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An ordinance regulating nudity and obscenity on premises licensed for the sale and consumption of intoxicating liquor and/or non-intoxicating malt liquor. The County Board of Aitkin County ordains:

Section 1 Statutory Authorization, Findings of Fact and Purpose

1.1 Statutory Authorization

Minnesota Statutes Chapter 340A.509 and 340.01 authorize local governmental units to adopt regulations pertaining to licensees holding intoxicating liquor and non-intoxicating malt liquor licenses issued by such local governmental units.

1.2 Findings of Fact

1.21 The Aitkin County Board of Commissioners adopted resolutions pursuant to Laws 1967, Chapter 697, pertaining to the requirements for the issuance of liquor licenses on October 3, 1967; April 9, 1968; May 6, 1980 and October 23, 1984.

1.22 Up until the date of this ordinance, Aitkin County had no effective regulations pertaining to nudity and obscenity on the premises of licensees.

1.23 There have been public requests for the adoption of such regulations.

1.3 Purpose

Protection of the public welfare.

Section 2 Definitions

2.1 "Nudity" means the showing of the post-pubertal human male or female genitals, pubic area or buttocks with less than a fully opaque covering or the showing of a post-pubertal female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For the purposes of this definition, the female breast is considered uncovered if the nipple only or the nipple and the areola are covered.

- 2.2 "Obscene performance" means a performance which in whole or in part depicts or reveals nudity, sexual conduct or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct, and if all of the following elements are also present:
- (a) Considered as a whole, by the average person, applying the contemporary community standards of the county, it appeals to the prurient interest;
 - (b) The obscene performance depicts, describes, or represents any of the above mentioned sexual activities in a patently offensive way;
 - (c) It lacks serious literary, artistic, political or scientific value.
- 2.3 "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
- 2.4 "Performance" means any play, motion picture film, dance or other exhibition pictured, animated, or live, performed before an audience.
- 2.5 "Sado-masochistic abuse" means scenes involving a person or persons, any of whom are nude, clad in undergarments or in sexually-revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, or binding or other physical restraint of any such persons, in an apparent act of sexual stimulation or gratification.
- 2.6 "Sexual conduct" means acts of masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the 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 3 General Provisions

- 3.1 The following acts or conduct on premises holding an on-sale liquor or on-sale non-intoxicating malt liquor are deemed contrary to the public welfare and morals and therefore, the Aitkin County Board of Commissioners does hereby ordain that it is a violation of this ordinance for a licensee to:

- (a) Knowingly or recklessly (1) exhibit an obscene performance, or, (2) directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance, or, (3) directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.
- (b) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (c) To employ or use the services of any hostess, host or entertainer while such person or entertainer is unclothed or in such attire, costume or clothing as described in paragraph (b) above.
- (d) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.
- (e) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair, or any portion thereof.
- (f) To permit any person to perform acts of or acts which simulate:
 - 1. With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - 2. Masturbation or bestiality.
 - 3. With or upon another person the touching, caressing or fondling on the breast, buttocks, anus or genitals.
- (g) To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.
- (h) To permit the showing of film, still pictures, electronic reproduction, or other visual reproduction, or other visual reproductions depicting:

1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.
2. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
3. Scenes wherein a person displays the vulva or the anus or the genitals.
4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.

Section 4 Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application.

Section 5 Penalties

Any violation of this ordinance shall constitute grounds for the revocation or suspension of the intoxicating liquor and/or non-intoxicating malt liquor license issued for the premises.

Section 6 Effective Date

This ordinance shall take effect from and after its passage and publication as required by law.

Passed by the Aitkin County Board of Commissioners this 17th day
of December, 1985.

John Kareis
John Kareis, Chairman, Aitkin County Board of Commissioner

ATTESTED TO: Helena C Dotzler
Helena Dotzler, Aitkin County Auditor