

ORDINANCE NUMBER 236

BENTON COUNTY, MINNESOTA

WHEREAS, the Benton County Planning Commission has initiated a study to determine the impact of adult cabarets, adult bookstores and other adult uses on the orderly development of the county, and

WHEREAS, a preliminary review of studies conducted by the cities of St. Paul Minnesota, Los Angeles California, Austin Texas, Adams County Colorado, as well as the 1989 report of the Minnesota Attorney General's working group on the regulation of Sexually Oriented Businesses indicates that Sexually Oriented Businesses contribute to an increase in crime rates and produce a negative effect on residential and commercial property values, and;

WHEREAS, the Benton County Planning Commission deems that further study is necessary to formulate a logical and comprehensive ordinance that will enable the county to address the adverse effects of Sexually Oriented Businesses in a constitutionally acceptable manner and;

WHEREAS, the Planning Commission has been advised by legal counsel and the staff of the Benton County Planning and Zoning Department that the necessary study and deliberation can be completed within six months and;

WHEREAS, the Planning Commission deems that until such time as an ordinance regulating Sexually Oriented Businesses can be enacted, the health, safety and general welfare of the community, insofar as they may be affected by the establishment of unregulated Sexually Oriented Businesses, must be protected, and;

WHEREAS, on December 28, 1993, a Notice of Public Hearings and Intent to Amend Development Code was published in the official newspaper and mailed to the governing bodies of all towns and municipalities located within Benton County; and

WHEREAS, on January 13, 1994, the Planning Commission held a public hearing thereon and recommended that the following amendment be enacted; and;

WHEREAS, on January 18, 1994, the Board of Commissioners held a public hearing thereon and approved the proposed amendment,

NOW, THEREFORE, BE IT ORDAINED by the County Board of Benton County, Minnesota, that Ordinance Number 185, and any other ordinance amending Ordinance 185, be and hereby is amended as follows:

Adding the following text as Section 13 of the Development Code:

Section 13. Adult uses

Ordinance Number 236
Benton County, Minnesota
Page Two

Section 13.1 for the purposes of this section, the following definitions shall apply:

Adult uses. Adult uses include adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, businesses or places open to some or all members of the public at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public.

Adult bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas." "Substantial or significant portion of items," for purposes of this ordinance, shall mean more than fifteen (15) percent of usable floor area.

Adult cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."

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."

Adult health/sport club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Adult massage parlor. A massage parlor which restricts minors by reason of age, or which provides the service of "massage," if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Adult mini-motion picture theatre. A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult motion picture theatre. A building or portion of a building with a capacity of

Ordinance Number 236
Benton County, Minnesota
Page Three

fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult steam room/bathhouse facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Specified anatomical areas:

- (1) Less than completely and opaquely covered:
 - a. Human genitals;
 - b. Pubic region;
 - c. Buttocks; and
 - d. Female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

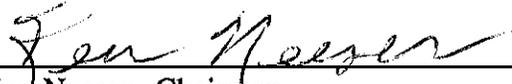
Section 13.2 No adult use shall be established, nor shall any existing adult use be expanded, extended, or enlarged, during the effective period of this Ordinance, in any area zoned "A-1", "A-2", "R-1", "R-2", "B" or "B-2".

Section 13.3 This Ordinance shall take effect upon passage and publication, and shall

Ordinance Number 236
Benton County, Minnesota
Page Four

remain in effect until July 31, 1994.

APPROVED AND ADOPTED by the County Board of Commissioners this 18th day of
January, 1994.



Ken Neeser, Chairman
Benton County Board of Commissioners

ATTEST:


William E. Scott III

2 2 0 4 8 3

OFFICE OF
BENTON COUNTY RECORDER
BENTON COUNTY, MN
CERTIFIED TO BE FILED
AND RECORDED ON

JAN 21 11 14 AM '94

ALICE G. STEINMEYER
COUNTY RECORDER

BY  DEPUTY