certified mail to the violator's last known address. If the total amount of the bill is not paid within thirty (30) days of receipt of mailing, Duluth Township may certify the bill as any other special assessment.

The violator may appeal the certification of the costs to the Town of Duluth Board of Adjustment by filing an objection to the assessment within fifteen (15) days upon receipt of notice of certification. The appeal must include a detailed explanation for the objection.

301.4 – Fees and Recovery of Costs

In order to defray administrative costs associated with the processing of an application, investigations, and hearings, the Town Board shall adopt a fee schedule and charge fees accordingly.

All costs and services associated with enforcement against violations of this ordinance shall be assessed against the property to which they are attributable if not paid immediately by the violator.

301.6 – Exclusion

The provisions of this ordinance shall not apply to:

- (a) any theatrical production performed in a theater, by a professional or amateur theatrical or musical company, which has serious artistic merit; or,
- (b) a woman breastfeeding a child.

301.7 – Severability

If any subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

EFFECTIVE DATE

Adopted by the Town Board of Duluth Township at their regular meeting Month, Day, Year, to be effective Month, Day, Year.

Copies of this ordinance shall be kept by the town clerk and shall be available for public inspection. A copy of this ordinance shall be recorded in the office of the county recorder of St. Louis County upon adoption and any amendments thereto shall likewise be recorded with the county recorder of St. Louis County.

