

## CHAPTER IX - ZONING AND ECONOMIC DEVELOPMENT

### Part 1. Zoning

#### Sec. 901.01 DEFINITIONS

For the purpose of this ordinance certain terms used herein are defined as follows:

- Block:* That property abutting one side of a street and lying between the two nearest intersecting or intercepting streets and railroad right-of-way of unsubdivided acreage.
- Institutional Living:* Apartments and dwellings including congregate residences, retirement or special care facilities, nursing homes and similar.
- Lot:* Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area required by this Ordinance for a building site in the residential area in which such lot is situated, and having its principal frontage on a street.
- Lot Corner:* A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
- Lot Interior:* A lot other than a corner lot.
- Sign Building:* A sign attached to a building or structure directing attention to a business or profession where a commodity service or entertainment is sold or offered on the premises.
- Sign, Ground:* An independent sign set on a base or pedestal on the ground.
- Sign, Pylon:* A sign that is mounted on a freestanding pole where the sign is at least six (6) feet above the ground.
- Use:* The purpose or activity for which land or premises or a building thereon is designed, arranged, or intended or for which it is or may be occupied or maintained.

*Use*

*Conditional:* A use that may be generally appropriate or desirable in a specified zone, and requires additional review to ensure its compatibility in a specific neighborhood. A public hearing and notice to property owners within 350 feet of the subject property is required. The city can place conditions on the permit in order to make the use more acceptable, protect the public or make the use more compatible with the neighborhood.

*Use, Non-*

*Conforming:* A use or activity that was lawful prior to the adoption, revision or amendment of the zoning ordinance but fails to conform with the present zoning requirements.

*Use,*

*Permitted:* A use that is specifically allowed in a particular zoning district subject to meeting the standards and restrictions of that district.

*Yard:*

An open space that lies between buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward, except as otherwise provided in this ordinance. In measuring a yard, the line of a building means a line parallel to the nearest lot line drawn through the point of a building or the point of a dwelling group nearest to such a lot line, exclusive of the respective architectural features enumerated in Section 6 of this ordinance. The measurement shall be taken from the line of the building to the nearest lot line, except that if any future width line has been established from the street on which the lot faces, the measurement shall be taken from such future width line.

*Yard, Front:*

A space extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest line of the building. On a corner lot, the shortest street frontage side is considered the front lot line for setback purposes.

*Yard, Rear:*

A space extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

*Yard, Side:* A space extending from the front yard to the rear yard between the sideline of the lot and the nearest line of the building.

Sec. 901.02. ADMINISTRATION

- Subd. 1. Zoning Administrator - The Zoning Administrator is appointed by the city council to enforce the Zoning Ordinance.
- Subd. 2. Building, Sign and Fence Permits - Application for a building, sign, or fence permit shall be made to the City Clerk on blank forms to be furnished by the city. Each application for a permit to construct or alter a building or erect a sign or fence shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the buildings, signs or fence to be erected. Applications shall contain such other information as shall be deemed necessary for the proper enforcement of this ordinance. The city council shall issue the permit only after determining that the plans, together with the application, comply with the terms of this Ordinance.
- Subd. 3. Adjustments and Appeals - The Council shall have power to make adjustments in and exceptions to the provisions of this ordinance to the extent of the following and no further.
- (a) To vary or modify the strict application of any of the regulations or provisions contained in this ordinance in cases in which there are practical difficulties or unnecessary hardships in the way of such strict application;
  - (b) To permit public utility or public service uses, or public buildings to be located in the district when found to be necessary for the public health, safety, convenience, or welfare.

Before making its decision upon any application for such an adjustment or exception, the city council shall hold a public hearing thereof and shall thereafter make its decision. The city council shall by resolution either grant or deny such application, and it may attach to the grant of the application such conditions and guarantees as it deems necessary to carry out the purposes of this ordinance. The city council may grant an exception or an adjustment where there are special circumstances or conditions affecting the land, building or use referred to in the application; or where the granting of the application is necessary for the preservation and enjoyment of substantial property rights, provided that the granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will

not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. Variances for setbacks must be approved by the affected property owners(s).

- Subd. 4. Enforcement - The city council shall enforce this ordinance through the proper legal channels. Hereafter no person shall erect, alter, wreck, or move any building or part thereof without first securing a permit thereof from the city council.
- Subd. 5. Penalties - Any person who violates or fails to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor. Each day that the violation is permitted to exist shall constitute a separate offense.

Sec. 901.03. USES

Land uses are listed under each zoning district as permitted and conditional uses. Where not listed, the city council shall determine if a use is comparable to the uses of the district.

- Subd. 1. Permitted Uses - A permitted use is specifically allowed in a zoning district and subject to meeting the requirements and standards of that zoning district.
- Subd. 2. Conditional Uses  
A conditional use may be permitted by the city following a public hearing and notice of property owners within 350 feet of the subject property. The city can place conditions on the permit in order to make the use more acceptable, protect the public or make the use more compatible with the neighborhood.
- Subd. 3. Non-Conforming Uses and Buildings  
Any non-conforming use or building that is in existence at the time of the adoption of this ordinance may be continued, except that non-conforming uses or buildings may not be:
  - (a) changed to another non-conforming use;
  - (b) re-established after discontinuance for one year; or
  - (c) rebuilt after damage exceeding 50 percent of its value so as to continue a non-conforming use.

Sec. 901.04. ZONING DISTRICT

Subd. 1. Special Requirements in Residential Districts

- (a) In residential districts, the structures shall be used only for purposes listed by this ordinance as permitted in the district. In such residential district every building erected or structurally altered shall be provided with the yards specified, shall be on the lot of the area and width specified and shall not exceed the height specified in this ordinance for the district.
- (b) Under Minnesota State law, the following are considered permitted uses in single family residential zoning districts: (1) a state licensed residential facility or a housing with services established registered under chapter 144D serving six or fewer persons; (2) a licensed day care facility serving 12 or fewer persons; and (3) a group family day care facility licensed under Minnesota Rules, parts 9502.03315 to 9502.0445 to serve 14 or fewer children. Residential facilities that serve juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses are not a permitted use.
- (c) Dwelling units are prohibited. No cellar, garage, trailer, basement with unfinished structures above, or accessory building shall at any time be used as a dwelling unit except manufactured homes located in an approved mobile home park. The basement portion of a finished home or apartment building may be used for normal eating and sleeping purposes provided it is properly damp proofed, has suitable fire protection and exits, and is otherwise approved by the County inspector or city.

All manufactured homes, except those constructed in an R-3 (Mobile Home Parks) shall be constructed on a permanent footing and foundation. Unless otherwise specifically allowed by the Uniform Building Code, the foundation shall be constructed of masonry, concrete or treated wood in conformance with UBC Standard Number 29-3 and shall extend below the frost line. The manufactured home constructed in residential districts shall be designed for 30 pound live load on all roofs and a 40 pound load on all floors except those placed in an R-3 district.

- (d) All mobile homes shall be in conformance with Section VI. A of this Ordinance.

- (e) Height Regulations In the residential district no building shall hereafter be erected or structurally altered to exceed thirty-five feet (35') or two and one half (2-1/2) stories in height.
- (f) Front Yard Requirements Each lot in the residential district shall have a minimum front yard of twenty-five (25'). In the event other dwellings already erected to the sides of the proposed dwelling have been set back a distance greater than twenty-five feet, the front yard requirement for the proposed dwelling shall conform to the average setback of the adjacent dwellings.
- (g) Corner Lots When a lot is adjacent to more than one public street, the front lot line is the shortest side for setback purposes.
- (h) Side Yard Requirements For every dwelling hereafter erected or structurally altered that does not exceed one and a half (1-1/2) stories, each side yard shall have a width of not less than five (5'). For every such dwelling that has two (2) stories, each side yard shall have a width of not less than eight feet (8'). For every dwelling of two and a half (2-1/2) stories, each side yard shall have a width of at least ten feet (10'). When the side yard of a dwelling is adjacent to public street, the setback is required to be a minimum of 20 feet.
- (i) Rear Yard Requirement. For the principle building each lot in the residential district shall have a rear yard of a depth equal to 20% of the depth of the lot to a maximum requirement depth of twenty-five feet (25') for such yard. Detached garages and accessory buildings may be set five-feet (5') from the property line.

Subd. 2. Residential Districts

(a) R-1 One and Two Family Residence Districts

Purpose The R-1 district is intended for low-density development in those areas where such development fits the city's policies and where municipal utilities are available.

(b) Permitted Uses

- (a) One and two family dwellings;
- (b) Public parks and recreation areas;
- (c) Public elementary or high schools;
- (d) Private schools;
- (e) Places of worship;
- (f) Grain or vegetable farming or gardening on unplatted land assessed as agricultural land, but not involving a sales structure;
- (g) Golf courses, clubhouses, miniature courses, and driving tees;
- (h) Home occupations meeting the requirements of Section VI.B of this ordinance;
- (i) Institutional living facilities.

(c) Conditional Uses

- (a) Public and semi-public community facilities, such as municipal offices, community centers, private clubs, library, post office, fire station, etc.

Subd. 3. Multiple Family Residence Districts

- (a) Purpose. The R-2 district is intended for buildings of three (3) or more dwelling units in those areas where such development fits the land use plan, where they properly relate to other land uses and thoroughfares and where adequate municipal utilities are available.

(b) Permitted Uses

- 1. Apartments;
- 2. Row houses, town houses;

3. Dormitories or other buildings meeting the purpose of the district;
4. Institutional living facilities;
5. Home occupations meeting the requirements of Section VI.B of this ordinance;
6. Public parks and recreation areas;
7. Public elementary or high schools;
8. Private schools;
9. Places of worship.

(c) Conditional Uses

All uses allowed in R-1 zoning district.

Subd. 4. R-3 Mobile Home Parks.

(a) Purpose: The R-3 district is specifically intended for mobile homes located in mobile home parks, in accordance with the regulations in Section VI of this ordinance.

(b) Permitted Uses

1. All manufactured homes built in conformance with Minnesota Statutes 327.31 to Minnesota Statute 327.35, and in compliance with the Performance Standards in Section VI of this Code;
2. Motels;
3. Home occupations meeting the requirements of Section VI.B of this ordinance;
4. Public parks and recreation areas;
5. Public elementary or high schools;
6. Private schools;
7. Places of worship.



(c) Conditional Uses

Trailer and mobile home sales.

(d) Permitted Accessory Uses

1. Administrative offices, recreation building and facilities, laundry and other uses of a supporting nature to a mobile home park.
2. Temporary parking of travel trailers for occupancy, provided that no travel trailer shall be parked for reason of occupancy for more than seven (7) days without a permanent occupancy permit as provided in Section 1001.10, Subd. 3,4,5,6, 7 and 8.

Subd.5. Commercial and Business District

(a) Purpose

The B-1 District is intended for administrative and professional offices that will be complementary with nearby residential uses. The office uses allowed in the District shall be those which have limited contact with the public and to manufacturing to the general public, except where necessary to the principal permitted uses.

(b) Permitted Uses

1. Medical or dental offices and clinics;
2. Offices for administrative, executive, professional, research or similar organizations;
3. Banks and credit unions;
4. Public and semi-public community facilities, such as municipal offices, community centers, private clubs, library, post office, fire station, etc.;
5. Retail establishments such as grocery, drug, hardware, clothing;
6. Personal services such as laundry, barber and beauty shops, dry cleaning and repair shops (not including auto repair);
7. Eating and drinking places;

8. Convenience stores;
9. Indoor recreation businesses such as bowling alleys and movie theaters.
10. Motels and hotels;
11. Lumber yards and construction material sales;
12. Garden and landscaping sales and service.

(c) Conditional Uses

1. Residential uses;
2. Home occupations;
3. Vehicle, boat, trailer and recreational equipment sales;
4. Auto/truck fuel and service stations;
5. Farm implement dealers;
6. Showrooms;
7. Outlet stores.

Subd. 6. Industrial District

(a) Purpose

The I-1 District is intended for administrative, wholesaling, manufacturing and related uses which can maintain high standards of appearance, including open spaces and landscaping and limit external effects such as noise, odors, smoke and vibration.

(b) Permitted Uses

1. Manufacturing, processing, packaging or assembly of products and materials;
2. Research laboratories;
3. Wholesaling;

4. Warehousing;
5. Trucking/construction.

(c) Conditional Uses

1. Outdoor storage;
2. Manufacture or storage of hazardous or toxic materials;
3. Auto wrecking, junkyard or similar.
4. Adult Oriented Businesses

Sec. 901.05. PERFORMANCE STANDARDS

Subd. 1 Mobile Home Parks

(a) Definitions

Whenever used in this ordinance, unless a different meaning appears in the context:

1. A “trailer” means an automobile trailer, trailer coach or any vehicle or structure so designed and constructed in such a manner as will permit occupancy thereof as living quarters for one or more persons, and so designed that it is or may be mounted on wheels and used as a conveyance on highways or streets, propelled or drawn by its own or other motive power.
2. The word “person” shall include the singular and the plural, and shall mean and include any individual, corporation, co-partnership or other association of persons.

(b) Location Outside Camps

1. It shall be unlawful, within the limits of the city of Sherburn, for any person to park any trailer on any street, alley, highway, or other public place or on any tract of land owned by any person occupied or unoccupied, within the City of Sherburn, except as provided in this ordinance.
2. Emergency or temporary stopping or parking is permitted on any alley, street or highway for not longer than 24

hours, subject to any other further prohibitions, regulations or ordinances for that street or alley or highway.

3. No person shall occupy any trailer in an accessory private garage building, or in the rear yard in any district. Parking of trailers is permitted providing no living quarters shall be maintained or any business practiced in said trailer while such trailer is so parked or stored.
4. Any person dealing in the buying and selling of trailers may park or store one or more unoccupied trailers on lands which permit automobile sales and service.

(c) Permanent Occupancy

Provided that any trailer properly connected with city water system and city sewer system, and constructed and located in compliance with all requirements of the plumbing, electrical, health ordinances in the city, and not inhabited by a greater number of occupants than that for which it was designed, may be permitted for a period of time as herein provided under permits properly secured hereunder, and upon compliance with ordinances and regulations effective in said city.

(d) Permits

Every person seeking a permit, or renewal thereof, shall make application in writing at the office of the city clerk upon a form provided. It shall state the name and address of the applicant, and a description of the property upon which such permit is desired. Each such application shall be filed with the city clerk not less than 30 days before said trailer is ready for occupancy.

(e) Investigation Required before Issuing Permit

Upon filing of such application it shall be the duty of the city council or its duly authorized representative to investigate the premises, and determine whether said trailer and land upon which it is proposed to be used, conform with the requirements of this ordinance and of the rules and regulations of the Board of Health and laws of the State of Minnesota and no permit or renewal thereof shall be issued unless it meets such requirements and no permit shall be issued for a period in excess of One (1) year.

(f) Revocation and Inspection

The city council of the City of Sherburn is hereby authorized to revoke any permit issued pursuant to the terms of this ordinance, if, after due investigation they determine that the holder has violated any of the provisions of this ordinance, or that any trailer is being maintained in an unsanitary or unsafe manner or is a nuisance.

(g) Separability and Conflict

1. Nothing herein contained shall be construed to apply to any trailer coach park in the limits of the City of Sherburn, which is regulated by the Minnesota State Board of Health pursuant to Chapter 428, Laws of Minnesota 1951, (M.S. 327.14 et sec.)
2. If any section, provision, clause or sentence of this ordinance shall be declared invalid by any court of competent jurisdiction such invalidity shall not affect any of the other provisions hereof.

(h) Penalty

Any person found guilty of violating any provision of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not less than \$5.00, not more than \$100.00, or by imprisonment for not to exceed 90 days, and every day such violation exists shall be constitute a separate offense and punishable as such hereunder.

Subd. 2. Home Occupations

A home occupation is conducted within a home. A **home occupation permit** must be issued annually to ensure the home occupation complies with the following requirements:

- (a) The occupation is clearly secondary to the principal use and does not change the nature of the use and neighborhood.
- (b) Not more than 25% of the home or buildings are used for the home occupation.
- (c) Any signs must be in conformance with the sign section of this Code.

- (d) No retail sales are allowed unless incidental to the home occupation.
- (e) No outdoor display or storage of goods, equipment, or materials is allowed.
- (f) A maximum of one (1) outside employee in addition to the residents of the home may be engaged in the home occupation.
- (g) The home occupation shall not constitute, create or increase a nuisance to the neighborhood and must comply with the nuisance criteria and standards in the city ordinance.

Subd. 3. Parking

- (a) Minimum Requirements for Off-Street Parking
  1. Main Street/Downtown area. Businesses in the Main Street area of downtown are exempted from the off-street parking requirements.
  2. The minimum number of parking spaces is required for the uses listed below. Where a use is not listed, the city council will determine the adequacy of parking. Parking space requirements may be adjusted upward or downward by the city council based on information provided by the applicant and/or the experience of the city.

**MINIMUM PARKING REQUIREMENTS:**

<u>Use</u>	<u>Spaces Required</u>
One & two family dwellings	2 per unit
Townhomes & apartments	1 per bedroom
Golf courses, clubhouses, miniature courses and driving tees review	Per city council
Medical or dental offices	3 per doctor
Offices	1 per 150 square feet

Banks and credit unions	1 per 250 square feet
Community centers, private clubs, library, places of worship, indoor recreation, eating and drinking places	1 per 3 seats
Retail establishments, personal services	1 per 200 square feet
Convenience stores	10 or 1 per 300 square feet
Motels and hotels	1 per guest and 1 per employee
Auto/Truck fuel & service stations	per city council review
Vehicle, boat, trailer and recreational equipment sales, farm implement dealers, showrooms, lumber yards and construction material sales, garden and landscaping sales and service.	1 per 400 feet of sales floor area
Manufacturing, processing, packaging, or assembly of products and materials, research laboratories, wholesaling, and warehousing, truck terminals, manufacture or storage of hazardous or toxic materials.	1 per 2,500 square feet or 1 per employee on shift whichever is greater

(b) Parking Setbacks.

Off-street parking spaces must be at least five feet (5') from any property line.

(c) No motor vehicles over one (1) ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district or on a public street except when loading, unloading, or rendering a service. Recreation vehicles and pickup trucks are not restricted by the terms of this provision.

Subd. 4. Signs

- (a). Allowable Signs. The following signs are allowed with a **Sign permit:**

<u>Use</u> <u>Setback</u>	<u>Type Allowed</u>	<u>Maximum</u> <u>Size Allowed</u>	<u>Maximum</u> <u>Height</u>	
<b>Single Family Home</b> * Home Occupation	(1) ground	2 ft. x 3 ft.	5 feet	5-feet
<b>Multiple Family</b> * Identification Sign	(1) ground	60 sq. feet.	8 feet	5-feet
<b>Commercial/ Industrial</b> *Identification Sign	(1) ground or (1) pylon	60 sq. feet 80 sq. feet	8 feet ground 30 feet pylon	5-feet
<b>Commercial/ Industrial</b> *Business	(1) building sign per street frontage	40 sq. feet	Must be below roof	N.A.

- (b) Signs under two (2) square feet, including address, identification and security signs are allowed without a permit.
- (c) Garage sale, real estate, election and other temporary signs are allowed without a permit.
- (d) The following signs are prohibited:
1. Flashing, intermittent or revolving signs.
  2. Portable signs, except as a special use for a limited time or event.
  3. Building signs above a roof.



- (e) Signs may not hang over the public right-of-way.

Subd. 5. Fences

- (a) Permit. All fences are required to obtain a **fence permit** from the city.
- (b) Location. Fences may be placed on private property inside a property line. The face opposite the post shall face the abutting property.
- (c) All fences must be constructed in sound condition and may not be in disrepair or pose danger.
- (d) Height.
  - 1. Residential fences may be up to six (6) feet high in rear yards and three (3) feet high in front yards or side yards adjacent to a public street.
  - 2. Commercial and industrial fences may be up to eight (8) feet in height.
- (e) No barbed wire is allowed in residential areas. Any barbed wire on a fence must be at least six (6) feet above the ground and three (3) feet from a public sidewalk or way.

### **Adult Oriented Businesses**

#### Section 901.06 PURPOSE AND INTENT

- Subd. 1. Studies Cited. - Studies conducted by the Minnesota attorney general, the American Planning Association and cities such as St. Paul, Minnesota, Indianapolis, Indiana, Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona, Los Angeles, California, Seattle, Washington, have studied the impacts that Adult Oriented Businesses have in communities. These studies have concluded that Adult Oriented Businesses have adverse impacts on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks Based on theses, the City Council of the City of Sherburn, (the “City Council”) concludes:

- (a) Adult Oriented Businesses have adverse secondary impacts of the types set forth above.
- (b) The adverse impacts caused by Adult Oriented Businesses tend to diminish if adult Oriented Businesses are governed by locational requirements, licensing requirements and health requirements.
- (c) It is not the intent of the City Council to prohibit Adult Oriented Businesses from having a reasonable opportunity to locate in the City of Sherburn (the “City”).
- (d) Minnesota Statutes, Section 462.357 allows the City to adopt regulations to promote the health, safety, morals and general welfare.
- (e) The public health, safety, morals, and general welfare will be promoted by the City adopting regulations governing Adult Oriented Businesses.

Subd. 2. Findings of City Council. The City Council makes the following findings regarding the need to license Sexually Oriented Businesses. The findings are based upon the experience of other cities where such businesses have located as studied by City staff.

- (a) Adult Oriented Businesses can contribute to an increase in criminal activity in which such businesses are located, taxing City crime-prevention Programs and law enforcing services.
- (b) Adult Oriented Businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
- (c) Adult 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 cities 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.

- (d) Adult Oriented Businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- (e) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Subd. 3.  
safety,  
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additional

Purpose. It is the purpose of this Section 90~~12.064~~ to 90~~12.2146~~ to regulate Adult Oriented Businesses to promote the health, morals, and general welfare of the citizens of the City and establish reasonable and uniform regulations to prevent criminal activity within the City and,

- (a) Prevent additional criminal activity within the City; and,
- (b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values for properties within the neighborhood; and,
- (c) To locate Adult Oriented Businesses away from Agricultural land designated for future residential development within the City’s comprehensive plan, Amusement Establishments, Daycares, Other Adult Oriented Businesses, Places of Worship, Public Libraries and Parks, Residential Districts and Uses, and Schools; and,
- (d) Prevent concentration of Adult Oriented Businesses within certain areas of the City.

Subd. 4. First Amendment Rights Protected. The provisions of this Section 902.01 – 902.16 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent of this Section 902.01-902.16 to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

Section 901.07. DEFINITIONS

Subd. 1. “Adult Oriented Businesses” shall be defined as any business which offers its patrons services, entertainment or the sale of

merchandise characterized by an emphasis on matter depicting, exposing, describing, discussion, or relating to Specified Sexual Activities or Specified Anatomical Areas. For purposes of this Section 902.01 – 902.16 the terms defined below in this Subdivision 1 shall have the meanings given them; and shall constitute Adult Oriented Businesses, which are activities and businesses that shall be subject to the regulation of this Section 902.01-902.16.

(a) Adult Book and/or Media Store. An establishment which excludes Minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

(b) Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes Minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(c) Adult Companionship Establishment A companionship establishment which excludes Minors by reason of age, or 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.

(d) Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes Minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(e) Adult Mini-Motion Picture Theater.

(1) A theater in an enclosed building from which Minors are excluded from all or part of the establishment with a capacity for less than fifty (50) persons used for presenting motion pictures, including, but not limited to film and video tape, having as a dominant theme material

distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

(2) Any business which presents motion pictures from which Minors are excluded from all or part of the establishment, including films, and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices and the viewing of excerpt of motion pictures offered for sale or rent.

- (g) Adult Modeling Studio. An establishment which excludes Minors from all or part of the establishment whose major business is the provision to customers or figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.
- (h) Adult Motion Picture Arcade. Any place which excludes Minors from all or part of the establishment wherein coin or token operated or electronically, or mechanically controlled or operated still or motor picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
- (i) Adult Motion Picture Theater. A theater in an enclosed building from which Minors are excluded from all or part of the establishment, with a capacity of fifty (50) or more persons used regularly and routinely for presenting live entertainment or motion pictures, including, but not limited to film and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- (j) Adult Novelty Business. A business from which Minors are excluded from all or part of the establishment, which sells, offers

to sell, or displays devices which simulate human genitals or devices which are designed for sexual stimulation.

- (k) Adult Sauna. A sauna which excludes Minors 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.

Subd. 2.  
meanings given

For purposes of this Section ~~9012.061~~-9012.2146 the general terms defined below in this Subdivision 2 shall have the them.

- (a) Amusement Establishments. An establishment whose principal use, as defined in the City's zoning ordinance is for the purpose of public amusement, such as roller rinks, dance halls, bowling alleys and the like.
- (b) Daycare. A facility holding a license from Martin County or Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503 as amended.
- (c) Minor Any natural person under the age of eighteen (18) years.
- (d) 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.
- (e) Public Library. Any library that provides free access to all residents of a City or county without discrimination and is organized under the provisions of Minnesota Statutes, Chapter 134.
- (f) Public Park. A park, reservation, open space, playground, beach, or recreation or community center in the City owned, leased, or used, wholly in part, by City, county, state, school district or federal government for recreation purposes.
- (g) Residential District. Residential District shall mean property located within an R-1 Single Family District, R-2 Multiple Family Districts, R-3 Mobile Home Parks, B-1 General Business District as indicated on the City of

Sherburn Zoning map and as defined and regulated through the zoning ordinance of the City.

- (h) Residential Use. A property which contains a structure within which resides one or more individuals whether owned, leased or rented by the occupant.
- (i) School. A building or space that is principally used as a place where seventeen (17) or more person 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 Section 90~~12.0601-~~90~~12.2146.~~
- (j) Specified Anatomical Areas are any of the following conditions:
  - (1) Less than completely and opaquely covered;
    - (i) human genitals, pubic region, or pubic hair;
    - (ii) buttock, anus, and,
    - (iii) female breast below a point immediately above the top of the areola; and
  - (2) Human male genitals in a discernible turgid state; completely and opaquely covered.
- (k) Specified Sexual Activities are any of the following conditions:
  - (1) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being an animal.
  - (2) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being bettered, bound, or otherwise physically restricted on the part of one so clothed.
  - (3) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.

- (4) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

Section 901.08 APPLICATION OF THIS ORDINANCE

Subd. 1. Building Improvements. Except as in this Section 90~~12.061~~-90~~12.21+6~~ specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Section 90~~12.061~~-90~~12.21+6~~.

Subd. 2. Other Prohibitions Not Excepted. No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City, the laws of the State of Minnesota, or the United States or America. Nothing in this Section 90~~12.01~~-90~~12.21+6~~ shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including, but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to Minors.

Subd. 3. Exclusions. All public and private schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

Section 901.09. LOCATION

Subd. 1. Industrial District. All adult oriented businesses shall be located within the I-1 Industrial District as indicated on the City of Sherburne's Zoning map as defined in and regulated through the zoning ordinance of the City.

Subd. 2. Separation Requirement. No adult oriented business shall be located less than 1,000 feet from the school, daycare center, or church.

Subd. 3. Method of Determination. For purposes of this Section 90~~12.01~~ – 90~~12.21+6~~, distances shall be a horizontal measurement from the



nearest existing uses listed above to the nearest boundary of the proposed adult-oriented site.

Subd. 4.  
90~~12.2146~~,  
the following:

Prohibited Sites. During the term of this Section 90~~12.0104~~ –  
no adult oriented businesses shall be located within

(a) Any establishments where liquor is served.

(b) At any place or event where Minors are permitted.

Section 901.10.

Hours of Operation.

No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

Section 901.11

Responsibilities of Operator.

Subd. 1.

Operator Responsible for Employees. Every act or omission by an employee constituting a violation of the provisions of this Section 90~~12.01~~ – 90~~12.2146~~ shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

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committed the act

Subd. 2.

Licensure Considerations. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

Subd. 3.

Loitering Prohibited. No employee of Adult Oriented Businesses shall allow any Minor to loiter around or to frequent an Adult Oriented Business or to allow any Minor to view its merchandise.

Subd. 4.

Sanitation. The operator shall maintain the premises in a clean and sanitary manner at all times.

Subd. 5.

Employee Criminal History. No employee shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact

that a conviction may be under appeal shall not affect the disqualification of the employee.

- Subd. 6. Business Transaction. All business transactions shall occur within the licensed building.
- Subd. 7. Compliance of Establishment The operator shall ensure compliance of the establishment and its patrons with the provision of this Section 9012.01 – 9012.2146.
- Subd. 8. Off-site Viewing. An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which if viewed by a Minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.

#### Section 901.12. LICENSES

- Subd. 1. Licenses Required. All establishments, including any business operating at the time of this Section 902.01 – 902.16 becomes effective, operating or intending to operate Adult Oriented Business, shall apply for and obtain a license from the City. A person in violation of the City Code if he or she operates an Adult Oriented Business without a valid license, issued by the City.
- Subd. 2. Applications. An application for a license must be made on a form provided by the City. The application shall contain the following:
- (a) The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of 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 marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
  - (b) The applicant must be qualified according to the provisions of this Section 902.01 – 902.16 and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the health official, fire marshal and building official.
  - (c) Application for license shall contain the address and legal description of the property to be used, the names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees,

the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, 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 the disposition thereof, the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as the 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.

- (d) 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 the 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 and creditors furnishing credit for the establishment, 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 an creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
- (e) All applicants shall furnish to the City, along with the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

Subd. 3. Eligibility. In order to be eligible for a license to operate Adult Oriented Businesses the applicant and premises must meet the following eligibility requirements:

- (a) The applicant must be eighteen (18) years of age or older.
- (b) The applicant or his or her spouse must not have been denied a similar license by any other city, county, or state within the preceding twelve (12) months or must not have had such a license revoked or suspended within the preceding twelve (12) months.
- (c) All current real estate taxes must be paid on the licensed premises.
- (d) The licensed premises must meet all of the criteria of this Section 90~~12~~.01 – 90~~12~~.~~21~~~~46~~ as well as all building and fire codes.
- (e) The applicant or spouse must not have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature of involving the use or distribution of a controlled substance as defined by Minnesota laws or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant.
- (f) All license and investigation fees required by this Section 90~~12~~.01 – 90~~12~~.~~21~~~~46~~ must have been paid.
- (g) The applicant and operator must be a citizen of the United States.

Subd. 4. Denial of Application. The following shall be grounds for denial of an application for operation of Adult Oriented Businesses.

- (a) The license fee required by this Section 90~~12~~.01 – 90~~1~~.~~21~~~~2~~~~46~~ as not been paid.
- (b) An applicant has been convicted of a crime involving any of the following offenses.
  - (1) Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith.

- (2) Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith, 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 the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is 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 conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
- (3) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant's spouse.

- Subd. 5. Requalification. An applicant who has been convicted of an offense listed in Section 7, Subdivision 3 (g) may qualify for an Adult Oriented Business license only when the time period required by Section 7, Subdivision 3 (g), has elapsed.
- Subd. 6. Individually Licensed A license may be issued for only one Adult Oriented Business located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one Adult Oriented Business shall have a separate license for each such business.
- Subd. 7. Posting The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.
- Subd. 8. Council Action. The City Council shall act to approve or

the  
date

disapprove the license application within one hundred twenty (120) days from the date the application was submitted, provided that the application contains all of the information required by this Section 90~~12.1207~~. If the application is deficient, the Council shall act on application within one hundred twenty (120) days from the that the deficiency has been corrected.

- Subd. 9. Appeals. Within ninety (90) days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the City Administrator of the City.

### Section 901.13. FEES

- Subd. 1. License Fee Established. The fee for the license to operate in an Adult Oriented Business shall be established in the official *Fee Schedule* of the City, which is adopted annually by the City Council. This fee shall be referred to as the “License Fee.”
- Subd. 2. Prorated Fees. If part of the license year has elapsed when the application is made, the City may issue a license for the remainder of the year for a prorated fee. In computing such prorated License Fee, the City shall count any unexpired fraction of a month as one (1) month.
- Subd. 3. Investigation Fee Established. The application shall submit payment at the time of the initial license application to cover the cost of conducting the initial investigation and analysis of the applicant, application and the establishment; this fee shall be referred to as the “Adult Use Investigation Fee”. The Adult Use Investigation Fee shall be determined as follows:
- (a) Upon applying for the license, the applicant shall pay \$500.00 per person identified on the application as an owner, operator or manager.
  - (b) If it appears that the investigative costs will exceed \$500.00, the City Administrator shall notify the applicant and give the applicant an estimate of costs. The applicant shall either make an additional deposit equal to the difference between \$500.00 and the total estimate, or shall withdraw the application. If the additional deposit is not paid within fourteen (14) days the application shall be deemed withdrawn.
  - (c) If the costs of administrative, issuance and investigation are less than the deposit, the balance shall be refunded upon the

issuance or denial of the license. No license shall be issued until the applicant has paid the entire cost of administration, issuance and investigation.

- (d) Eligible costs for the Adult Use Investigation fee shall include the wage and benefit cost for staff time spent on the investigation and any direct out of pocket expenses incurred.

Subd. 3. Fee Refunds. No part of the License Fee paid by any licensee shall be refunded, except that a pro rata portion of the License Fee shall be refunded in the following circumstances upon application to the City Administrator within thirty (30) days from the happening of the event, provided that such event occurs more than thirty (30) days before the expiration of the license.

- (a) Destruction or damage of the licensed premises by fire or other catastrophe.
- (b) The licensee's illness.
- (c) The licensee's death.
- (d) A change in the legal status making it unlawful for licensed business to continue.

#### Section 901.14. INSPECTION

Subd. 1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

Subd. 2. Refusal to Permit Inspection. A person who operates an Adult Oriented Business or his/her agent or employee commits an offense, if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 11.

Subd. 3. Exception The provisions of this Section 902.01 – 902.16 do not apply to areas of an adult motel which are currently being rented

by a customer for use as a permanent or temporary habitation.

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Section 901.15. EXPIRATION AND RENEWAL

- Subd. 1. Expiration. Each license shall expire on the last day of December in each year and may be renewed only by making application as provided in Section 902.01 – 902.16. Application for renewal must be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected.
- Subd. 2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for 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 denial became final.

Section 901.16. SUSPENSION

- Subd. 1. Causes of Suspension. The City may suspend a license for a period not to exceed thirty (30) days if it determines that licensee or an employee of a licensee has:
- (a) Violated or is not in compliance with any provision of this Section 902.01 – 902.16.
  - (b) Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
  - (c) Refused to allow an inspection of the Adult Oriented Business Premises as authorized by this Section 902.01 – 902.16.
  - (d) Knowingly permitted gambling by any person on the Adult Oriented Business premises.
  - (e) Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.
- Subd. 2. Notice. A suspension shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.



Section 901.17. REVOCAATION

- Subd. 1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended within the preceding twelve (12) months.
- Subd. 2. Causes of Revocation. The City shall revoke a license if it determines that:
- (a) A licensee gave false or misleading information in the material submitted to the City during the application process;
  - (b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
  - (c) A licensee or an employee has knowingly allowed prostitution on the premises.
  - (d) A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended.
  - (e) A licensee has been convicted of an offense listed in Section 902.07, Subd. 4 (b) for which the time period required in Section 902.07, Subdivision 4 (b) has not elapsed.
  - (f) On two or more occasions within a 12 month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 902.07, Subd. 4 (b) for which a conviction has been obtained, and the person or persons were employees of the Adult Oriented Business at the time the offenses were committed.
  - (g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises
  - (h) A licensee or an employee has knowingly allowed the consumption of alcohol to occur in or on the licensed premises.
- Subd. 3. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

- Subd. 4. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under section 12 of this Section, an applicant may not be granted another license until the appropriate number of years required under Section 902.07 Subd. 4 (b) has elapsed.
- Subd. 5. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

Section 901.18. TRANSFER OF LICENSE

A licensee shall not transfer this license to another person, partnership or corporation, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

Section 901.19. LAYOUT

- Subd. 1. Patron Observation. The layout of the display areas shall be designated so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any other material.
- Subd. 2. Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.
- Subd. 3. Private Viewing Areas. Adult Oriented Businesses having available for customers, patrons or members, a booth, room, cubicle for the private viewing of any adult entertainment must comply with the following requirements:
- (a) Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock

or other control type devices.

- (b) Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
  - (2) Have at least one side totally open to public lighted aisle so there is an unobstructed view at all times of anyone occupying the area.
  - (3) All walls shall be solid and without any openings extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured, and easily cleanable.
  - (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
  - (5) The lighting level of each booth, room or cubicle when not in use shall be minimum of 10 foot candles at all times as measured from the floor.
- (c) Only one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

Subd. 4. Exterior Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Subd. 5. Interior Illumination. The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles as measured from the floor.

Section 901.20 SIGNAGE

The following sign regulations shall apply to all Adult Oriented Business in the City. These regulations are to protect children from exposure to sexually oriented or shocking signs and to preserve the value of property near such uses. These regulations are aside from any other provision of the City Code.

- (a) All signs shall be flat.
- (b) No merchandise, photos or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from the sidewalk or public-right-of-way adjoining the building or structure in which Adult Oriented Businesses are operated.
- (c) Window areas shall not be covered or made opaque in any way.
- (d) No signs shall be located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically, changing messages.
- (e) No sign shall be placed in any window.
- (f) A one square foot sign may be placed on the door of the establishment to state hours of operation.
- (g) A one square foot sign shall be placed on each public entrance of the establishment which states “This business sells or displays material containing adult themes. Persons under age eighteen years of age shall not enter.”
- (h) Where provisions of this Section conflict with City Code or the Zoning Ordinance, the provisions of this Section shall prevail.

Section 901.21. SEVERABILITY

any declared thereof to the extent 9012.01 – 9012.2116 or any 9012.2116 shall be held it shall not invalidate any other	Every section, provision or part of this Section 9012.01 – 901.212.16 or permit issued pursuant to this Section 9012.01 - <del>901.0902.1621</del> is severable from every other section, provision or part that if any section, provision or part of this Section permit issued pursuant to this Section 9012.01 – <del>901.0902.1621</del> shall be held invalid by a court of competent jurisdiction section, provision or part thereof.
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**CHAPTER IX      Zoning Ordinance Amended**

The Zoning ordinance of the City of Sherburn shall be amended by adding item 904.01 Subd. 6 which allows the establishment of Adult Oriented Businesses by conditional use permit and shall read as follows:

Section 904.01 Subd. 6 (b) 6.

(b) Adult Oriented Businesses as regulated by Sections 90~~12.0104~~ - 90~~12.2146~~ of the Sherburn City Code.

Section 4. This Ordinance shall be effective upon its passage, publication, and 30 day posting as provided by law.

\_\_\_\_\_  
Mayor, Gerald Jenkinson

\_\_\_\_\_  
City Administrator

Introduced \_\_\_\_\_  
Adopted \_\_\_\_\_  
Published \_\_\_\_\_