

TOWN OF FAYAL
St. Louis County, Minnesota

ORDINANCE NO. 99-3

AN ORDINANCE TO ESTABLISH REGULATIONS REGARDING THE LOCATION OF SEXUALLY ORIENTED BUSINESSES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

The Board of Supervisors of the Town of Fayal hereby ordains as follows:

RECITALS

1. The purpose of this Ordinance is to prescribe licensing requirements for sexually-oriented businesses in order to protect the general health, safety, and welfare and to control certain land uses that may have a direct and detrimental effect on the character of the Township's neighborhoods.
2. Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed day care homes; students attending school; and people using public parks and other facilities.
3. Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other jurisdictions indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
4. Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located.
5. The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is often perceived by others as an indication that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of such businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such businesses, which can erode the Town's tax base and contribute to overall community blight.
6. Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other jurisdictions indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

ARTICLE I DEFINITIONS

The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

1. **Adult Body Painting Studio** - An establishment or business which provides the service 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 area as defined herein
2. **Adult Book Store** - An establishment that has forty percent (40%) or greater of its current store stock in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.
3. **Adult Oriented Cabaret** - A building or space wherein a portion of the business is used for providing dancing, modeling or other live entertainment, if such dancing or modeling or live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons
4. **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 as defined herein.
5. **Adult Companionship Establishment** - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee 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 as defined herein.
6. **Adult Entertainment Facility** - A building or space wherein an admission is charged for entrance, or food or alcoholic and nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment, including nude dancing, nude modeling or nudity, or which include other activities distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.
7. **Adult Modeling Studio** - An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as define herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
8. **Adult Motion Picture Theater** - A building or space with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
9. **Adult Mini-Motion Picture Theater** - A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

10. **Adult Sauna** - A sauna which excludes by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.
11. **Dwelling Unit** - One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.
12. **Issuing Authority** - Town Board of Supervisors of the Town of Fayal.
13. **Minor** - Any natural person under the age of eighteen (18) years
14. **Nudity** - The showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.
15. **Person** - One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State; or any other business organization.
16. **Public Park** - A park, reservation, open space, playground, beach, or recreation center in the Town owned, leased, or used, wholly or in part, by a City, Town, County, State, School District or Federal Government for recreation purposes.
17. **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 or religious educational purposes.
18. **Sadomasochistic abuse** - Flagellation or torture by or upon a person unclad or partially clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one.
19. **School** - A building or space that is principally used as a place where persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Ordinance.
20. **Sign** - A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display or official court or government office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a "sign".
21. **Single Family Dwelling** - A residential building containing one dwelling unit as herein defined, including detached, semi-detached and attached dwellings, which is intended to be used as a residence.
22. **State Licensed Family Day Care Home. State Licensed Group Family Day Care Home.**
23. **State Licensed Child Care Center** - A facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

24. Sexually Oriented Business - An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, adult-oriented cabaret, or adult sauna as herein defined.
25. Specified Sexual Activities - For the purposes of this Ordinance, sexual activities include the following:
- (1) Human genitals in a discernible state of sexual stimulation or arousal; or
 - (2) Acts of human masturbation, sexual intercourse, sadomasochistic behavior or sodomy; or
 - (3) Fondling of or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breasts; or
 - (4) Any combination of the foregoing.
26. Specified Anatomical Areas - For purposes of this Ordinance, this means:
- (a) Less than completely or opaquely covered:
 - (1) human genitals, pubic region or pubic hair; or
 - (2) buttock; or
 - (3) female breast or breasts below a point immediately above the top of the areola; or
 - (4) any combination of the foregoing; and/or,
 - (b) Human male genitals in a discernibly turgid state even if completely or opaquely covered.
27. Town - The Town of Fayal, St. Louis County, Minnesota

ARTICLE II. ZONING REGULATIONS.

- (a) Sexually oriented businesses shall be prohibited in all of the Town's zoning districts except the COM, Non-Shoreland Commercial District, as defined and regulated in Section 5.05 of the Saint Louis County Zoning Ordinance (Ordinance No. 46), where such businesses shall be permitted, provided the conditions specified in the Zoning Ordinance and in this Ordinance are met.
- (b) In the COM District, in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.
 - (1) No sexually oriented business shall be located closer than five hundred (500) feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business.
 - (2) No sexually oriented business shall be located closer than five hundred (500) feet from any place of worship, school, public park, state licensed family day care home, state licensed group family day care home, public library, or state licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual premises used as a place of worship, school, park, or state licensed family day care home, state licensed group family day care home, or state licensed child care center.
 - (3) No sexually oriented business shall be located closer than five hundred (500) feet from

any of the following residential use districts. Measurements shall be made in a straight line, without regard to intervening structures of objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest boundary of the residential use district:

- a. MUNS, Multiple Use Non-Shoreland district
 - b. RES, Residential district
 - c. SMU, Shoreland Mixed Use district
 - d. SCO, Shoreland Commercial district
 - e. SENS, Sensitive Areas
 - f. IND, Industrial district.
 - g. LIU, Limited Industrial Use District
- (4) A sexually oriented business must also comply with licensing requirements of the Town of Fayal.
- (5) The operation or maintenance of more than one (1) of the following uses in the same building or structure shall be prohibited:

Adult Body Painting Studio; Adult Book Store; Adult Car Wash; Adult Companionship Establishment;
Adult Entertainment facility;
Adult Modeling Studio;
Adult Oriented Cabaret;
Adult Sauna;
Adult Motion Picture Theater;
Adult Mini-Motion Picture Theater.

ARTICLE III. SIGN RESTRICTIONS.

In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following sign regulations shall apply to all sexually oriented businesses in the Town in addition to the provisions of Article VI Section 19 of the St. Louis County Zoning Ordinance:

- (a) All signs shall be flat wall signs. No signs shall be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages. No sign shall contain any message or image which identifies specified sexual activities or specified anatomical areas as defined herein.
- (b) The amount of allowable sign area shall be one (1) square foot of sign area per foot of lot frontage on a street, not to exceed eighty (80) square feet.
- (c) No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually oriented business is located.
- (d) No signs shall be placed in any window. A one (1) square foot sign may be placed on the door to state hours of operation and admittance to adults only.

ARTICLE IV LICENSE REQUIRED.

No person shall own or operate a sexually-oriented business within the Town of Fayal unless such

person is currently licensed under this Ordinance.

ARTICLE V LICENSE APPLICATION.

The application for a license under this Ordinance shall be made on a form supplied by the Town and shall require the following information:

- (1) **All Applicants.** For all applicants:
 - a. Whether the applicant is a natural person, corporation, partnership, or other form of organization.
 - b. The legal description of the premises to be licensed, along with a 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 by 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 (6) inches.
 - c. The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.
- (2) **Applicants Who Are Natural Persons.** If the applicant is a natural person:
 - a. The name, place and date of birth, street and city address, and phone number of the applicant.
 - b. 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.
 - c. The street and city addresses at which the applicant has lived during the preceding two (2) years.
 - d. The type, name, and location of every business or occupation in which the applicant has been employer(s) and partner(s), if any, for the preceding two (2) years.
 - e. Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.
- (3) **Applicants That Are Partnerships.** If the applicant is a partnership:
 - a. The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (2) of this Section.
 - b. The name(s) of the managing partner(s) and the interest of each partner in the business.
 - c. 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 Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.
- (4) **Corporate or Other Applicants.** If the applicant is a corporation or other organization:
 - a. The name of the corporation or business form, and if incorporated, the state of incorporation.

- b. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303.06, shall be attached.
- c. 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 subpart (2) of this Section.

ARTICLE VII LICENSE APPLICATION EXECUTION.

If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

ARTICLE VIII LICENSE APPLICATION VERIFICATION.

Applications for licenses under this Ordinance shall be submitted to the Town Board (hereinafter referred to as the "Issuing Authority"). Within twenty (20) calendar days of receipt of a complete application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Ordinance.

ARTICLE IX LICENSE APPLICATION CONSIDERATION.

No later than ten (10) calendar days after the completion of the license application verification and investigation by the Issuing Authority or its agents and employees, as prescribed in Section 10, the Issuing Authority shall accept or deny the license application in accordance with this Ordinance. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the determination for reconsideration by the Town Board or to immediately challenge the determination in a court of law. If an appeal to the Town Board is timely received, the hearing before the Town Board shall take place within twenty (20) calendar days of the receipt of the appeal. If an application is granted for a location where a building is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the County Planning Department. During the application consideration process prescribed herein an applicant operating a business not previously subject to the license provisions of this Ordinance may remain operating pending the outcome of the application consideration by the Issuing Authority.

ARTICLE IX LICENSE FEES.

- (a) Application fee.
 - (1) The license application fee shall be Five Hundred Dollars (\$500.00)
 - (2) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the Town. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.

- (3) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

(b) Investigation fee.

- (1) An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted, \$500.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be non-refundable.

ARTICLE X PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The Issuing Authority shall issue a license under this division to an applicant unless one (1) or more of the following conditions exists:

- (1) The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;
- (2) The applicant failed to supply all of the information requested on the license application;
- (3) The applicant gave false, fraudulent, or untruthful information on the license application;
- (4) The applicant has had a sexually-oriented license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;
- (5) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;
- (6) The sexually-oriented business does not meet the zoning requirements prescribed in this Ordinance;
- (7) The premises to be licensed as a sexually-oriented business is currently licensed by the Town or the County as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
- (8) The applicant has not paid the license and investigation fees required in Article IX.

ARTICLE XI LICENSE RESTRICTIONS.

- (a) Posting of License. A license issued under this Ordinance must be posted in a conspicuous place in the premises for which it is used.
- (b) Effect of License. A license issued under this Ordinance is only effective for the compact and contiguous space specified in the approved license application.
- (c) Maintenance of Order. A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including but not limited to prostitution, public indecency, indecent exposure, disorderly

conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

- (d) Distance Requirements for Live Adult Entertainment. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten (10) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.
- (e) Interaction with Patrons. No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.
- (f) Gratuity Prohibition. No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer, and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.
- (g) Adult Car Wash Requirements. Sexually-oriented businesses that are adult car washes shall meet all of the requirements of this Ordinance.

ARTICLE XII RESTRICTIONS REGARDING LICENSE TRANSFER

- (a) The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.
- (b) When a sexually-oriented business licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this Ordinance.

ARTICLE XIII RESTRICTIONS REGARDING HOURS OF OPERATION

A licensee shall not be open for business to the public during the following hours on the following days:

- (1) Adult Body Painting Studio, Adult Book Stores, Adult Companionship Establishment, Adult Modeling Studio, Adult Motion Picture Theaters, Adult Mini-Motion Picture Theaters, Adult Sauna, Adult Car Wash:
Monday through Sunday - Not open before 6:00 a.m. nor after 11:00 p.m.
- (2) Adult Entertainment Facilities, including Adult Oriented Cabarets:
Monday through Sunday - Not open before 6:00 a.m. nor after 1:00 a.m.

ARTICLE XIV RESTRICTIONS REGARDING MINORS.

No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of eighteen (18) years. Proof of age may be established only by; a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

ARTICLE XV RENEWAL APPLICATION.

- (a) **Annual Licenses: Deadline for Renewal Applications.** All licenses issued under this Division shall be effective for only one (1) year commencing with the date of approval by the Issuing Authority. An application for the renewal of an existing license shall be submitted to the Issuing Authority at least thirty (30) calendar days prior to the expiration date of the license.
- (b) **Verification, Investigation and Consideration of Renewal Application.** Within twenty (20) calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Ordinance. No later than ten (10) calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one (1) or more of the following conditions exist:
- (1) The applicant is a minor at the time the application is submitted.
 - (2) The applicant failed to supply all of the information requested on the renewal application;
 - (3) The applicant gave false, fraudulent, or untruthful information on the renewal application;
 - (4) The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Ordinance;
 - (5) The sexually-oriented business does not meet the zoning requirements prescribed in the Ordinance;
 - (6) The premises licensed as a sexually-oriented business is currently licensed by the Town or the County as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;
 - (7) The applicant has had a conviction of any crime listed in this Division; or
 - (8) The Applicant has had a sexually-oriented license revoked within a one (1) year period immediately preceding the date the application was submitted.
- (c) **Notice of Denial.** If the Issuing Authority denies a renewal application, the Issuing Authority shall notify the applicant in accordance with this Ordinance and the notice shall, in addition, state the grounds for the denial.

- (d) Appeal to Town Board or Court of Law. After the denial of a renewal application by the Issuing Authority, the applicant may appeal the determination to the Town Board for reconsideration or by immediately challenging the determination in a court of law. If the Town denies renewal of a license under this Division, the applicant shall not be issued a license under this Division for one (1) year from the date of the denial. If, subsequent to the denial, the Town Board finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

ARTICLE XVI SANCTIONS FOR LICENSE VIOLATIONS.

- (a) Suspension. The Town Board may suspend a license issued pursuant to this Ordinance for a violation of:
- (1) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.
 - (2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
 - (3) Any violation of this Ordinance or related state law.
 - (4) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 368.03, Subdivision 2, provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.
 - (5) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the community.
- (b) Revocation. The City Council may revoke a license if the City Council determines that:
- (1) The licensee's license was suspended in the preceding fourteen (14) months and an additional cause for suspension as detailed in (a) above is found by the City Council to have occurred within the fourteen (14) month period;
 - (2) The licensee gave false or misleading information in the material submitted to the City during the application process;
 - (3) The licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - (4) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;
 - (5) A licensee violated any of the provisions of Minnesota Statutes, Section 617.241 - 617.299 relating to the illegal distribution, possession or sale of obscene materials;
 - (6) A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;

- (7) A licensee has been convicted of an offense prescribed in Section 13 and/or 14 of this Ordinance for which the time period required has not elapsed;
 - (8) On two or more occasions within a 12-month period, a person or persons has/have committed an offense prescribed in Section 13 and/or Section 14 of this Ordinance, in or on the license premises, for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed;
 - (9) A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or
 - (10) A licensee is delinquent in payment to the Town, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other financial obligations.
- (C) **Notice of Hearing.** A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give a least eight (8) days notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the most recent address listed on the application.

ARTICLE XVII PENALTY.

A violation of this Ordinance shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation.

ARTICLE XVIII SEVERABILITY

It is the specific intent of the Town Board that if any section, 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 as adopted. The Town Board hereby declares that given the overall purpose of intent of the Ordinance, that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases of the Ordinance are declared invalid.

ARTICLE XIX EFFECTIVE DATE.

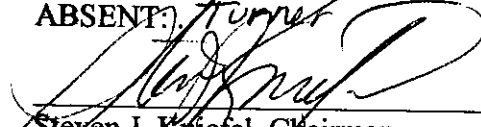
This Ordinance shall take effect and be in force from and after its passage and publication.

Adoption of the foregoing Ordinance was moved by Tammara seconded by Bratt
and it was adopted this 21 Dec. 1999 on the following vote:


AYES: Tammara, Bratt, Osanpa, Kriefel

NAYS: none

ABSENT: Turner

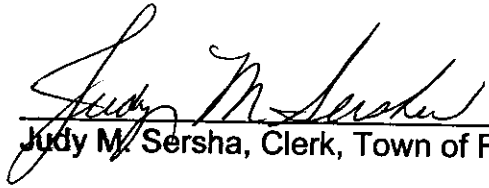


Steven J. Kriefel, Chairman
TOWN OF FAYAL, MINNESOTA



Judy M. Sersha, Clerk
TOWN OF FAYAL, MINNESOTA

Ordinance 99-3 was published according to law on April 12, 2000



Judy M. Sersha, Clerk, Town of Fayal

*Mesabi Daily
News-Va*

file

Affidavit of Publication

STATE OF MINNESOTA)

)ss

COUNTY OF ST. LOUIS)

Eileen Rioux, being duly sworn, on oath says that he/she is the publisher or authorized agent and employee of the publisher of the newspaper known as Mesabi Daily News, and has full knowledge of the facts which are stated below:

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Town of Fayal Ordinance No 99-3 which is attached was cut from the columns of said newspaper, and was printed and published one time; it was published on Wednesday, the 12th day of April, 2000; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice.

*abode fghijklmnopqrstu vwxyz

BY: Eileen Rioux

Victoria L. Juntunen
Subscribed and sworn to before me on this 12th day of April, 2000.
Notary Public

*Alphabet should be

(1) Lowest classified commercial users fo

(2) Maximum rate a for the above matter

(3) Rate actually ch above matter

c. No merchandise, photos, or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually oriented business is located.
d. No signs shall be placed in any window. A one (1) square foot sign may be placed on the door to state hours of operation and admittance to adults only.

ARTICLE IV LICENSE REQUIRED.
No person shall own or operate a sexually-oriented business within the Town of Fayal unless such person is currently licensed under this Ordinance.

ARTICLE V LICENSE APPLICATION.
The application for a license under this Ordinance shall be made on a form supplied by the Town and shall require certain information.

ARTICLE VI LICENSE APPLICATION EXECUTION.
If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

ARTICLE VII LICENSE
out light

VICTORIA L. JUNTUNEN
NOTARY PUBLIC - MINNESOTA
COMMISSION EXPIRES JANUARY 31, 2005

ARTICLE XV RENEWAL APPLICATION
Licenses shall be for one year subject to renewal by the Town Board.
Non renewal is appealable to district court.

ARTICLE XVII PENALTY.
A violation of this Ordinance shall be a misdemeanor under Minnesota law and each day that a prohibited violation occurs or exists will constitute a separate violation.

ARTICLE XVIII SEVERABILITY

ARTICLE XIX EFFECTIVE DATE
This Ordinance shall take effect and be in force from and after its passage and publication.

Adoption of the foregoing Ordinance was moved by TAMMARO seconded by BRATT and it was adopted this 21st day of December 1999 on the following vote:
AYES: TAMMARO, BRATT, OJANPA, KNIEFEL
NAYS: NONE
ABSENT: TURNER
Steven J. Kniefel, Chairman
TOWN OF FAYAL, MINNESOTA

Judy M. Sersha, Clerk
TOWN OF FAYAL, MINNESOTA
Ordinance 99-3 was published according to law on July M. Sersha, Clerk, Town of Fayal (MDN: 4-12-2000)

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MAY - 3 2000
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