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DEBORAH L. PEYTON, RECORDER/REGISTRA
DELAWARE COUNTY IOWA

Instrument Preparer: Sharon McCrabb, Delaware County Auditor - Ph. (563) 927 4701.
& RETURN TO

CERTIFICATION

Attached hereto is the supporting documentation for the passage of Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses" by the Delaware County Board of Supervisors.

1. Proof of Publication of the Public Notice of the first reading of Ordinance #26 published May 23, 2006 in The Manchester Press and in the Delaware County Leader.
2. Proof of publication of the Public Notice of the second and final reading of Ordinance #26 published May 30, 2006 in The Manchester Press and in the Delaware County Leader.
3. Copy of the Board of Supervisors' Official Minutes of June 12, 2006 showing the first reading of Ordinance #26.
4. Copy of the Board of Supervisors' Official Minutes of June 19, 2006 showing the second and final reading of Ordinance #26.
5. Proof of Publication of the full text of Ordinance #26 published on June 27, 2006 in The Manchester Press and in the Delaware County Leader.

I, Sharon McCrabb, County Auditor, do hereby certify that the attached are originals of [illegible] copies of the above listed instruments.

Dated this 7th day of July, 2006.

Sharon McCrabb, Delaware County Auditor

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

Subscribed and sworn to before me, and in my presence by Sharon McCrabb, Delaware County Auditor this 7th day of July, 2006.

Carolyn A. Wilson, Notary Public in and for the State of Iowa.

My Commission expires 12-17-07.

CAROLYN A. WILSON
Commission Number 167742
My Commission Expires
12-17-07

Preparer information:	John W. Bernau, Delaware County Attorney, Delaware County Courthouse, 301 East Main Street, Manchester, Iowa 52057; 563-927-3819
Taxpayer information:	N.A.
Return Document to:	Delaware County Auditor's Office, Delaware County Courthouse, 301 East Main Street, Manchester, Iowa 52057; 563-927-4701
Grantors:	Delaware County Board of Supervisors
Grantees:	Public of Delaware County
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COUNTY ORDINANCE NO. 26

AN ORDINANCE RELATING TO THE REGULATION OF SEXUALLY ORIENTED BUSINESSES

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose and Intent.

a. The purpose of this ordinance is to provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

b. It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative materials. Likewise, it is neither the intent nor the effect of this ordinance to restrict or deny access by adults to adult-oriented materials or entertainment protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

c. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which otherwise violates any city or county ordinance or statute of the State of Iowa regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition, distribution or display thereof.

Section 2. Definitions.

a. For purposes of this ordinance, unless the context clearly requires a different meaning, the words, terms and phrases set forth shall have the meanings given them in this section.

1. "Adult" means a person twenty-one (21) years of age or older.

2. "Distinguished or characterized by an emphasis upon" means or refers to the dominant or essential theme of the object described by such phrase.

3. "Employee" means every owner, operator, partner, supervisor, performer, entertainer, dancer, waitress, bartender, bouncer, manager, food service worker, cashier, custodial or maintenance person, or other worker, whether paid or not, who renders services of any nature in the conduct of a sexually oriented business. It shall be a rebuttable presumption that every person who renders services of any nature in the conduct of a sexually oriented business is an employee of the sexually oriented business.

4. "Entertainer" means any person, performer or dancer, whether an employee or independent contractor, or any other person who, with or without any compensation or other form of consideration, performs live entertainment for any patrons of a sexually oriented business.

5. "Nudity or state of nudity" means the display of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the display of any portion of the female breast below the top of the areola with less than a fully opaque covering; the exposure of any device, costume or covering which gives the appearance of or simulates human male or female genitals, pubic area, buttocks, or female nipple and areola.

6. "Person" is any individual, firm, association, partnership, co-partnership, corporation, limited liability corporation, joint stock company, joint venture or combination of the above in whatever form or character.

7. "Sexually oriented business" means any business or establishment that regularly features live or recorded performances that are distinguished or characterized by an emphasis upon the depiction or exposure of "specified anatomical areas" and/or "specified sexual activities." "Sexual oriented business" shall include, but not be limited to, the following business activities and activities similar thereto: Adult or nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, adult or nude wrestling centers, adult or nude art or photograph studios or exotic lingerie shows.

8. "Sexually oriented business operator" means any person in an ownership or employee capacity who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for, or in charge of,

the premises of a sexually oriented business or the conduct or activities occurring on the premises thereof.

9. "Sexually oriented business owner" means any person or persons who hold a financial or other business interest, in whole or in part, either singly or jointly, in a sexually oriented business. Indicia of ownership may be established by evidence including, but not limited to, business license information, fictitious business name registration, utility billing information, corporate filings, or by other competent evidence.

10. "Specified anatomical areas" shall mean and include human male and female genitals, pubic region or buttocks, and the nipple or areola of the female breast.

11. "Specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

    (A) Human genitals in a state of sexual stimulation or arousal; and/or

    (B) Sexual acts, acted or simulated, including sexual intercourse, oral copulation or sodomy; and/or

    (C) Fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast; and/or

    (D) Masturbation, actual or simulated; and/or

    (E) Excretory functions as part of or in connection with any of the other activity described in subdivisions (A) through (D) of this subsection; and/or

    (F) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain in the context of sexual arousal.

12. The foregoing definitions are generic. The uses and businesses governed by subsection (a) include any other use or business, regardless of how named or advertised, that is of a character like or similar to the uses and businesses set forth in subsection (a).

Section 3. Excluded Activities.

a. This ordinance does not apply to any of the following activities:

1. Any activity by a person licensed to practice one or more of the healing arts authorized by Iowa law, if and to the extent that such activity is authorized by license;

2. Any activity conducted or sponsored by any school district or other public agency; so long as such activity is being conducted as part of and within the scope of an authorized and regular part of the curriculum or is part of a training or instructional program being conducted by a public agency;

3. Any activity conducted by a person pursuant to any license issued by the State of Iowa or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession, if and to the extent that such activity is conducted within the course and scope of the exercise of the privileges authorized by such license, or the duties of such agency;

4. Any activity as to which a license to operate a massage establishment or a license to act as a massage therapist or massage therapist trainee is required by Iowa law.

Section 4. Sexually Oriented Business License Required.

a. No person shall engage in, conduct, carry on or permit to be engaged in, conducted or carried on, in or upon any premises within Delaware County the operation of a sexually oriented business unless the person first obtains and continues to maintain in full force and effect a license issued by Delaware County as required by this ordinance.

b. A license for such business shall be issued to any applicant who has complied with all of the following requirements:

(1) The applicant has filed a completed application and paid the required sexually oriented business application fee; and

(2) The applicant has not made a material misstatement or misrepresentation in the application; and

(3) To the extent applicable, the establishment, including the building and lot or portion thereof where the establishment is located or is proposed to be situated meets all location and applicable zoning requirements; and

(4) There does not exist a basis for denial as set forth in Section 6(d) of this ordinance.

c. Each application for a license to operate a sexually oriented business within Delaware County shall be accompanied by a non-refundable application fee. The application fee shall be used to defray, in part, administrative costs incurred in the processing of the application, and is not made in lieu of any other fees or taxes required by statute or ordinance. Renewal fees shall also be established. Renewal applications shall update any information which has changed since the filing of the last prior application or renewal application.

Section 5. Application for Sexually Oriented Business License.

a. Any person who proposes to operate, maintain or conduct a sexually oriented business within Delaware County shall first submit to the Delaware County Board of Supervisors a completed application for a sexually oriented business license on a form provided by the Delaware County Board of Supervisors. The application shall contain all of the information requested in this section, along with the non-refundable application fee. An application which is not accompanied by the required application fee shall not be deemed a completed application.

b. If the applicant is an individual, the individual shall provide his or her legal name, address, and submit satisfactory written proof that he or she is at least twenty-one (21) years of age.

c. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement to the application. The applicant shall also submit satisfactory written proof that all partners are at least twenty-one (21) years of age.

d. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Iowa, the names and capacities of all officers and directors and the name of the registered corporate agent and the address of the registered office for service of process purposes.

e. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application.

f. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant shall file the fictitious

name of the sexually oriented business and show proof of registration of the fictitious name.

g. Each application for a sexually oriented business license shall contain:

(1) A narrative description of the proposed sexually oriented business for which the license is requested, which shall include proposed hours of operation, number of employees, number of entertainers, and a description of the titles and/or positions of each.

(2) A detailed diagram showing the interior floor plan and configuration of the premises, depicting all interior rooms including, but not limited to, restrooms, office space, storage areas and public areas, and dimensions. The diagram need not be professionally prepared, but shall be drawn to a designated scale with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(3) A site plan showing the lot or property on which the sexually oriented business will be located, the location of the building(s) or portion(s) thereof in which the sexually oriented business will be located, the number of available parking spaces including those reserved for the handicapped, the location and type of proposed lighting, landscaping, trash enclosures and all means of ingress and egress to and from the property. The site plan need not be professionally prepared, but shall be drawn to a scale with marked dimensions to an accuracy of plus or minus one (1) foot.

(4) An area map showing the lot or property on which the sexually oriented business facility will be located, and the property line(s) and distance to the property line(s) of any church, school, park, day care, governmental office, supermarket, grocery store, convenience store, restaurant, fast food establishment, other sexually oriented businesses, residential zoning district or the residence of any registered sex offender located within three thousand (3,000) feet of the property subject to the license application.

(5) The full name, address and telephone number of the property owner and/or property management company if different from the applicant, including a copy of the lease agreement, if any, in effect at the time of the application, and a copy of any other agreements, easements, conditions, covenants, restrictions or other such documents that contain evidence affecting the use or operation of the lot, property, premises or structures which will be subject to the license for which the application has been submitted.

(6) The full name, including any aliases or stage names ever used, current residential address, position and/or title of each employee and/or entertainer and all other information required under subsection 7.

(7) Each application shall also contain the following information about the applicant(s):

(A) Full name, including any aliases, current residential address, telephone number, date of birth, height, weight, color of eyes and hair of each applicant; and

(B) Social security number and driver's license number or Iowa identification card number of each applicant; and

(C) The previous address of each applicant for a period of five (5) years immediately prior to the date of application and the dates of residence for each; and

(D) Written proof that the applicant(s) is/are at least twenty-one (21) years of age; and

(E) Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of application; and

(F) Two (2) recent passport-style color photographs of the applicant(s); and

(G) A fingerprint card with fingerprints attached for each applicant. These shall be obtained from the Delaware County Sheriff's Department; and

(H) Such other information as may be deemed necessary and appropriate by the Delaware County Board of Supervisors.

(8) Authorization for the county or its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application regarding the applicant's request for a license.

(9) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with such declaration sworn to and duly executed at the Office of the Delaware County Board of Supervisors.

h. A sexually oriented business establishment lawfully existing and operating on the effective date of this ordinance, if it does not have a valid license,

shall apply for a license within ninety (90) days from the effective date of this ordinance and shall be allowed to continue operating during the pendency of the application, provided it is otherwise in compliance with applicable provisions of this ordinance and Iowa law.

Section 6. Issuance of License.

a. Upon the filing of a properly completed and executed application for a sexually oriented business license under Section 5, the Delaware County Board of Supervisors will conduct a preliminary review of the application and may, within fourteen (14) days of receipt, refer copies of such application to the Delaware County Sheriff's Department, appropriate fire department(s) and any other designated agents for review and investigation.

b. The Delaware County Board of Supervisors, County Sheriff's Department, appropriate fire department(s) and/or any other designated agents to whom the application was referred may, within thirty days of the referral, inspect the premises proposed to be operated as a sexually oriented business facility or, in the case of the Delaware County Sheriff's Department, conduct a background investigation of the individuals identified in all areas of the application and, then, all such officials and/or designated agents may make recommendations to the Delaware County Board of Supervisors concerning the premises and the applicant's compliance with the matters coming within the jurisdiction of the aforementioned officials and/or designated agents.

c. Within ten days of receiving the recommendation(s) of the aforementioned officials and/or designated agents, the Delaware County Board of Supervisors will render their approval or denial of the application.

d. The Delaware County Board of Supervisors shall issue a sexually oriented business license to the applicant(s) within ninety (90) days of receipt of a properly filed and executed application unless:

(1) Any applicant is less than twenty-one (21) years of age.

(2) Any applicant has failed to provide information as required by Section 5 for issuance of a license to operate a sexually oriented business.

(3) Any applicant has knowingly made any false, misleading or fraudulent statement of fact in the application for the license or in any other document required by the Delaware County Board of Supervisors in connection therewith.

(4) The required license application fee has not been paid.

(5) Any applicant has been associated with a sexually oriented or similar business within the last five (5) years that has had their license denied, suspended or revoked for any cause.

(6) Any applicant is a person who is not of good moral character and reputation within the community within he/she resides.

(7) Any applicant has been convicted of any of the following offenses, unless upon investigation the Delaware County Board of Supervisors or their designated agent finds that such conviction(s) occurred at least ten (10) years prior to the date of the filing of the application, there have been no subsequent convictions, and the applicant has shown evidence of rehabilitation sufficient to warrant the public's trust:

(A) Any felony under Federal law or the laws of this or any other state; and/or

(B) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, patronizing a prostitute, pimping, obscenity, selling harmful material or having a tie in the sale of obscene publications under the laws of this State or equivalent laws or codes of the United States or any other State; and/or

(C) Any other crime or misdemeanor that is sexual in nature and/or opposed to decency and morality.

(8) The Delaware County Board of Supervisors has denied the license.

e. If the Delaware County Board of Supervisors fail to act in approving or denying a properly filed and executed application for a license to operate a sexually oriented business within ninety (90) days from the receipt and execution of the application, the application shall be deemed approved and a license to operate a sexually oriented business shall issue upon payment of the annual license fee.

Section 7. Fees and Issuance.

a. A filing fee in accordance with the established fee schedule shall be charged for each application for initial license and annual renewals to assist in deferring the cost of the administrative review. An annual license fee shall also be required upon approval of the application. The applicant(s) shall be held responsible for submitting the required application fees upon submission of a completed application. No action shall be taken on any application until the required application fee is paid in full.

b. The fee schedule, subject to periodic amendment, shall be as follows:

(1)	Initial application fee	$250.00
(2)	Renewal application fee	$250.00
(3)	Annual License fee	$1,200.00 ($100.00 per month)

c. The applicant(s), owner and/or operator of a sexually oriented business within Delaware County shall keep and maintain liability insurance in an amount of at least one-million dollars ($1,000,000) and shall provide evidence of such insurance upon application for or renewal of each license.

d. Whether a submitted application or renewal application is granted or denied, the applicant shall not be entitled to a refund of any portion of any fee paid.

Section 8. Term of License.

a. Each license issued for the operation of a sexually oriented business shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this ordinance.

b. Application for renewal should be made at least ninety (90) days before the expiration date of the previously issued license.

c. In no event shall a license to operate a sexually oriented business be extended beyond the original date of expiration.

Section 9. Transfer of License.

a. An owner, operator, employee or entertainer cannot and shall not transfer or attempt to transfer his/her license to another, nor shall an owner, operator, employee or entertainer operate or attempt to operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 10. Location of Sexually Oriented Business Facilities.

a. No person shall place, maintain, own or operate any sexually oriented business in the following locations:

1. In any residential area of a city or town located in whole or in part within the boundaries of Delaware County, unless otherwise allowed by the individual city or town.

2. Within two thousand (2,000) feet of any parcel of real estate upon which is located any of the following:

   (A) A public or private elementary school, junior high school or senior high school.

   (B) A daycare facility registered with the State of Iowa.

   (C) A church.

   (D) A park or recreational facility operated and/or improved by Delaware County, the County Conservation Board or State of Iowa.

   (E) A federal, state, county or special district governmental office.

   (F) A supermarket, grocery store or convenience store engaged in the sale of food and/or fuel.

   (G) A restaurant or fast food establishment.

   (H) Any other sexually oriented business.

   (I) Any other business or establishment reasonably believed to be catering to family trade.

3. For purposes of this section, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the sexually oriented business to the closest property line of the real property upon which the previously described facilities are located.

Section 11. Signage.

a. Notwithstanding any other ordinance, code or regulation to the contrary, a sexually oriented business shall not erect or maintain any sign for the sexually oriented business other than one primary sign and one secondary sign as provided herein.

b. The primary sign shall have no more than two (2) display surfaces. Each such display surface shall:

   (1) Not contain any flashing lights; and

   (2) Be a flat plane, rectangular in shape; and

   (3) Not exceed seventy-five (75) square feet in area; and

(4) Not exceed ten (10) feet in height or ten (10) feet in length; and

(5) Contain no photographs, silhouettes, drawings or pictorial representations in any manner; and

(6) Contain letters of a solid color with each such letter consisting of the same print type, size and color as all other letters forming each word on the sign. Additionally, the background behind such lettering on the display surface of the sign shall be of a uniform and solid color.

c. A secondary sign shall have only one display surface. Such display surface shall:

(1) Be a flat plane, rectangular in shape; and

(2) Not exceed twenty (20) square feet in area; and

(3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed or attached to a wall of the enterprise; and

(5) Conform with the provisions of paragraphs 1, 5 and 6 of subsection b of this section relating to primary signs.

Section 12. Viewing From Exterior Prohibited.

a. No sexually oriented business facility shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as a sexually oriented business facility.

Section 13. Loitering and Exterior Lighting and Monitoring Requirements.

a. It shall be the duty of the owner and/or operator of a sexually oriented business to:

(1) Post conspicuous signs stating that no loitering is permitted on the property constituting the sexually oriented business; and

(2) Designate one or more employees to monitor the activities of persons on the property constituting the sexually oriented business by visually inspecting such property at least once every hour or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises of the property which constitutes the sexually oriented business sufficient to provide for visual inspection or video monitoring to prohibit loitering, the consumption of alcoholic beverages, wine or beer or any other unlawful activity.

(4) If used, video cameras and monitors shall operate continuously at all times the premises are open for business. The monitors shall be installed within an operator's station or at a cash register where an employee is regularly present. Recordings shall be made and maintained for a minimum of thirty (30) days. All recordings shall be made available for inspection and viewing upon request and without a warrant, to any law enforcement officer during regular business hours.

Section 14. Persons Younger than 21 Prohibited.

a. No person who is younger than twenty-one (21) years of age shall be allowed to enter or be on the premises of a sexually oriented business at any time the sexually business is open for business or at any other time during which an entertainer or employee may be performing or auditioning.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours.

c. It shall be the duty of the attendant to prohibit any person under the age of twenty-one (21) years of age from entering the sexually oriented business. For enforcement purposes, it shall and will be presumed that an attendant knew a person was under the age of twenty-one (21) unless such attendant asked for and was furnished:

(1) An authentic, valid, state-issued operator's, commercial operator's or chauffeur's driver's license indicating that such person is twenty-one (21) years of age or older; or

(2) An authentic, valid, state-issued personal identification card or certificate indicating such person is twenty-one (21) years of age or older.

Section 15. Consumption of Alcoholic Beverages Prohibited.

a. An owner and/or operator of a sexually oriented business shall not allow the possession or consumption by any person of any alcoholic beverage, wine or beer in a sexually oriented business facility or on any part of the real property that is used for carrying on the sexually oriented business.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that no alcoholic beverage, wine or beer is being possessed or consumed upon the real property or within the facility comprising the sexually oriented business.

c. This section shall not apply to the individually licensed sexually oriented business if it has applied for, and been granted, a liquor license as authorized by the laws of the State of Iowa.

Section 16. Live Shows.

a. All dancing and other live performances shall occur on a stage constructed and intended for that purpose which is separate and apart from the general public/patron area and unobstructed from all horizontal views within the building.

b. All dancing and other live performances shall occur at least five (5) feet away from any other person or patron.

c. No owner, operator, employee or entertainer shall fondle, caress or otherwise touch any other person or patron and no person or patron shall fondle, caress or otherwise touch any owner, operator, employee or entertainer.

d. No person or patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any person or patron. Gratuities may be indirectly given to entertainers by placing the gratuity on the stage.

Section 17. Illegal Activities Prohibited.

a. No owner, operator, associate, member, representative, agent, employee or entertainer of such owner or operator shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in, on, or about the real property and/or facility comprising the sexually oriented business which is prohibited by any ordinance or law of the State of Iowa or the United States.

Section 18. Hours of Operation.

a. No sexually oriented business shall be or remain open for business between 11:00 p.m. and 6:00 a.m., Monday through Saturday. No sexually oriented business shall be open for business between 11:00 p.m. on Saturday and 6:00 a.m. the following Monday.

Section 19. Authorization for Inspection.

a. An owner, operator or employee of a sexually oriented business shall permit any member from the County Board of Supervisors, Sheriff's Department, Iowa State Patrol, Fire Department or any other designated agent(s) to inspect the real estate and facilities comprising a sexually oriented business for the purpose of ensuring compliance with the law and this ordinance at any time it is occupied or open for business.

Section 20. Cause for Suspension of License.

a. The Delaware County Board of Supervisors may suspend a license to operate a sexually oriented business for a period not to exceed sixty (60) days if it determines that an owner, operator, employee or entertainer:

   (1) Violated or is not in compliance with any section of this ordinance; and/or

   (2) Refused to allow an inspection of the sexually oriented business facility and premises as authorized by this ordinance.

b. In the event any owner, operator, employee or entertainer has been found to be in violation of this ordinance in a court of law or under the county's ordinance hearing procedures, no hearing is necessary prior to suspension of the license under this section.

Section 21. Cause for Revocation of License.

a. The Delaware County Board of Supervisors may revoke a sexually oriented business license if a cause of suspension set forth in Section 20 occurs and the same sexually oriented business license has been suspended within the preceding twelve (12) months or, if any owner, operator, employee, or entertainer is convicted of any of the aforementioned criminal activity.

b. The Delaware County Board of Supervisors may revoke a sexually oriented business license if it determines that an owner, operator, employee or entertainer of the sexually oriented business:

   (1) Gave false or misleading information in the material submitted during the application process; and/or

   (2) Has knowingly allowed the possession, use or sale of a controlled substance on or about the premises constituting the sexually oriented business; and/or

(3) Has knowingly allowed the possession, use or sale of any alcoholic beverage, beer or wine on or about the premises constituting the sexually oriented business; and/or

(4) Has knowingly allowed prostitution on the premises constituting the sexually oriented business; and/or

(5) Knowingly operated the sexually oriented business during a period of time when the sexually oriented business's license was suspended; and/or

(6) Has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the premises constituting the sexually oriented business; and/or

(7) Is delinquent in the payment of any city, county, state or federal taxes, of any nature, or fees past due; and/or

(8) Has knowingly or intentionally facilitated another in the commission of any criminal act or violation of this ordinance.

c. When the Delaware County Board of Supervisors revoke a license to operate a sexually oriented business, the revocation shall continue for one (1) year. No applicant, owner, operator, employee or entertainer of the sexually oriented business whose license was revoked shall be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, however, subsequent to revocation, the Delaware County Board of Supervisors find that the factual basis for the revocation did not occur, the revoked license shall be reinstated.

d. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any sexually business license, any applicant or owner may seek prompt judicial review of such action in any court of competent jurisdiction.

Section 22. Violations and Penalties.

a. Unless otherwise provided, any person who violates any section of this ordinance shall be assessed a fine of not less than fifty ($50.00) dollars nor more than five hundred ($500.00) dollars, and may be imprisoned in the county jail for a term not to exceed thirty (30) days. In addition, the person shall be responsible for all criminal penalty surcharges required by the Code of Iowa and any other surcharges imposed by county ordinance or resolution which shall not be considered part of the county's penalty.

b. Any person who violates any section of this ordinance shall also be responsible for the costs of prosecution and in the event of a default of payment of said fine, surcharges and/or costs of prosecution, he/she may be imprisoned in the county jail until said financial obligations are paid, but not to exceed thirty (30) days for each violation.

c. A violation may also result in the suspension or revocation of the license to operate a sexually oriented business in Delaware County pursuant to Sections 20 and 21 of this ordinance.

Section 23. Severability.

a. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or in any section, provision or part not adjudged invalid or unconstitutional.

Section 24. Effective Date.

a. This ordinance shall become effective after final passage, approval and publication as provided in Iowa Code Chapter 331.302.

PASSED AND ADOPTED THIS 19 DAY OF June, 2006.

William J. Skinner
William Skinner, Chairperson
Delaware County Board of Supervisors

ATTEST:

Sharon McCrabb
Sharon McCrabb, County Auditor

STATE OF IOWA)
) ss:
DELAWARE COUNTY)

On this 19 day of June, 2006, before me, Julia L. Hackbarth, a Notary Public in and for the State of Iowa, personally appeared William Skinner and Sharon McCrabb to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor, respectively, of

the County of Delaware, Iowa; that the seal affixed to the foregoing instrument is the county seal of the county and that the instrument was signed and sealed on behalf of the county, by authority of its Board of Supervisors, as contained in Ordinance No. _ ___ passed (or Resolution adopted) by the Board of Supervisors under Roll Call No. _____ of the Board of Supervisors on the 19th day of June, 2006, and William Skinner and Sharon McCrabb acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

Julia L. Hackbarth
Notary Public, State of Iowa



STATE OF IOWA, Delaware County-ss.

I, Brian W. Cook being duly sworn depose and say that I am publisher of The Manchester Press, a newspaper published weekly in Manchester, in said county, and that the DELAWARE CO. SUPERVISORS

in case of PUBLIC NOTICE

a copy of which is hereto attached, was published in said newspaper for 1 weeks consecutively; the first publication having been made on the 23 day of MAY A.D. 20 06, and the last on the 23 day of MAY A.D. 20 06

Publication fee, $ 8.32

Subscribed by Brian W. Cook and by him sworn to before me, a notary public in and of Delaware County, Iowa this 23 day of MAY A.D. 20 06

Witness my hand and seal the date last above written.

Denise Deppe Notary Public

DENISE A. DEPPE
Commission Number 734551
My Comm. Exp. 5-19-08

PUBLIC NOTICE

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the first reading and consideration of County Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses" at its regular meeting at 1:15 p.m. on June 12, 2006, in the Supervisors' Office, Courthouse, Manchester, Iowa. Copies of the full text of the ordinance are available to the public at the Auditor's Office.

Summary: To provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

Sharon McCrabb
Delaware County Auditor
P21

FILED
JUN 08 2006
SHARON McCRABB
DELAWARE COUNTY AUDITOR

STATE OF IOWA, Delaware County-ss.

I, Brian W. Cook being duly sworn depose and say that I am publisher of The Manchester Press, a newspaper published weekly in Manchester, in said county, and that the DELAWARE CO. SUPERVISORS

in case of PUBLIC NOTICE

a copy of which is hereto attached, was published in said newspaper for 1 weeks consecutively; the first publication having been made on the 30 day of MAY A.D. 20 06, and the last on the 30 day of MAY A.D. 20 06 Publication fee, $ 8.32

Subscribed by Brian W. Cook and by him sworn to before me, a notary public in and of Delaware County, Iowa this 30 day of MAY A.D. 20 06

Witness my hand and seal the date last above written.

Denise Deppe Notary Public

DENISE A. DEPPE
Commission Number 734551
My Comm. Exp. 5-19-08

PUBLIC NOTICE

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the second reading and consideration of County Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses" at its regular meeting at 1:15 p.m. on June 19th, 2006, in the Supervisors' Office, Courthouse, Manchester, Iowa. Copies of the full text of the ordinance are available to the public at the Auditor's Office.

Summary: To provide standards and guidelines to regulate the time, place, and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

Sharon McCrabb
Delaware County Auditor
P22

FILED
JUN 08 2006
SHARON McCRABB
DELAWARE COUNTY AUDITOR

Notarization

State of Iowa, Delaware County, ss

I, Mary Helle, being duly sworn, state that I am the publisher of the Delaware County Leader, a newspaper published at Hopkinton, Delaware County, Iowa, and the attached notice was published in said newspaper for One consecutive weeks beginning May 23, 2006 and ending None, 20____.

PRINTERS FEES: $ 9.58

Mary Helle

Subscribed in my presence and sworn to before me by Mary Helle on this 30th day of May, 2006.

Cathy S Harris

Notary Public

NOTARIAL SEAL IOWA
CATHY S HARRIS
COMMISSION NUMBER 731078
MY COMMISSION EXPIRES
OCTOBER 19, 2007

Legal Notice
Delaware County
Board of Supervisors
PUBLIC NOTICE

Public Notice is hereby given that the Delaware County Board of Supervisors will meet for the first reading and consideration of County Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses" at its regular meeting at 1:15 p.m. on June 12, 2006, in the Supervisors' Office, Courthouse, Manchester, Iowa. Copies of the full text of the ordinance are available to the public at the Auditor's Office.

Summary: To provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

Sharon McCrabb,
Delaware County Auditor

FILED
JUN 08 2006
SHARON McCRABB
DELAWARE COUNTY AUDITOR

Notarization

State of Iowa, Delaware County, ss

I, Mary Helle, being duly sworn, state that I am the publisher of the Delaware County Leader, a newspaper published at Hopkinton, Delaware County, Iowa, and the attached notice was published in said newspaper for one consecutive weeks beginning May 30, 2006, and ending June 6, 2006.

PRINTERS FEES: $ 9.58

Mary Helle

Subscribed in my presence and sworn to before me by Mary Helle on this 30th day of May, 2006

Cathy S Harris
Notary Public

NOTARIAL SEAL IOWA
CATHY S HARRIS
COMMISSION NUMBER 731078
MY COMMISSION EXPIRES
OCTOBER 19, 2007

Legal Notice – Delaware County
Board of Supervisors
PUBLIC NOTICE

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Summary: To provide standards and guidelines to regulate the time, place, and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

Sharon McCrabb, Delaware County Auditor

FILED
JUN 08 2006
SHARON McCRABB
DELAWARE COUNTY AUDITOR

STATE OF IOWA, Delaware County-ss.

I, Brian W. Cook being duly sworn depose and say that I am publisher of The Manchester Press, a newspaper published weekly in Manchester, in said county, and that the

DELAWARE CO. AUDITOR

in case of ORDINANCE NO. 26

a copy of which is hereto attached, was published in said newspaper for 1 weeks consecutively; the first publication having been made on the 27th day of JUNE A.D. 20 06, and the last on the 27th day of JUNE A.D. 20 06 Publication fee, $ 307.63

Brian W. Cook

Subscribed by Brian W. Cook and by him sworn to before me, a notary public in and of Delaware County, Iowa this 27th day of JUNE A.D. 20 06

Witness my hand and seal the date last above written.

Denise Deppe Notary Public

NOTARIAL SEAL IOWA
DENISE A. DEPPE
Commission Number 734551
My Comm. Exp. 5-19-08

Paid 7-10-06

COUNTY ORDINANCE NO. 26
AN ORDINANCE RELATING TO THE REGULATION OF SEXUALLY ORIENTED BUSINESSES

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose and Intent.

a. The purpose of this ordinance is to provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

b. It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative materials. Likewise, it is neither the intent nor the effect of this ordinance to restrict or deny access by adults to adult-oriented materials or entertainment protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

c. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which otherwise violates any city or county ordinance or statute of the State of Iowa regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition, distribution or display thereof.

Section 2. Definitions.

a. For purposes of this ordinance, unless the context clearly requires a different meaning, the words, terms and phrases set forth shall have the meanings given them in this section.

1. "Adult" means a person twenty-one (21) years of age or older.

2. "Distinguished or characterized by an emphasis upon" means or refers to the dominant or essential theme of the object described by such phrase.

3. "Employee" means every owner, operator, partner, supervisor, performer, entertainer, dancer, waitress, bartender, bouncer, manager, food service worker, cashier, custodial or maintenance person, or other worker, whether paid or not, who renders services of any nature in the conduct of a sexually oriented business. It shall be a rebuttable presumption that every person who renders services of any nature in the conduct of a sexually oriented business is an employee of the sexually oriented business.

4. "Entertainer" means any person, performer or dancer, whether an employee or independent contractor, or any other person who, with or without any compensation or other form of consideration, performs live entertainment for any patrons of a sexually oriented business.

5. "Nudity or state of nudity" means the display of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the display of any portion of the female breast below the top of the areola with less than a fully opaque covering; the exposure of any device, costume or covering which gives the appearance of or simulates human male or female genitals, pubic area, buttocks, or female nipple and areola.

6. "Person" is any individual, firm, association, partnership, co-partnership, corporation, limited liability corporation, joint stock company, joint venture or combination of the above in whatever form or character.

7. "Sexually oriented business" means any business or establishment that regularly features live or recorded performances that are distinguished or characterized by an emphasis upon the depiction or exposure of "specified anatomical areas" and/or "specified sexual activities." "Sexual oriented business" shall include, but not be limited to, the following business activities and activities similar thereto: Adult or nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, adult or nude wrestling centers, adult or nude art or photograph studios or exotic lingerie shows.

8. "Sexually oriented business operator" means any person in an ownership or employee capacity who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for, or in charge of, the premises of a sexually oriented business or the conduct or activities occurring on the premises thereof.

9. "Sexually oriented business owner" means any person or persons who hold a financial or other business interest, in whole or in part, either singly or jointly; in a sexually oriented business. Indicia of ownership may be established by evidence including, but not limited to, business license information, fictitious business name registration, utility billing information, corporate filings, or by other competent evidence.

10. "Specified anatomical areas" shall mean and include human male and female genitals, pubic region or buttocks, and the nipple or areola of the female breast.

11. "Specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

(A) Human genitals in a state of sexual stimulation or arousal; and/or

(B) Sexual acts, acted or simulated, including sexual intercourse, oral copulation or sodomy; and/or

(C) Fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast; and/or

(D) Masturbation, actual or simulated; and/or

(E) Excretory functions as part of or in connection with any of the other activity described in subdivisions (A) through (D) of this subsection; and/or

(F) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain in the context of sexual arousal.

12. The foregoing definitions are generic. The uses and businesses governed by subsection (a) include any other use or business, regardless of how named or advertised, that is of a character like or similar to the uses and businesses set forth in subsection (a).

Section 3. Excluded Activities.

a. This ordinance does not apply to any of the following activities:

1. Any activity by a person licensed to practice one or more of the healing arts authorized by Iowa law, if and to the extent that such activity is authorized by license;

2. Any activity conducted or sponsored by any school district or other public agency; so long as such activity is being conducted as part of and within the scope of an authorized and regular part of the curriculum or is part of a training or instructional program being conducted by a public agency;

3. Any activity conducted by a person pursuant to any license issued by the State of Iowa or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession, if and to the extent that such activity is conducted within the course and scope of the exercise of the privileges authorized by such license, or the duties of such agency,

4. Any activity as to which a license to operate a massage establishment or a license to act as a massage therapist or massage therapist trainee is required by Iowa law.

Section 4. Sexually Oriented Business License Required.

a. No person shall engage in, conduct, carry on or permit to be engaged in, conducted or carried on, in or upon any premises within Delaware County the operation of a sexually oriented business unless the person first obtains and continues to maintain in full force and effect a license issued by Delaware County as required by this ordinance.

b. A license for such business shall be issued to any applicant who has complied with all of the following requirements:

(1) The applicant has filed a completed application and paid the required sexually oriented business application fee; and

(2) The applicant has not made a material misrepresentation in the application; and

(3) To the extent applicable, the establishment, including the building and lot or portion thereof where the establishment is located or is proposed to be situated meets all location and applicable zoning requirements; and

(4) There does not exist a basis for denial as set forth in Section 6(d) of this ordinance.

c. Each application for a license to operate a sexually oriented business within Delaware County shall be accompanied by a non-refundable application fee. The application fee shall

county, and that the
DELAWARE CO. AUDITOR
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law.

Section 4. Sexually Oriented Business License Required.

a. No person shall engage in, conduct, carry on or permit to be engaged in, conducted or carried on, in or upon any premises within Delaware County the operation of a sexually oriented business unless the person first obtains and continues to maintain in full force and effect a license issued by Delaware County as required by this ordinance.

b. A license for such business shall be issued to any applicant who has complied with all of the following requirements:

(1) The applicant has filed a completed application and paid the required sexually oriented business application fee; and

(2) The applicant has not made a material misstatement or misrepresentation in the application; and

(3) To the extent applicable, the establishment, including the building and lot or portion thereof where the establishment is located or is proposed to be situated meets all location and applicable zoning requirements; and

(4) There does not exist a basis for denial as set forth in Section 6(d) of this ordinance.

c. Each application for a license to operate a sexually oriented business within Delaware County shall be accompanied by a non-refundable application fee. The application fee shall be used to defray, in part, administrative costs incurred in the processing of the application, and is not made in lieu of any other fees or taxes required by statute or ordinance. Renewal fees shall also be established. Renewal applications shall update any information which has changed since the filing of the last prior application or renewal application.

Section 5. Application for Sexually Oriented Business License.

a. Any person who proposes to operate, maintain or conduct a sexually oriented business within Delaware County shall first submit to the Delaware County Board of Supervisors a completed application for a sexually oriented business license on a form provided by the Delaware County Board of Supervisors. The application shall contain all of the information requested in this section, along with the non-refundable application fee. An application which is not accompanied by the required application fee shall not be deemed a completed application.

b. If the applicant is an individual, the individual shall provide his or her legal name, address, and submit satisfactory written proof that he or she is at least twenty-one (21) years of age.

c. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement to the application. The applicant shall also submit satisfactory written proof that all partners are at least twenty-one (21) years of age.

d. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Iowa, the names and capacities of all officers and directors and the name of the registered corporate agent and the address of the registered office for service of process purposes.

e. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application,

f. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the sexually oriented business and show proof of registration of the fictitious name.

g. Each application for a sexually oriented business license shall contain:

(1) A narrative description of the proposed sexually oriented business for which the license is requested, which shall include proposed hours of operation, number of employees, number of entertainers, and a description of the titles and/or positions of each.

(2) A detailed diagram showing the interior floor plan and configuration of the premises, depicting all interior rooms including, but not limited to, restrooms, office space, storage areas and public areas, and dimensions. The diagram need not be professionally prepared, but shall be drawn to a designated scale with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(3) A site plan showing the lot or property on which the sexually oriented business will be located, the location of the building(s) or portion(s) thereof in which the sexually oriented business will be located, the number of available parking spaces including those reserved for the handicapped, the location and type of proposed lighting, landscaping, trash enclosures and all means of ingress and egress to and from the property. The site plan need not be professionally prepared, but shall be drawn to a scale with marked dimensions to an accuracy of plus or minus one (1) foot.

(4) An area map showing the lot or property on which the sexually oriented business facility will be located, and the property line(s) and distance to the property line(s) of any church, school, park, day care, governmental office, supermarket, grocery store, convenience store, restaurant, fast food establishment, other sexually oriented businesses, residential zoning district or the residence of any registered sex offender located within three thousand (3,000) feet of the property subject to the license application.

(5) The full name, address and telephone number of the property owner and/or property management company if different from the applicant, including a copy of the lease agreement, if any, in effect at the time of the application, and a copy of any other agreements, easements, conditions, covenants, restrictions or other such documents that contain evidence affecting the use or operation of the lot, property, premises or structure which will be subject to the license for which the application has been submitted.

(6) The full name, including any aliases or stage names ever used, current residential address, position and/or title of each employee and/or entertainer and all other information required under subsection 7.

(7) Each application shall also contain the following information about the applicant(s):

(A) Full name, including any aliases, current residential address, telephone number, date of birth, height, weight, color of eyes and hair of each applicant; and

(B) Social security number and driver's license number or Iowa identification card number of each applicant; and

(C) The previous address of each applicant for a period of five (5) years immediately prior to the date of application and the dates of residence for each; and

(D) Written proof that the applicant(s) is/are at least twenty-one (21) years of age and

(E) Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of application; and

(F) Two (2) recent passport-style color photographs of the applicant(s); and

(G) A fingerprint card with fingerprints attached for each applicant. These shall be obtained from the Delaware County Sheriff's Department; and

(H) Such other information as may be deemed necessary and appropriate by the Delaware County Board of Supervisors.

(8) Authorization for the county or its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application regarding the applicant's request for a license.

(9) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with such declaration sworn to and duly executed at the Office of the Delaware County Board of Supervisors.

h. A sexually oriented business establishment lawfully existing and operating on the effective date of this ordinance, if it does not have a valid license, shall apply for a license within ninety (90) days from the effective date of this ordinance and shall be allowed to continue operating during the pendency of the application, provided it is otherwise in compliance with applicable provisions of this ordinance and Iowa law.

Section 6. Issuance of License.

a. Upon the filing of a properly completed and executed application for a sexually oriented business license under Section 5, the Delaware County Board of Supervisors will conduct a preliminary review of the application and may, within fourteen (14) days of receipt, refer copies of such application to the Delaware County Sheriff's Department, appropriate fire department(s) and any other designated agents for review and investigation.

The Delaware County Board of Supervisors, County Sheriff's Department, appropria

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b. The Delaware County Board of Supervisors, County Sheriff's Department, appropri fire department(s) and/or any other designated agents to whom the application was refer may, within thirty days of the referral, inspect the premises proposed to be operated as a se ually oriented business facility or, in the case of the Delaware County Sheriff's Departme conduct a background investigation of the individuals identified in all areas of the applicati and, then, all such officials and/or designated agents may make recommendations to tl Delaware County Board of Supervisors concerning the premises and the applicant's comp ance with the matters coming within the jurisdiction of the aforementioned officials and/or de ignated agents.

c. Within ten days of receiving the recommendation(s) of the aforementioned officia and/or designated agents, the Delaware County Board of Supervisors will render the approval or denial of the application.

d. The Delaware County Board of Supervisors shall issue a sexually oriented busine license to the applicant(s) within ninety (90) days of receipt of a properly filed and execute application unless:

(1) Any applicant is less than twenty-one (21) years of age.

(2) Any applicant has failed to provide information as required by Section 5 for issuanc of a license to operate a sexually oriented business.

(3) Any applicant has knowingly made any false, misleading or fraudulent statement fact in the application for the license or in any other document required by the Delawa County Board of Supervisors in connection therewith.

(4) The required license application fee has not been paid.

(5) Any applicant has been associated with a sexually oriented or similar business wit in the last five (5) years that has had their license denied, suspended or revoked for ar cause.

(6) Any applicant is a person who is not of good moral character and reputation withi the community within he/she resides.

(7) Any applicant has been convicted of any of the following offenses, unless upon inve tigation the Delaware County Board of Supervisors or their designated agent finds that suc conviction(s) occurred at least ten (10)years prior to the date of the filing of the applicatio there have been no subsequent convictions, and the applicant has shown evidence of reha bilitation sufficient to warrant the public's trust:

(A) Any felony under Federal law or the laws of this or any other state-, and/or

(B) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitutio patronizing a prostitute, pimping, obscenity, selling harmful material or having a tie i the sale of obscene publications under the laws of this State or equivalent laws c codes of the United States or any other State; and/or

(C) Any other crime or misdemeanor that is sexual in nature and/or opposed t decency and morality.

(8) The Delaware County Board of Supervisors has denied the license.

e. If the Delaware County Board of Supervisors fail to act in approving or denying a prop erly filed and executed application for a license to operate a sexually oriented business with in ninety (90) days from the receipt and execution of the application, the application shall b deemed approved and a license to operate a sexually oriented business shall issue upo payment of the annual license fee.

Section 7. Fees and Issuance.

a. A filing fee in accordance with the established fee schedule shall be charged for eac application for initial license and annual renewals to assist in deferring the cost of the admin istrative review. An annual license fee shall also be required upon approval of the application The applicant(s) shall be held responsible for submitting the required application fees upo submission of a completed application. No action shall be taken on any application until th required application fee is paid in full.

b. The fee schedule, subject to periodic amendment, shall be as follows:

(1) Initial application fee	$250.00
(2) Renewal application fee	$250.00
(3) Annual License fee	$1,200.00 ($100.00 per month)

c. The applicant(s), owner and/or operator of a sexually oriented business withi Delaware County shall keep and maintain liability insurance in an amount of at least one-mil lion dollars ($1,000,000) and shall provide evidence of such insurance upon application for o renewal of each license.

d. Whether a submitted application or renewal application is granted or denied, the appli cant shall not be entitled to a refund of any portion of any fee paid.

Section 8. Term of License.

a. Each license issued for the operation of a sexually oriented business shall remain valic for a period of one (1) calendar year from the date of issuance unless otherwise suspende or revoked. Such license may be renewed only by making application, and payment of a fee as provided in this ordinance.

b. Application for renewal should be made at least ninety (90) days before the expiratior date of the previously issued license.

c. In no event shall a license to operate a sexually oriented business be extended beyonc the original date of expiration.

Section 9. Transfer of License.

a. An owner, operator, employee or entertainer cannot and shall not transfer or attempt tc transfer his/her license to another, nor shall an owner, operator, employee or entertainer oper- ate or attempt to operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 10. Location of Sexually Oriented Business Facilities.

a. No person shall place, maintain, own or operate any sexually oriented business in the following locations:

1. In any residential area of a city or town located in whole or in part within the bound- aries of Delaware County, unless otherwise allowed by the individual city or town.

2. Within two thousand (2,000) feet of any parcel of real estate upon which is located any of the following:

(A) A public or private elementary school, junior high school or senior high school.

(B) A daycare facility registered with the State of Iowa.

(C) A church.

(D) A park or recreational facility operated and/or improved by Delaware County, the County Conservation Board or State of Iowa.

(E) A federal, state, county or special district governmental office.

(F) A supermarket, grocery store or convenience store engaged in the sale of food and/or fuel.

(G) A restaurant or fast food establishment.

(H) Any other sexually oriented business.

(I) Any other business or establishment reasonably believed to be catering to fam- ily trade.

3. For purposes of this section, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the sexually oriented business to the closest property line of the real property upon which the previously described facilities are located.

Section 11. Signage.

a. Not withstanding any other ordinance, code or regulation to the contrary, a sexually ori- ented business shall not erect or maintain any sign for the sexually oriented business other than one primary sign and one secondary sign as provided herein.

b. The primary sign shall have no more than two (2) display surfaces. Each such display surface shall:

(1) Not contain any flashing lights; and

(2) Be a flat plane, rectangular in shape; and

(3) Not exceed seventy-five (75) square feet in area; and

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(1) Not contain any flashing lights; and

(2) Be a flat plane, rectangular in shape; and

(3) Not exceed seventy-five (75) square feet in area; and

(4) Not exceed ten (10) feet in height or ten (10) feet in length; and

(5) Contain no photographs, silhouettes, drawings or pictorial representations in a manner; and

(6) Contain letters of a solid color with each such letter consisting of the same print typ size and color as all other letters forming each word on the sign. Additionally, the bac ground behind such lettering on the display surface of the sign shall be of a uniform an solid color.

c. A secondary sign shall have only one display surface. Such display surface shall:

(1) Be a flat plane, rectangular in shape; and

(2) Not exceed twenty (20) square feet in area; and

(3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed or attached to a wall of the enterprise; and

(5) Conform with the provisions of paragraphs 1, 5 and 6 of subsection b of this sectior relating to primary signs.

Section 12. Viewing From Exterior Prohibited.

a. No sexually oriented business facility shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as a sexually oriented business facility.

Section 13. Loitering and Exterior Lighting and Monitoring Requirements.

a. It shall be the duty of the owner and/or operator of a sexually oriented business to:

(1) Post conspicuous signs stating that no loitering is permitted on the property consti tuting the sexually oriented business; and

(2) Designate one or more employees to monitor the activities of persons on the prop erty constituting the sexually oriented business by visually inspecting such property at least once every hour or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises of the property which constitutes the sexu ally oriented business sufficient to provide for visual inspection or video monitoring to pro hibit loitering, the consumption of alcoholic beverages, wine or beer or any other unlawful activity.

(4) If used, video cameras and monitors shall operate continuously at all times the prem ises are open for business. The monitors shall be installed within an operator's station or at a cash register where an

employee is regularly present. Recordings shall be made and maintained for a minimum of thirty (30) days. All recordings shall be made available for inspection and viewing upon request and without a warrant, to any law enforcement officer during regular business hours.

Section 14. Persons Younger than 21 Prohibited.

a. No person who is younger than twenty-one (21) years of age shall be allowed to enter or be on the premises of a sexually oriented business at any time the sexually oriented busi ness is open for business or at any other time during which an entertainer or employee may be performing or auditioning.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours.

c. It shall be the duty of the attendant to prohibit any person under the age of twenty-one (21) years of age from entering the sexually oriented business. For enforcement purposes, it shall and will be presumed that an attendant knew a person was under the age of twenty-one (21) unless such attendant asked for and was furnished:

(1) An authentic, valid, state-issued operator's, commercial operator's or chauffeur's dri ver's license indicating that such person is twenty-one (21) years of age or older; or

(2) An authentic, valid, state-issued personal identification card or certificate indicating such person is twenty-one (21) years of age or older.

Section 15. Consumption of Alcoholic Beverages Prohibited.

a. An owner and/or operator of a sexually oriented business shall not allow the posses sion or consumption by any person of any alcoholic beverage, wine or beer in a sexually ori ented business facility or on any part of the real property that is used for carrying on the sex ually oriented business.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that no alcoholic beverage, wine or beer is being possessed or consumed upon the real property or within the facility comprising the sexually oriented business.

c. This section shall not apply to the individually licensed sexually oriented business if it has applied for, and been granted, a liquor license as authorized by the laws of the State of Iowa.

Section 16. Live Shows.

a. All dancing and other live performances shall occur on a stage constructed and intend ed for that purpose which is separate and apart from the general public/patron area and unob structed from all horizontal views within the building.

b. All dancing and other live performances shall occur at least five (5) feet away from any other person or patron.

c. No owner, operator, employee or entertainer shall fondle, caress or otherwise touch any other person or patron and no person or patron shall fondle, caress or otherwise touch any owner, operator, employee or entertainer.

d. No person or patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any person or patron. Gratuities may be indi rectly given to entertainers by placing the gratuity on the stage.

Section 17. Illegal Activities Prohibited.

a. No owner, operator, associate, member, representative, agent, employee or entertain er of such owner or operator shall engage in any activity or conduct or permit any other per son to engage in any activity or conduct in, on, or about the real property and/or facility com prising the sexually oriented business which is prohibited by any ordinance or law of the State of Iowa or the United States.

Section 18. Hours of Operation.

a. No sexually oriented business shall be or remain open for business between 11:00 p.m. and 6:00 a.m., Monday through Saturday. No sexually oriented business shall be open for business between 11:00 p.m. on Saturday and 6:00 a.m. the following Monday.

Section 19. Authorization for Inspection.

a. An owner, operator or employee of a sexually oriented business shall permit any mem ber from the County Board of Supervisors, Sheriffs Department, Iowa State Patrol, Fire Department or any other designated agent(s) to inspect the real estate and facilities compris ing a sexually oriented business for the purpose of ensuring compliance with the law and this ordinance at any time it is occupied or open for business.

Section 20. Cause for Suspension of License.

a. The Delaware County Board of Supervisors may suspend a license to operate a sexu ally oriented business for a period not to exceed sixty (60) days if it determines that an owner operator, employee or patrons

a. No owner, operator, associate, member, representative, agent, employee or entertain- of such owner or operator shall engage in any activity or conduct or permit any other per- on to engage in any activity or conduct in, on, or about the real property and/or facility com- ising the sexually oriented business which is prohibited by any ordinance or law of the State Iowa or the United States.

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Section 20. Cause for Suspension of License.

a. The Delaware County Board of Supervisors may suspend a license to operate a sexu- y oriented business for a period not to exceed sixty (60) days if it determines that an owner, erator, employee or entertainer:

(1) Violated or is not in compliance with any section of this ordinance; and/or

(2) Refused to allow an inspection of the sexually oriented business facility and premis- es as authorized by this ordinance.

b. In the event any owner, operator, employee or entertainer has been round to be in vio- ion of this ordinance in a court of law or under the county's ordinance hearing procedures, hearing is necessary prior to suspension of the license under this section.

Section 21. Cause for Revocation of License.

a. The Delaware County Board of Supervisors may revoke a sexually oriented business ense if a cause of suspension set forth in Section 20 occurs and the same sexually orient- business license has been suspended within the preceding twelve (12) months or, if any ner, operator, employee, or entertainer is convicted of any of the aforementioned criminal tivity.

b. The Delaware County Board of Supervisors may revoke a sexually oriented business ense if it determines that an owner, operator, employee or entertainer of the sexually ori- ted business:

(1) Gave false or misleading information in the material submitted during the application process; and/or

(2) Has knowingly allowed the possession, use or sale of a controlled substance on or about the premises constituting the sexually oriented business; and/or

(3) Has knowingly allowed the possession, use or sale of any alcoholic beverage, beer or wine on or about the premises constituting the sexually oriented business; and/or

(4) Has knowingly allowed prostitution on the premises constituting the sexually orient- ed business; and/or

(5) Knowingly operated the sexually oriented business during a period of time when the sexually oriented business's license was suspended; and/or

(6) Has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, mas- turbation or other sex act to occur in or on the premises constituting the sexually oriented business; and/or

(7) Is delinquent in the payment of any city, county, state or federal taxes, of any nature, or fees past due; and/or

(8) Has knowingly or intentionally facilitated another in the commission of any criminal act or violation of this ordinance.

c. When the Delaware County Board of Supervisors revoke a license to operate a sexu- y oriented business, the revocation shall continue for one (1) year. No applicant, owner, erator, employee or entertainer of the sexually oriented business whose license was voked shall be issued a sexually oriented business license for one (1) year from the date the vocation became effective. If, however, subsequent to revocation, the Delaware County ard of Supervisors find that the factual basis for the revocation did not occur, the revoked ense shall be reinstated.

d. After denial of an application, or denial of a renewal of an application, or suspension or vocation of any sexually business license, any applicant or owner may seek prompt judicial view of such action in any court of competent jurisdiction.

Section 22. Violations and Penalties.

a. Unless otherwise provided, any person who violates any section of this ordinance shall assessed a fine of not less than fifty ($50.00) dollars nor more than five hundred ($500.00) llars, and may be imprisoned in the county jail for a term not to exceed thirty (30) days. In dition, the person shall be responsible for all criminal penalty surcharges required by the de of Iowa and any other surcharges imposed by county ordinance or resolution which shall t be considered part of the county's penalty.

b. Any person who violates any section of this ordinance shall also be responsible for the sts of prosecution and in the event of a default of payment of said fine, surcharges and/or sts of prosecution, he/she may be imprisoned in the county jail until said financial obliga- ns are paid, but not to exceed thirty (30) days for each violation.

c. A violation may also result in the suspension or revocation of the license to operate a xually oriented business in Delaware County pursuant to Sections 20 and 21 of this ordi- nce.

Section 23. Severability.

a. If any section, provision or part of this ordinance shall be adjudged invalid or uncon- utional, such adjudication shall not affect the validity of this ordinance as a whole or in any ction, provision or part not adjudged invalid or unconstitutional.

Section 24. Effective Date.

a. This ordinance shall become effective after final passage, approval and publication as vided in Iowa Code Chapter 331.302.

PASSED AND ADOPTED THIS 19th DAY OF JUNE, 2006.

/S/ William Skinner, Chairperson
Delaware County Board of Supervisors

ATTEST:
S/ Sharon McCrabb, County Auditor

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

On this 19th day of June, 2006, before me, Julia L. Hackbarth, a Notary Public in and for the te of Iowa, personally appeared William Skinner and Sharon McCrabb to me personally wn, and who, being by me duly sworn, did say that they are the Chairperson of the Board upervisors and County Auditor, respectively, of the County of Delaware, Iowa; that the seal ed to the foregoing instrument is the county seal of the county and that the instrument was ed and sealed on behalf of the county, by authority of its Board of Supervisors, as con- ed in Ordinance No. 26 passed (or Resolution adopted) by the Board of Supervisors under Call No. of the Board of Supervisors on the 19th day of June, 2006, and William Skinner Sharon McCrabb acknowledged the execution of the instrument to be their voluntary act deed and the voluntary act and deed of the county, by it voluntarily executed.

/S/ Julia L. Hackbarth
Notary Public, State of Iowa
Commission Number 169605
My Comm. Exp. 5/24/08

State of Iowa, Delaware County, ss

I, Mary Helle, being duly sworn, state that I am the publisher of the Delaware County Leader, a newspaper published at Hopkinton, Delaware County, Iowa, and the attached notice was published in said newspaper for One consecutive weeks beginning June 27, 2006, and ending _____, 20____.

PRINTERS FEES: $ 297.03

Mary Helle

Subscribed in my presence and sworn to before me by Mary Helle on this 27th day of June, 2006.

Cathy S Harris
Notary Public

NOTARIAL SEAL IOWA
CATHY S HARRIS
COMMISSION NUMBER 731078
MY COMMISSION EXPIRES
OCTOBER 19, 2007

Paid
7-10-06

Legal Notice – Delaware County Board of Supervisors

COUNTY ORDINANCE NO. 26
AN ORDINANCE RELATING TO THE REGULATION OF SEXUALLY ORIENTED BUSINESSES

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose and Intent.

a. The purpose of this ordinance is to provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

b. It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative materials. Likewise, it is neither the intent nor the effect of this ordinance to restrict or deny access by adults to adult-oriented materials or entertainment protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

c. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which otherwise violates any city or county ordinance or statute of the State of Iowa regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition, distribution or display thereof.

Section 2. Definitions.

a. For purposes of this ordinance, unless the context clearly requires a different meaning, the words, terms and phrases set forth shall have the meanings given them in this section.

1. "Adult" means a person twenty-one (21) years of age or older.

2. "Distinguished or characterized by an emphasis upon" means or refers to the dominant or essential theme of the object described by such phrase.

3. "Employee" means every owner, operator, partner, supervisor, [illegible]

3. Any activity conducted by a person pursuant to any license issued by the State of Iowa or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession, if and to the extent that such activity is conducted within the course and scope of the exercise of the privileges authorized by such license or the duties of such agency.

4. Any activity as to which a license to operate a massage establishment or a license to act as a massage therapist or massage therapist trainee is required by Iowa law.

Section 4. Sexually Oriented Business License Required.

a. No person shall engage in, conduct, carry on or permit to be engaged in, conducted or carried on, in or upon any premises within Delaware County the operation of a sexually oriented business unless the person first obtains and continues to maintain in full force and effect a license issued by Delaware County as required by this ordinance.

b. A license for such business shall be issued to any applicant who has complied with all of the following requirements:

(1) The applicant has filed a completed application and paid the required sexually oriented business application fee, and

(2) The applicant has not made a material misstatement or misrepresentation in the application, and

(3) To the extent applicable, the establishment, including the building and lot or portion thereof where the establishment is located or is proposed to be situated meets all location and applicable zoning requirements, and

(4) There does not exist a basis for denial as set forth in Section 6(d) of this ordinance.

c. Each application for a license to operate a sexually oriented business within Delaware County shall be accompanied by a non-refundable

applicant.

(B) Social Security number and driver's license number or Iowa identification number of each applicant, and

(C) The previous address of each applicant for a period of five (5 years) immediately prior to the date of application and the dates of residence for each, and

(D) Written proof that the applicant(s) is/are at least twenty-one (21) years of age, and

(E) Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of application, and

(F) Two (2) recent passport-style color photographs of the applicant(s), and

(G) A fingerprint card with fingerprints attached of each applicant. These shall be obtained from the Delaware County Sheriff's Department, and

(H) Such other information as may be deemed necessary and appropriate by the Delaware County Board of Supervisors.

(8) Authorization for the county or its agents and employees to seek information and conduct and investigation into the truth of the statements set forth in the application regarding the applicant's request for a license.

(9) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with such declaration sworn to and duly executed by the Office of the Delaware County Board of Supervisors.

h. A sexually oriented business establishment lawfully existing and operating on the effective date of this ordinance, if it does not have a valid license, shall apply for a license within ninety (90) days from the effective date of this ordinance and shall be allowed to continue operating during the pendency of the application, provided it is otherwise in compliance with applicable provisions of this ordinance and Iowa law.

Section 6. Issuance of License.

business shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this ordinance.

b. Application for renewal should be made at least ninety (90) days before the expiration date of the previously issued license.

c. In no event shall a license to operate a sexually oriented business be extended beyond the original date of expiration.

Section 9. Transfer of License.

a. An owner, operator, employee or entertainer cannot and shall not transfer or attempt to transfer his/her license to another, nor shall an owner, operator, employee or entertainer operate or attempt to operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 10. Location of Sexually Oriented Business Facilities.

a. No person shall place, maintain, own or operate any sexually oriented business in the following locations:

1. In any residential area of a city or town located in whole or in part within the boundaries of Delaware County, unless otherwise allowed by the individual city or town.

2. Within two thousand (2,000) feet of any parcel of real estate upon which is located any of the following:

(A) a public or private elementary school, junior high school or senior high school.

(B) a daycare facility registered with the State of Iowa.

(C) A church.

(D) A park or recreational facility operated and/or improved by Delaware County, the County Conservation Board or State of Iowa.

(E) A federal, state, county or special district government office.

(F) A supermarket, grocery store or convenience store engaged in the sale of food and/or fuel.

(G) A restaurant or fast food establishment.

(H) Any other sexually oriented

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that no alcoholic beverage, wine or beer is being possessed or consumed upon the real property or within the facility comprising the sexually oriented business.

c. This section shall not apply to the individually licensed sexually oriented business if it has applied for and been granted a liquor license as authorized by the laws of the State of Iowa.

Section 16. Live Shows.

a. All dancing and other live performances shall occur on a stage constructed and intended for that purpose which is separate and apart from the general public/patron area and unobstructed from all horizontal views within the building.

b. All dancing and other live performances shall occur at least five (5) feet away from any other person or patron.

c. No owner, operator, employee or entertainer shall fondle, caress or otherwise touch any other person or patron and no person or patron shall fondle, caress or otherwise touch any owner, operator, employee or entertainer.

d. No person or patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any person or patron. Gratuities may be indirectly given to entertainers by placing the gratuity on the stage.

Section 17. Illegal Activities Prohibited.

a. No owner, operator, associate, member, representative, agent, employee or entertainer of such owner or operator shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in, on, or about the real property and/or facility comprising the sexually oriented business which is prohibited by any ordinance or law of the State of Iowa or the United States.

Section 18. Hours of Operation.

a. No sexually oriented business shall be or remain open for business between 11:00 p.m. and 6:00 a.m.

3. "Employee" means every owner, operator, partner, supervisor, performer, entertainer, dancer, waitress, bartender, bouncer, manager, food service worker, cashier, custodial or maintenance person, or other worker, whether paid or not, who renders services of any nature in the conduct of a sexually oriented business. It shall be a rebuttable presumption that every person who renders services of any nature in the conduct of a sexually oriented business is an employee of the sexually oriented business.

4. "Entertainer" means any person, performer or dancer, whether an employee or independent contractor, or any other person who, with or without any compensation or other form of consideration, performs live entertainment for any patrons of a sexually oriented business.

5. "Nudity or state of nudity" means the display of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the display of any portion of the female breast below the top of the areola with less than a fully opaque covering, the exposure of any device, costume or covering which gives the appearance of or simulates human male or female genitals, pubic area, buttocks, or female nipple and areola.

6. "Person" is any individual, firm, association, partnership, co-partnership, corporation, limited liability corporation, joint stock company, joint venture or combination of the above in whatever form or character.

7. "Sexually oriented business" means any business or establishment that regularly features live or recorded performances that are distinguished or characterized by an emphasis upon the depiction or exposure of "specified anatomical areas" and/or specified sexual activities". "Sexual oriented business" shall include, but not be limited to, the following business activities and activities similar thereto: adult or nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, adult or

within Delaware County shall be accompanied by a non-refundable application fee. The application fee shall be used to defray, in part, administrative costs incurred in the processing of the application, and is not made in lieu of any other fees or taxes required by statute or ordinance. Renewal fees shall also be established. Renewal applications shall update any information which has changed since the filing of the last prior application or renewal application.

Section 5. Application for Sexually Oriented Business License.

a. Any person who proposes to operate, maintain or conduct a sexually oriented business within Delaware County shall first submit to the Delaware County Board of Supervisors a completed application for a sexually oriented business license, on a form provided by the Delaware County Board of Supervisors. The application shall contain all of the information requested in this section, along with the non-refundable application fee. An application which is not accompanied by the required application fee shall not be deemed a completed application.

b. If the applicant is an individual, the individual shall provide his or her legal name, address, and submit satisfactory written proof that he or she is at least twenty-one (21) years of age.

c. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement to the application. The applicant shall also submit satisfactory written proof that all partners are at least twenty-one (21) years of age.

d. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Iowa, the names and capacities of all officers and directors and the name of the registered corporate agent and the address of the registered office for service of process purposes.

e. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten

Section 6. Issuance of License.

a. Upon the filing of a properly completed and executed application for a sexually oriented business license under Section 5, the Delaware County Board of Supervisors will conduct a preliminary review of the application and may, within fourteen (14) days of receipt, refer copies of such application to the Delaware County Sheriff's Department, appropriate fire department(s) and any other designated agents for review and investigation.

b. The Delaware County Board of Supervisors, County Sheriff's Department, appropriate fire department(s) and/or any other designated agents to whom the application was referred may, within thirty days of the referral, inspect the premises proposed to be operated as a sexually oriented business facility, or, in the case of the Delaware County Sheriff's Department, conduct a background investigation of the individuals identified in all areas of the application and, then all such officials and/or designated agents may make recommendations to the Delaware County Board of Supervisors concerning the premises and the applicant's compliance with the matters coming within the jurisdiction of the aforementioned officials and/or designated agents.

c. Within ten days of receiving the recommendation(s) of the aforementioned officials and/or designated agents, the Delaware County Board of Supervisors will render their approval or denial of the application.

d. The Delaware County Board of Supervisors shall issue a sexually oriented business license to the applicant(s) within ninety (90) days of receipt of a properly filed and executed application unless:

(1) Any applicant is less than twenty-one (21) years of age.

(2) Any applicant has failed to provide information as required by Section 6 for issuance of a license to operate a sexually oriented business.

(3) Any applicant has knowingly made any false, misleading or fraudulent statement of fact in the application for the license or in any other document required by the Delaware County Board of Supervisors in connection therewith.

(4) The required license application fee has not been paid.

(5) Any applicant has been

(H) Any other sexually oriented business.

(I) Any other business or establishment reasonably believed to be catering to family trade.

3. For purposes of this section, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the sexually oriented business to the closest property line of the real property upon which the previously described facilities are located.

Section 11. Signage.

a. Notwithstanding any other ordinance, code or regulation to the contrary, a sexually oriented business shall not erect or maintain any sign for the sexually oriented business other than one primary sign and one secondary sign as provided herein.

b. The primary sign shall have no more than two (2) display surfaces. Each such display surface shall:

(1) Not contain any flashing lights; and

(2) Be a flat pane, rectangular in shape; and

(3) Not exceed seventy-five (75) square feet in area; and

(4) Not exceed ten (10) feet in height or ten (10) feet in length; and

(5) Contain no photographs, silhouettes, drawings or pictorial representations in any manner; and

(6) Contain letters of a solid color with each such letter consisting of the same print type, size and color as all other letters forming each word on the sign. Additionally, the background behind such lettering on the display surface of the sign shall be of a uniform and solid color.

c. A secondary sign shall have only one display surface. Such display surface shall:

(1) Be a flat pane, rectangular in shape, and

(2) Not exceed twenty (20) square feet in area, and

(3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed or attached to a wall of the enterprise; and

(5) Conform with the provisions of paragraphs 1, 5 and 6 of subsection b of this section relating to primary signs.

Section 12. Viewing From Exterior Prohibited.

a. No sexually oriented business facility shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical

Monday through Saturday. No sexually oriented business shall be open for business between 11:00 p.m. on Saturday and 6:00 a.m. the following Monday.

Section 19. Authorization for Inspection.

a. An owner, operator or employee of a sexually oriented business shall permit any member from the County Board of Supervisors, Sheriff's Department, Iowa State Patrol, Fire Department or any other designated agent(s) to inspect the real estate and facilities comprising a sexually oriented business for the purpose of ensuring compliance with the law and this ordinance at any time it is occupied or open for business.

Section 20. Cause for Suspension of License.

a. The Delaware County Board of Supervisors may suspend a license to operate a sexually oriented business for a period not to exceed sixty (60) days if it determines that an owner, operator, employee or entertainer:

(1) Violated or is not in compliance with any section of this ordinance; and/or

(2) Refused to allow an inspection of the sexually oriented business facility and premises as authorized by this ordinance.

b. In the event any owner, operator, employee or entertainer has been found to be in violation of this ordinance in a court of law under the county's ordinance hearing procedures, no hearing is necessary prior to suspension of the license under this section.

Section 21. Cause for Revocation of License.

a. The Delaware County Board of Supervisors may revoke a sexually oriented business license if a cause of suspension set forth in Section 20 occurs and the same sexually oriented business license has been suspended within the preceding twelve (12) months or if any owner, operator, employee, of entertainer is convicted of any of the aforementioned criminal activity.

b. The Delaware County Board of Supervisors may revoke a sexually oriented business license if it determines that an owner, operator, employee or entertainer of the sexually oriented business:

(1) Gave false or misleading information in the material submitted during the application process; and/or

(2) Has knowingly allowed the possession, use or sale of a

means any business or establishment that regularly features live or recorded performances that are distinguished or characterized by an emphasis upon the depiction or exposure of "specified anatomical areas" and/or "specified sexual activities". "Sexual oriented business" shall include, but not be limited to, the following business activities and activities similar thereto: adult or nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, adult or nude wrestling centers, adult or nude art or photograph studios or exotic lingerie shows.

8. "Sexually oriented business operator" means any person in an ownership or employee capacity who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for, or in charge of, the premises of a sexually oriented business or the conduct or activities occurring on the premises thereof.

9. "Sexually oriented business owner" means any person or persons who hold a financial or other business interest, in whole or in part, either singly or jointly, in a sexually oriented business. Indicia of ownership may be established by evidence including, but not limited to, business license information, fictitious business name registration, utility billing information, corporate filings, or by other competent evidence.

10. "Specified anatomical areas" shall mean and include human male and female genitals, pubic region, or buttocks, and the nipple or areola of the female breast.

11. "Specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

(A) Human genitals in a state of sexual stimulation or arousal; and/or

(B) Sexual acts, acted or simulated.

(21) years of age.

d. If the applicant is a corporation, the corporation shall provide its complete name, the date of is incorporation, evidence that the corporation is in good standing under the laws of the State of Iowa, the names and capacities of all officers and directors and the name of the registered corporate agent and the address of the registered office for service of process purposes.

e. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application.

f. If the applicant intends to operate a sexually oriented business under a name other than the applicant, the applicant shall file the fictitious name of the sexually oriented business and show proof of registration of the fictitious name.

g. Each application for a sexually oriented business license shall contain:

(1) A narrative description of the proposed sexually oriented business for which the license is requested, which shall include proposed hours of operation, number of employees, number of entertainers, and a description of the titles and/or positions of each.

(2) A detailed diagram showing the interior floor plan and configuration of the premises, depicting all interior rooms including, but not limited to, restrooms, office space, storage areas and public areas, and dimensions. The diagram need not be professionally prepared, but shall be drawn to a designated scale with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(3) A site plan showing the lot or property on which the sexually oriented business will be located, the location of the building(s) or portion(s) thereof in which the sexually oriented business will be located, the number of available parking spaces including those reserved for the handicapped, the location and type of proposed [illegible] and

(4) [illegible] date or birth, height, weight, color of eyes and hair of each

executed application unless:

(1) Any applicant is less than twenty-one (21) years of age.

(2) Any applicant has failed to provide information as required by Section 6 for issuance of a license to operate a sexually oriented business.

(3) Any applicant has knowingly made any false, misleading or fraudulent statement of fact in the application for the license or in any other document required by the Delaware County Board of Supervisors in connection therewith.

(4) The required license application fee has not been paid.

(5) Any applicant has been associated with a sexually oriented or similar business within the last five (5) years that has had their license denied, suspended or revoked for any cause.

(6) Any applicant is a person who is not of good moral character and reputation with the community within he/she resides.

(7) Any applicant has been convicted of any of the following offenses, unless upon investigation the Delaware County Board of Supervisors or their designated agent finds that such conviction(s) occurred at least ten (10) years prior to the date of the filing of the application, there have been no subsequent convictions, and the applicant has shown evidence of rehabilitation sufficient to warrant the public's trust:

(A) Any felony under Federal law or the laws of this or any other state, and/or

(B) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, patronizing a prostitute, pimping, obscenity, selling harmful material or having a tie in the sale of obscene publications under the laws of this State or equivalent laws or codes of the United States or any other State, and/or

(C) Any other crime or misdemeanor that is sexual in nature and/or opposed to decency and morality.

(8) The Delaware County Board of Supervisors has denied the license.

e. If the Delaware County Board of Supervisors fail to act in approving

a. Each license issued for the operation of a sexually oriented

feet in area; and

(3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed of attached to a wall of the enterprise; and

(5) Conform with the provisions of paragraphs 1, 5 and 6 of subsection b of this section relating to primary signs.

Section 12. Viewing From Exterior Prohibited.

a. No sexually oriented business facility shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as a sexually oriented business facility.

Section 13. Loitering and Exterior Lighting and Monitoring Requirements.

a. It shall be the duty of the owner and/or operator of a sexually oriented business to:

(1) Post conspicuous signs stating that no loitering is permitted on the property constituting the sexually oriented business; and

(2) Designate one or more employees to monitor the activities of persons on the property constituting the sexually oriented business by visually inspecting such property at least once every hour or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises of the property which constitutes the sexually oriented business sufficient to provide for visual inspection or video monitoring to prohibit loitering, the consumption of alcoholic beverages, wine or beer or any other unlawful activity.

(4) If used, video cameras and monitors shall operate continuously at all times the premises are open for business. The monitors shall be installed within an operator's station or at a cash register where an employee is regularly present. Recordings shall be made and maintained for a minimum of thirty (30) days. All recordings shall be made available for inspection and

for carrying on the sexually oriented business.

suspended within the preceding twelve (12) months or, if any owner, operator, employee, or entertainer is convicted of any of the aforementioned criminal activity.

b. The Delaware County Board of Supervisors may revoke a sexually oriented business license if it determines that an owner, operator, employee or entertainer of the sexually oriented business:

(1) Gave false or misleading information in the material submitted during the application process; and/or

(2) Has knowingly allowed the possession, use or sale of a controlled substance on or about the premises constituting the sexually oriented business; and/or

(3) Has knowingly allowed the possession, use or sale of any alcoholic beverage, beer or wine on or about the premises constituting the sexually oriented business; and/or

(4) Has knowingly allowed prostitution on the premises constituting the sexually oriented business; and/or

(5) Knowingly operated the sexually oriented business during a period of time when the sexually oriented business's license was suspended; and/or

(6) Has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the premises constituting the sexually oriented business; and/or

(7) Is delinquent in the payment of any city, county, state or federal taxes, of any nature, or fees pas due; and/or

(8) Has knowingly or intentionally facilitated another in the commission of any criminal act or violation of this ordinance.

c. When the Delaware County Board of Supervisors revoke a license to operate a sexually oriented business, the revocation shall continue for one (1) year. No applicant, owner, operator, employee or entertainer of the sexually oriented business whose license was revoked shall be issued a sexually oriented business license [illegible] and 21 of this ordinance.

the following, whether performed directly or indirectly through clothing or other covering:

(A) Human genitals in a state of sexual stimulation or arousal; and/or

(B) Sexual acts acted or simulated, including sexual intercourse, oral copulation or sodomy; and/or

(C) Fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast; and/or

(D) Masturbation, actual or simulated; and/or

(E) Excretory functions as part of or in connection with any of the other activity described in subdivisions (A) through (D) of this subsection; and/or

(F) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain in the context of sexual arousal.

7. The foregoing definitions are generic. The uses and businesses governed by subsection (a) include any other use or business, regardless of how named or advertised, that is of a character like or similar to the uses and businesses set forth in subsection (a).

Section 3. Excluded Activities.

a. This ordinance does not apply to any of the following activities:

1. Any activity by a person licensed to practice one or more of the healing arts authorized by Iowa law, if and to the extent that such activity is authorized by license.

2. Any activity conducted or sponsored by any school district or other public agency, so long as such activity is being conducted as part of and within the scope of an authorized and regular part of the curriculum or is part of a training or instructional program being conducted by a public agency.

permit the establishment, operation or maintenance of any business

location of the building(s) or portion(s) thereof in which the sexually oriented business will be located, the number of available parking spaces including those reserved for the handicapped, the location and type of proposed lighting, landscaping, trash enclosures and all means of ingress and egress to and from the property. The site plan need not be professionally prepared, but shall be drawn to a scale with marked dimensions to an accuracy of plus or minus one (1) foot.

(4) An area map showing the lot or property on which the sexually oriented business facility will be located, and the property line(s) and distance to the property line(s) of any church, school, park, day care, governmental office, supermarket, grocery store, convenience store, restaurant, fast food establishment, other sexually oriented businesses, residential zoning district or the residence or any registered sex offender, located within three thousand (3,000) feet of the property subject to the license application.

(5) The full name, address and telephone number of the property owner and/or property management company if different from the applicant, including a copy of the lease agreement, if any, in effect at the time of the application, and a copy of any other agreements, easements, conditions, covenants, restrictions or other such documents that contain evidence affecting the use or operation of the lot, property, premises or structures which will be subject to the license for which the application has been submitted.

(6) The full name, including any aliases or stage names ever used, current residential address, position and/or title of each employee and/or entertainer and all other information required under subsection 7.

(7) Each application shall also contain the following information about the applicant(s):

(A) Full name, including aliases, current residential address, telephone number, date of birth, height, weight, color of eyes and hair of each

as required by this ordinance.

b. A

information and conduct and

(C) Any other crime or misdemeanor that is sexual in nature and/or opposed to decency and morality.

(8) The Delaware County Board of Supervisors has denied the license.

e. If the Delaware County Board of Supervisors fail to act in approving or denying a properly filed and executed application for a license to operate a sexually oriented business within ninety (90) days from the receipt and execution of the application, the application shall be deemed approved and a license to operate a sexually oriented business shall issue upon payment of the annual license fee.

Section 7. Fees and Issuance.

a. A filing fee in accordance with the established fee schedule shall be charged for each application for initial license and annual renewals to assist in deferring the cost of the administrative review. An annual license fee shall also be required upon approval of the application. The applicant(s) shall be held responsible for submitting the required application fees upon submission of the completed application. No action shall be taken on any application until the required application fee is paid in full.

b. The fee schedule, subject to periodic amendment, shall be as follows:

(1) Initial application fee: $250.00.

(2) Renewal application fee: $250.00.

(3) Annual License Fee: $1,200 ($100.00 per month).

c. The applicant(s), owner and/or operator of a sexually oriented business within Delaware county shall keep and maintain liability insurance in an amount of at least one million dollars ($1,000,000) and shall provide evidence of such insurance upon application for or renewal of each license.

d. Whether a submitted application or renewal application is granted or denied, the applicant shall not be entitled to a refund of any portion of any fee paid.

Section 8. Term of License.

a. Each license issued for the operation of a sexually oriented

business. The monitors shall be installed within an operator's station or at a cash register where an employee is regularly present. Recordings shall be made and maintained for a minimum of thirty (30) days. All recordings shall be made available for inspection and viewing upon request and without a warrant, to any law enforcement officer during regular business hours.

Section 14. Persons Younger than 21 Prohibited.

a. No person who is younger than twenty-one (21) years of age shall be allowed to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business or at any other time during which an entertainer or employee may be performing or auditioning.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours.

c. It shall be the duty of the attendant to prohibit any person under the age of twenty-one (21) years of age from entering the sexually oriented business. For enforcement purposes, it shall and will be presumed that an attendant knew a person was under the age of twenty-one (21) unless such attendant asked for and was furnished:

(1) An authentic, valid, state-issued operator's, commercial operator's or chauffeur's license indicating that such person is twenty-one (21) years of age or older; or

(2) An authentic, valid, state-issued personal identification card or certificate indicating such person is twenty-one (21) years of age.

Section 15. Consumption of Alcoholic Beverages Prohibited.

A. An owner and/or operator of a sexually oriented business shall now allow the possession or consumption by any person of any alcoholic beverage, wine or beer in a sexually oriented business facility or on any part of the real property that is used for carrying on the sexually oriented business.

business in the following locations

license to operate a sexually oriented business, the revocation shall continue for one (1) year. No applicant, owner, operator, employee or entertainer of the sexually oriented business whose license was revoked shall be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, however, subsequent to revocation, the Delaware County Board of Supervisors find that the factual basis for the revocation did not occur, the revoked license shall be reinstated.

d. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any sexually oriented business license, any applicant or owner may seek prompt judicial review of such action in any court of competent jurisdiction.

Section 22. Violations and Penalties.

a. Unless otherwise provided, any person who violates any section of this ordinance shall be assessed a fine of not less than fifty ($50.00) dollars no more than five hundred ($500.00) dollars, and may be imprisoned in the county jail for a term not to exceed thirty (30) days. In addition, the person shall be responsible for all criminal penalty surcharges required by the Code of Iowa and any other surcharges imposed by county ordinance or resolution which shall not be considered part of the county's penalty.

b. Any person who violates any section of this ordinance shall also be responsible for the costs of prosecution and in the event of a default of payment of said fine, surcharges and/or costs of prosecution, he/she may be imprisoned in the county jail until said financial obligations are paid, but not to exceed thirty (30) days for each violation.

c. A violation may also result in the suspension or revocation of the license to operate a sexually oriented business in Delaware County pursuant to Sections 20 and 21 of this ordinance.

fondle, caress or otherwise touch any

owner, operator, employee

Notarization

State of Iowa, Delaware County, ss

I, Mary Helle, being duly sworn, state that I am the publisher of the Delaware County Leader, a newspaper published at Hopkinton, Delaware County, Iowa, and the attached notice was published in said newspaper for One consecutive weeks beginning June 27, 2006 and ending _____, 20____.

PRINTERS FEES: $ 297.03

Mary Helle

Subscribed in my presence and sworn to before me by Mary Helle on this 27th day of June, 2006.

Cathy S Harris

Notary Public

NOTARIAL SEAL IOWA
CATHY S HARRIS
COMMISSION NUMBER 731078
MY COMMISSION EXPIRES
OCTOBER 19, 2007

Delaware County Leader June 27, 2006 Page 7

Section 23. Severability.

If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or of any section, provision or part not adjudged invalid or unconstitutional.

Section 24. Effective Date.

This ordinance shall become effective after final passage, approval and publication as provided by in Iowa Code Chapter 331.302.

PASSED AND ADOPTED this 19th day of June, 2006.

William Skinner, Chairperson
Delaware County
Board of Supervisors

ATTEST:
Sharon McCrabb
County Auditor

STATE OF IOWA
DELAWARE COUNTY ss:

On this 19th day of June, 2006, before me, Julia L. Hackbarth, a Notary Public in and for the State of Iowa, personally appeared William Skinner and Sharon McCrabb to me personally known, and who, being by me duly sworn, did say that they are the Chairperson of the Board of Supervisors and County Auditor, respectively, of the County of Delaware, Iowa, that the seal affixed to the foregoing instrument is the County seal of the county and that the instrument was signed and sealed on behalf of the county, by authority of its Board of Supervisors, as contained in Ordinance No. 26 passed (or Resolution adopted) by the Board of Supervisors under Roll Call No. _____ of the Board of Supervisors on the 19th day of June, 2006, and William Skinner and Sharon McCrabb acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the county, by it voluntarily executed.

Julia L. Hackbarth
Notary Public, State of Iowa

KOCH BROTHERS, DES MOINES C-089-X H-0192-1

DEPARTMENT	GENERAL BASIC	MH/MD FUND	RURAL SERVICES	SECONDARY ROAD FUND	OTHER	TOTAL
Conservation	408,742				60,715	469,457
Local Health	103,200					103,200
Weed Commissioner			13,250			13,250
Human Services	81,970					81,970
County Farm	17,900					17,900
Medical Examiner	23,000					23,000
Fairgrounds	37,000					37,000
County Services	137,740					137,740
County Library			47,500			47,500
Historical Society	7,500					7,500
Mental Health		2,277,087				2,277,087
TOTALS	$4,332,816	$2,277,087	$131,688	$7,003,000	$71,115	$13,817,706

Dated this 5th day of June, 2006.

Delaware County Board of Supervisors
/S/ Bill Skinner, Chairperson

ATTEST:
/S/ Sharon McCrabb, Auditor

All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Application for Iowa Retail Cigarette/ Tobacco Permit for Hart Ridge, Inc. (Bill Gearhart) for the period July 1, 2006 through June 30, 2007, be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that a public hearing be set for June 12th, 2006 for the Mouw Family Investments confinement feeding operation. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the "Solutions" Support Agreement with Delaware County be approved for the period July 1, 2006 through June 30, 2007 at the cost of $28,200.00 for computer services. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the Manure Management Plans of Robert Maiers in Oneida Township and two Manure Mangement Plans for Progressive Pork LLC in Section 30 and 31 of Richland Township be acknowledged as having been filed in Delaware County. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Monthly Report and Remittance of the Clerk of Court showing $1,677.22 collected and paid into the General Basic Fund for the month of May, 2006, be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the Contract and Bond for Kuhlman Construction Company of Colesburg in the amount of $429,440.00 for Class "A" crushed stone delivered on roads be approved for approximately 151 miles of road surfacing. All ayes.

During the bid letting procedure for the new Community Services Bldg. there were no electric bids submitted. The Board looked at a contract for electrical work in the amount of $10,125.27 from Al's Electrical Service.

Motion made by Helmrichs, seconded by Koeneke and carried that the agreement with Al's Electrical Service for electric work in the new Community Services Bldg. in the amount of $10,125.27, be approved. All ayes.

There being no further business, this meeting adjourned. These minutes were read and approved.

Bill Skinner
Bill Skinner, Chairperson

Sharon McCrabb
Sharon McCrabb, Auditor

****

June 12, 2006
Manchester, Iowa
9:00 a.m.

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

The Delaware County Board of Supervisors met in special session this date pursuant to the Code of Iowa to canvass the results of the Primary Election held in said county on the 6th day of June, 2006. Bill Skinner, Chairperson, called the meeting to order with Helmrichs present and Koeneke, absent.

Upon completion of the canvass of the votes cast, the County Auditor was directed to prepare abstracts of the various offices as required by law. The following persons were declared nominated to the various offices as listed, the same being such offices as the county alone elects and having the highest number of votes cast for each office:

	Republican	Democrat
County Treasurer	Carolyn A. Wilson	No nomination
County Recorder	Deborah L. Peyton	No nomination
County Attorney	John W. Bernau	No nomination
County Supervisor, District #3	Shirley E. Helmrichs	No nomination

There being no further business, this meeting adjourned. These minutes were read and approved.

Bill Skinner
Bill Skinner, Chairperson

Sharon McCrabb
Sharon McCrabb, Auditor

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June 12, 2006
Manchester, Iowa
1:15 p.m.

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

The Delaware County Board of Supervisors met in regular session this date with all members present. Also present were Doug Hawker, Lisa Walton, Carolyn Brooks, Mark Nahra, and three members of the media. Bill Skinner, Chairperson, called the meeting to order.

Supervisor's Minutes,

Motion made by Helmrichs, seconded by Koeneke and carried that the following county officials be allowed to attend their respective meetings: Monica Heiserman to attend the ISACA Summer School in Johnston on July 26th and 27th and the ISAC District meeting in Dubuque on June 14th; Carla Becker to attend Solutions schoolings in Ames on June 14th and 15th; Peggy Petlon to attend a CRIS Cost Reporting meeting in Cedar Rapids on June 13th, a District CSA meeting in Dubuque on June 14th and a CPC Regional meeting in Cedar Rapids on June 23rd; Bill Skinner, Shirley Helmrichs and Steve Koeneke to attend an RTA meeting in Dubuque on June 15th and the ISAC District meeting in Dubuque on June 14th; Shirley Helmrichs to attend a BDF meeting in Independence on June 13th. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the claims as shown on pages 382a through 382c along with the 6-9-06 payroll in the amount of $121,070.54 through warrants #21999 - #22112 be approved for payment. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the "Application for Approval of Undergruond Construction on Delaware County Right-of-Way" for Iowa Telecom be approved as follows: buried copper cable 5 miles NW from Ryan in T87, R6W, Section 6 and for buried copper cable 1 mile SW from Manchester in T88N, R6W, Sections 1 & 2. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the County Voting System - Allocation Agreement with the Iowa Secretary of State under contract number 06-HAVA-28-100 in the amount of $42,990.19 for reimbursement of the purchase of a voting system and naming Sharon McCrabb, Auditor, as recipient contact, be approved. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the following transfers of funds be approved: $10,868.30 from the Rural Services Fund to the Secondary Road Fund; $1,202.26 from the General Basic Fund to the Secondary Road Fund. All ayes.

This being the date set by publication in both official newspapers (The Manchester Press on May 23, 2006 and Delaware County Leader on May 24th) for the first consideration and reading of County Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses", Bill Skinner, went through the ordinance and asked if anyone had any comments or objections.

Finding no objections to the first reading of Ordinance #26, motion made by Koeneke, seconded by Helmrichs and carried that the first reading of Ordinance #26 be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the "Application for Fireworks Permit" submitted by Larry Savago for a fireworks display on July 29, 2006 (raindate of 8-5-06) be approved. All ayes.

This being the date set by publication for a public hearing on the Master Matrix for the Mouw Family Investments in Section 25 in Hazel Green Township (publication in The Manchester Press on May 30th and in the Delaware County Leader on May 31st), the hearing was declared open.

Shirley Helmrichs stated that she and Doug Hawker from the DNR visited the site and found no problems.

There were no objections or further comments from the public.

Motion made by Helmrichs, seconded by Koeneke and carried that the Board approve the Matrix as submitted with 440 points for the Mouw Family Investments and the findings submitted to the Iowa Department of Natural Resources. All ayes.

Mark Nahra, County Engineer, gave the Board an update on secondary Road projects.

There being no further business, this meeting adjourned. These minutes were read and approved.

Bill Skinner
Bill Skinner, Chairperson

Sharon McCrabb
Sharon McCrabb, Auditor

****

June 12, 2006
2:00 p.m.

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

The Delaware County Board of Supervisors met in special session this date with all members present for a meeting with the Delaware County Library Association. Present from the library association were Tom Benson, Kristy Folsom and Sue Guthrie. Three members of the media were also present. Bill Skinner, Chairperson, called the meeting to order.

Bill Skinner advised the library representatives that the $49,875.00 budgeted for the libraries for the next fiscal year would not change. The purpose of this meeting was to talk about an equitable distribution of the funds. He felt there were three different types of libraries to consider: those situated within the county; libraries on the county line; those located outside the county.

Tom Bensen felt some areas may be of legitimate concern to the county, however, he felt the libraries are not adequately funded and hoped that some middle ground could be reached as other counties average $12 per capita in funding their libraries and Delaware County is much lower.

Steve Koeneke advised the libraries to try for grants to help their revenue.

The contract last submitted to the Board by the library association was set up for a period of 20 years. The Board felt they could not tie other boards to that length of time.

The Board discussed how they felt circulation figures were not necessarily based on the same criteria they would use. The formula for distribution of funds to the libraries had changed according to the librarians where $3,000 would be the base and the rest of the distribution is based on circulation.

Shirley Helmrichs felt distribution could not be left up to the libraries alone and was looking more toward population than circulation for overbase distribution.

Discussion was held on libraries charging fees for services. Some fees consisted of copy fees, fees to reserve a book and internet services.

H BROTHERS, DES MOINES C-089-X H-0192-T

The Board of Supervisors requested the percentage of circulation reported to the state by libraries so they could compare it to figures they worked up on population. They felt fees for services needed to be left up to the libraries. A response from the Supervisors would be sent to Sue Guthrie as Library Association President so they could consider what the Board would like to see distributed to the libraries.

There being no further business, this meeting adjourned. These minutes were read and approved.

Bill Skinner
Bill Skinner, Chairperson

Sharon McCrabb
Sharon McCrabb, Auditor

****

June 19, 2006
Manchester, Iowa

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

The Delaware County Board of Supervisors met in regular session this date with all members present. Also present were Mark Nahra, Jane Sherman, and three members of the media. Bill Skinner, Chairperson, called the meeting to order.

Motion made by Koeneke, seconded by Helmrichs and carried that Mark Nahra and Bill Skinner be approved to attend an RPA meeting in Dubuque on June 22nd, 2006. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the following claims be approved for payment:

General Basic Fund		
Iowa Telecom	phone service	$315.11
Aquila	utility service	100.00
Iowa State Association of Counties	workshop registration	80.00
ISACA	registration for summer conference	100.00
Shirley Helmrichs	mileage	26.70
Schaul Housing	rent	475.00
U. S. Cellular	phone service	105.86
U. S. Postmaster	postage	414.00
Mental Health Fund		
U. S. Cellular	phone service	82.15
Iowa Telecom	phone service	128.43
Secondary Road Fund		
Alliant Energy	utility service	58.57
Aquila	utility service	29.09
Maquoketa Valley REC	utility service	82.60
Delaware County Clerk of Court	filing fee	58.00

All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the Contract with the Iowa Department of Public Health for Local Public Health Services in the amount of $1,839 for the Local Board of Health; $45,525 for Home Care Aide; $17,509 for Public Health Nursing and $8,045 for Local Public Health Services for the contract period July 1, 2006 through June 30, 2007 be approved. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Options of Linn County Services Agreement with Delaware County for services effective from July 1, 2006 through June 30, 2007, be approved. Service descriptions include: Work activity center - intensive; Work Activity Center; Sheltered workshop; Supported Employment; Enclave. All ayes.

This being the date set by publication in The Manchester Press on May 30th and in the Delaware County Leader on May 30th, 2006, to hold the second reading of County Ordinance #26, the Board began their consideration.

Motion made by Koeneke, seconded by Helmrichs and carried that County Ordinance #26 entitled "An Ordinance Relating to the Regulation of Sexually Oriented Businesses" be approved after it's second reading and that any further readings be waived. The Ordinance #26 was approved as follows:

COUNTY ORDINANCE #26

AN ORDINANCE RELATING TO THE REGULATION OF SEXUALLY ORIENTED BUSINESSES

Be it ordained by the Board of Supervisors of Delaware County, Iowa:

Section 1. Purpose and Intent.

a. The purpose of this ordinance is to provide standards and guidelines to regulate the time, place and manner of operation of an adult-oriented business in order to minimize the negative secondary impacts associated with such businesses and to promote the health, safety and general welfare of the public.

b. It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative materials. Likewise, it is neither the intent nor the effect of this ordinance to restrict or deny access by adults to adult-oriented materials or entertainment protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market.

c. Nothing in this ordinance is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which otherwise violates any city or county ordinance or statute of the State of Iowa regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition, distribution or display thereof.

Section 2. Definitions.

a. For purposes of this ordinance, unless the context clearly requires a different meaning, the words, terms and phrases set forth shall have the meanings given them in this section.

1. "Adult" means a person twenty-one (21) years of age or older.

2. "Distinguished or characterized by an emphasis upon" means or refers to the dominant or essential theme of the object described by such phrase.

3. "Employee" means every owner, operator, partner, supervisor, performer, entertainer, dancer, waitress, bartender, bouncer, manager, food service worker, cashier, custodial or maintenance person, or other worker, whether paid or not, who renders services of any nature in the conduct of a sexually oriented business. It shall be a rebuttable presumption that every person who renders services of any nature in the conduct of a sexually oriented business is an employee of the sexually oriented business.

4. "Entertainer" means any person, performer or dancer, whether an employee or independent contractor, or any other person who, with or without any compensation or other form of consideration, performs live entertainment for any patrons of a sexually oriented business.

5. "Nudity or state of nudity" means the display of the human male or female genitals, public area or buttocks with less than a fully opaque covering; the display of any portion of the female breast below the top of the areola with less than a fully opaque covering; the exposure of any device, costume or covering with gives the apprearance of or simulates human male or female genitals, pubic area, buttocks, or female nipple and areola.

6. "Person" is any indibudual, firm, association, partnership, co-partnership, corporation, limited liability corporation, joint stock company, joint venture or combination of the above in whatever form or character.

7. "Sexually oriented business" means any business or establishment that regularly features live or recorded performances that are distinguished or characterized by an emphasis upon the depiction or exposure of "specified anatomical areas" and/or "specified sexual activities." "Sexual oriented business: shall include, but not be limited to, the following business activities and activities similar thereto: Adult or nude encounter studios, adult or nude dance studios, adult or nude exhibitions, peep shows, adult or nude wrestling centers, adult or nude art or photograph studios or exotic lingerie shows.

8. "Sexually oriented business operator" means any person in an ownership or employee capacity who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for, or in charge of, the premises of a sexually oriented business or the conduct or activities occurring on the premises thereof.

9. "Sexually oriented business owner" means any person or persons who hold a financial or other business interest, in whole or in part, either singly or jointly, in a sexually oriented business. Indicia of ownership may be established by evidence including, but not limited to, business license information, fictitious business name registration, utility billing information, corporate filings, or by other competent evidence.

10. "Specified anatomical areas" shall mean and include human male and female genitals, pubic region or buttocks, and the nipple or areola of the female breast.

11. "Specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

(A) Human genitals in a state of sexual stimulation or arousal; and/or

(B) Sexual acts, acted or simulated, including sexual intercourse, oral copulation or sodomy; and/or

(C) Fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast; and/or

(D) Masturbation, actual or simulated; and/or

(E) Excretory functions as part of or in connection with any of the other activity described in subdivisions (A) through (D) of this subsection; and/or

(F) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain in the context of sexual arousal.

12. The foregoing definitions are generic. The uses and businesses governed by subsection (a) include any other use or business, regardless of how named or advertised, that is of a character like or similar to the uses and businesses set forth in subsection (a).

Section 3. Excluded Activities.

a. This ordinance does not apply to any of the following activities:

1. Any activity by a person licensed to practice one or more of the healing arts authorized by Iowa law, if and to the extent that such activity is authorized by license;

2. Any activity conducted or sponsored by any school district or other public agency; so long as such activity is being conducted as part of and within the scope of an authorized and regular part of the curriculum or is part of a training or instructional program being conducted by a public agency;

3. Any activity conducted by a person pursuant to any license issued by the State of Iowa or any agency thereof charged with the responsibility of licensing, prescribing standards for and supervising such activity or profession, if and to the extent that such activity is conducted within the course and scope of the exercise of the privileges authorized by such license, or the duties of such agency;

4. Any activity as to which a license to operate a massage establishment or a license to act as a massage therapist or massage therapist trainee is required by Iowa law.

Section 4. Sexually Oriented Business License Required.

a. No person shall engage in, conduct, carry on or permit to be engaged in conducted or carried on, in or upon any premises within Delaware County the operation of a sexually oriented business unless the person first obtains and continues to maintain in full force and effect a license issued by Delaware County as required by this ordinance.

b. A license for such business shall be issued to any applicant who has complied with all of the following requirements:

(1) The applicant has filed a completed application and paid the required sexually oriented business application fee; and

(2) The applicant has not made a material misstatement or misrepresentation in the application; and

(3) To the extent applicable, the establishment, including the building and lot or portion thereof where the establishment is located or is proposed to be situated meets all location and applicable zoning requirements; and

(4) There does not exist a basis for denial as set forth in Section 6(d) of this ordinance.

c. Each application for a license to operate a sexually oriented business within Delaware County shall be accompanied by a non-refundable application fee. The application fee shall be used to defray, in part, administrative costs incurred in the processing of the application, and is not made in lieu of any other fees or taxes required by statute or ordinance. Renewal fees shall also be established. Renewal applications shall update any information which has changed since the filing of the last prior application or renewal application.

Section 5. Application for Sexually Oriented Business License.

a. Any person who proposes to operate, maintain or conduct a sexually oriented business within Delaware County shall first submit to the Delaware County Board of Supervisors a completed application for a sexually oriented business license on a form provided by the Delaware County Board of Supervisors. The application shall contain all of the information requested in this section, along with the non-refundable application fee. An application which is not accompanied by the required application fee shall not be deemed a completed application.

b. If the applicant is an individual, the individual shall provide his or her legal name, address, and submit satisfactory written prooof that he or she is at least twenty-one (21) years of age.

c. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement to the application. The applicant shall also submit satis factory written proof that all partners are a least twenty-one (21) years of age.

d. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of the State of Iowa, the names and capacities of all officers and directors and the name of the registered corporate agent and the address of the registered office for service of process purposes.

e. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application.

f. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the sexually oriented business and show proof of registration of the fictitious name.

g. Each application for a sexually oriented business license shall contain:

(1) A narrative description of the proposed sexually oriented business for which the license is requested, which shall include proposed hours of operation, number of employees, number of entertainers, and a description of the titles and/or positions of each.

(2) A detailed diagram showing the interior floor plan and configuration of the premises, depicting all interior rooms including, but not limited to, restrooms, office space, storage areas and public areas, and dimensions. The diagram need not be professionally prepared, but shall be drawn to a designated scale with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(3) A site plan showing the lot or property on which the sexually oriented business will be located, the location of the building(s) or portion(s) thereof in which the sexually oriented business will be located, the number of available parking spaces including those reserved for the handicapped, the location and type of proposed lighting, landscaping, trash enclosures and all means of ingress and egress to and from the property. The site plan need not be professionally prepared, but shall be drawn to a scale with marked dimensions to an accuracy of plus or minus one (1) foot.

(4) An area map showing the lot or property on which the sexually oriented business facility will be located, and the property line(s) and distance to the property line(s) of any church, school, park, day care, governmental office, supermarket, grocery store, convenience store, restaurant, fast food establishment, other sexually oriented businesses, residential zoning district or the residence of any registered sex offender located within three thousand (3,000) feet of the property subject to the license application.

(5) The full name, address and telephone number of the property owner and/or property management company if different from the applicant, including a copy of the lease agreement, if any, in effect at the time of the application, and a copy of any other agreements, easements, conditions, covenants, restrictions or other such documents that contain evidence affecting the use or operation of the lot, property, premises or structures which will be subject to the license for which the application has been submitted.

(6) The full name, including any aliases or stage names ever used, current residential address, position and/or title of each employee and/or entertainer and all other information required under subsection 7.

(7) Each application shall also contain the following information about the applicant(s):

(A) Full name, including any aliases, current residential address, telephone number, date of birth, height, weight, color of eyes and hair of each applicant; and

(B) Social security number and driver's license number or Iowa identification card number of each applicant; and

(C) The previous address of each applicant for a period of five (5) years immediately prior to the date of application and the dates of residence for each; and

(D) Written proof that the applicant(s) is/are at least twenty-one (21) years of age; and

(E) Business, occupation or employment history of the applicant(s) for the five (5) years immediately preceding the date of application; and

(F) Two (2) recent passport-style color photographs of the applicant(s); and

(G) A fingerprint card with fingerprints attached for each applicant. These shall be obtained from the Delaware County Sheriff's Department; and

(H) Such other information as may be deemed necessary and appropriate by the Delaware County Board of Supervisors.

(8) Authorization for the county or its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application regarding the applicant's request for a license.

(9) A written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with such declaration sworn to and duly executed at the Office of the Delaware County Board of Supervisors.

h. A sexually oriented business establishment lawfully existing and operating on the effective date of this ordinance, if it does not have a valid license, shall apply for a license within ninety (90) days from the effective date of this ordinance and shall be allowed to continue operating during the pendency of the application, provided it is otherwise in compliance with applicable provisions of this ordinance and Iowa law.

Section 6. Issuance of License.

a. Upon the filing of a property completed and executed application for a sexually oriented business license under Section 5, the Delaware County Board of Supervisors will conduct a preliminary review of the application and may, within fourteen (14) days of receipt, refer copies of such application to the Delaware County Sheriff's Department, appropriate fire department(s) and any other designated agents for review and investigation.

b. The Delaware County Board of Supervisors, County Sheriff's Department, appropriate fire department(s) and/or any other designated agents to whom the application was referred may, within thirty days of the referral, inspect the premises proposed to be operated as a sexually oriented business facility or, in the case of the Delaware County Sheriff's Department, conduct a background investigation of the individuals identified in all areas of the application and, then, all such officials and/or designated agents may make recommendations to the Delaware County Board of Superivsors concerning the premises andthe applicant's compliance with the matters coming within the jurisdiction of the aforementioned officials and/or designated agents.

c. Within ten days of receiving the recommendation(s) of the aforementioned officials and/or designated agents, the Delaware County Board of Supervisors will render their approval or denial of the application.

d. The Delaware County Board of Supervisors shall issue a sexually oriented business license to the applicant(s) within ninety (90) days of receipt of a properly filed and executed application unless:

(1) Any applicant is less than twenty-one (21) years of age.

(2) Any applicant has failed to provide information as required by Section 5 for issuance of a license to operate a sexually oriented business.

(3) Any applicant has knowlingly made false, misleading or fraudulent statement of fact in the application for the license or in any other document required by the Delaware County Board of Supervisors in connection therewith.

(4) The required license application fee has not been paid.

(5) Any applicant has been associated with a sexually oriented or similar business within the last five (5) years that has had their license denied, suspended or revoked for any cause.

(6) Any applicant is a person who is not of good moral character and reputation within the community within he/she resides.

(7) Any applicant has been convicted of any of the following offenses, unless upon investigation the Delaware County Board of Supervisors or their designated agent finds that such conviction(s) occurred at least ten (10) years prior to the date of the filing of the application, there have been no subsequent convictions, and the applicant has shown evidence of rehabilitation sufficient ot warrant the public's trust:

(A) Any felony under Federal law or the laws of this or any other state; and/or

(B) Prostitution, soliciting for a prostitute, pandering, keeping a place of prostitution, patronizing a prostitute, pimping, obscenity, selling harmful material or having a tie in the sale of obscene publications under the laws of this State or equivalent laws or codes of the United States or any other State; and/or

(C) Any other crime or misdemeanor that is sexual in nature and/or opposed to decency and morality.

(8) The Delaware County Board of Supervisors has denied the license.

e. If the Delaware County Board of Supervisors fail to act in approving or denying a properly filed and executed application for a license to operate a sexually oriented business within ninety (90) days from the receipt and execution of the application, the application shall be deemed approved and a license to operate a sexually oriented business shall issue upon payment of the annual license fee.

Section 7. Fees and Issuance.

a. A filing fee in accordance with the established fee schedule shall be charged for each application for initial license and annual renewals to assist in deferring the cost of the administrative review. An annual license fee shall also be required upon approval of the application. The applicant(s) shall be held responsible for submitting the required application fees upon submission of a completed application. No action shall be taken on any application until the required application fee is paid in full.

b. The fee schedule, subject to periodic amendment, shall be as follows:

(1)	Initial application fee	$250.00
(2)	Renewal application fee	$250.00
(3)	Annual license fee	$1,200.00 ($100.00 per month)

c. The applicant(s), owner and/or operator of a sexually oriented business within Delaware County shall keep and maintain liability insurance in an amount of a least one-million dollars ($1,000,000) and shall provide evidence of such insurance upon application for or renewal of each license.

d. Whether a submitted application or renewal application is granted or denied, the applicant shall not be entitled to a refund of any portion of any fee paidr

Section 8. Term of License.

a. Each license issued for the operation of a secually oriented business shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this ordinance.

b. Application for renewal should be made at least ninety (90) days before the expiration date of the previously issued license.

c. In no event shall a license to operate a sexually oriented business be extended beyond the original date of expiration.

Section 9. Transfer of License.

a. An owner, operator, employee or entertainer cannot and shall not transfer or attempt to transfer his/her license to another, nor shall an owner, operator, employee or entertainer operate or attempt to operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Section 10. Location of Sexually Oriented Business Facilities.

a. No person shall place, maintain, own or operate any sexually oriented business in the following locations:

1. In any residential area of a city or town located in whole or in part within the boundaries of Delaware County, unless otherwise allowed by the individual city or town.

2. Within two thousand (2,000) feet of any parcel of real estate upon which is located any of the following:

(A) A public or private elementary school, junior high school or senior high school.

(B) A daycare facility registered with the State of Iowa.

(C) A church.

(D) A park or recreational facility operated and/or improved by Delaware County, the County Conservation Board or State of Iowa.

(E) A federal, state, county or special district governmental office.

(F) A supermarket, grocery store or convenience store engaged in the sale of food and/or fuel.

(G) A restaurant or fast food establishment.

(H) Any other sexually oriented business.

(I) Any other business or establishment reasonable believed to be catering to family trade.

3. For purposes of this section, distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the sexually oriented business to the closest property line of the real property upon which the previously described facilities are located.

Section 11. Signage.

a. Notwithstanding any other ordinance, code or regulation to the contrary, a sexually oriented business shall not erect or maintain any sign for the sexually oriented business other than one primary sign and one secondary sign as provided herein.

b. The primary sign shall have no more than two (2) display surfaces. Each such display surface shall:

(1) Not contain any flashing lights; and

(2) Be a flat plane, rectangular in shape; and

(3) Not exceed seventy-five (75) square feet in area; and

(4) Not exceed ten (10) feet in height or ten (10) feet in length; and

(5) Contain no photographs, silhouettes, drawings or pictorial representations in any manner; and

(6) Contain letters of a solid color with each such letter consisting of the same print type, size and color as all other letters forming each word on the sign. Additionally, the background behind such lettering on the display surface of the sign shall be of a uniform and solid color.

c. A secondary sign shall have only one display surface. Such display surface shall:

(1) Be a flat plane, rectangular in shape; and

(2) Not exceed twenty (20) square feet in area; and

(3) Not exceed five (5) feet in height and four (4) feet in width; and

(4) Be affixed or attached to a wall of the enterprise; and

(5) Conform with the provisions of paragraphs 1, 5 and 6 of subsection b of this section relating to primary signs.

Section 12. Viewing From Exterior Prohibited.

a. No sexually oriented business facility shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as sexually oriented business facility.

Section 13. Loitering and Exterior Lighting and Monitoring Requirements.

a. It shall be the duty of the owner and/or operator of a sexually oriented business to:

(1) Post conspicuous signs stating that no loitering is permitted on the property constituting the sexually oriented business; and

(2) Designate one or more employees to monitor the activities of persons on the property constituting the sexually oriented business by visually inspecting such property at least once every hour or inspecting such property by use of video cameras and monitors; and

(3) Provide lighting of the exterior premises of the property which constitutes the sexually oriented business sufficient to provide for visual inspection or video monitoring to prohibit loitering, the consumption of alcoholic beverages, wine or beer or any other unlawful activity.

(4) If used, video cameras and monitors shall operate continuously at all times the premises are open for business. The monitors shall be installed within an operator's station or at a cash register where an employee is regularly present. Recordings shall be made and maintained for a minimum of thirty (30) days. All recordings shall be made available for inspection and viewing upon request and without a warrant, to any law enforcement officer during regular business hours.

Section 14. Persons Younger than 21 Prohibited.

a. No person who is younger than twenty-one (21) years of age shall be allowed to enter or be on the premises of a sexually oriented business at any time the sexually business is open for business or at any other time during which an entertainer or employee may be performing or auditioning.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours.

c. It shall be the duty of the attendant to prohibit any person under the age of twenty-one (21) years of age from entering the sexually oriented business. For enforcement purposes, it shall and will be presumed that an attendant knew a person was under the age of twenty-one (21) unless such attendant asked for and was furnished:

(1) An authentic, valid, state-issued operator's, commercial operator's or chauffeur's driver's license indicating that such person is twenty-one (21) years of age or older; or

(2) An authentic, valid, state-issued personal identification card or certificate indicating such person is twenty-one (21) years of age or older.

Section 15. Consumption of Alcoholic Beverages Prohibited.

a. An owner and/or operator of a sexually oriented business shall not allow the possession or consumption by any person of any alcoholic beverage, wine or beer in a sexually oriented business facility or on any part of the real property that is used for carrying on the sexually oriented business.

b. It shall be the duty of the owner and/or operator of each sexually oriented business to ensure that no alcoholic beverage, wine or beer is being possessed or consumed upon the real property or within the facility comprising the sexually oriented business.

c. This section shall not apply to the individually licensed sexually oriented business if it has applied for, and been granted, a liquor license as authorized by the laws of the State of Iowa.

Section 16. Live Shows.

a. All dancing and other live performances shall occur on a stage constructed and intended for that purpose which is separate and apart from the general public/patron area and unobstructed from all horizontal views within the building.

b. All dancing and other live performances shall occur at least five (5) feet away from any other person or patron.

c. No owner, operator, employee or entertainer shall fondle, caress or otherwise touch any other person or patron and no person or patron shall fondle, caress or otherwise touch any owner, operator, employee or entertainer.

d. No person or patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any person or patron. Gratuities may be indirectly given to entertainers by placing the gratuity on the stage.

Section 17. Illigal Activities Prohibited.

a. No owner, operator, associate, member, representative, agent, employee or entertainer of such owner or operator shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in, on, or about the real property and/or facility comprising the sexually oriented business which is prohibited by any ordinance or law of the State of Iowa or the United States.

Section 18. Hours of Operation.

a. No sexually oriented business shall be or remain open for business between 11:00 p.m. and 6:00 a.m., Monday through Saturday. No sexually oriented business shall be open for business between 11:00 p.m. on Saturday and 6:00 a.m. the following Monday.

Section 19. Authorization for Inspection.

a. An owner, operator or employee of a sexually oriented business shall permit any member from the County Board of Supervisors, Sheriff's Department, Iowa State Patrol, Fire Department or any other designated agent(s) to inspect the real estate and facilities comprising a sexually oriented business for the purpose of ensuring compliance with the law and this ordinance at any time it is occupied or open for business.

Section 20. Cause for Suspension of License.

a. The Delaware County Board of Supervisors may suspend a license to operate a sexually oriented business for a period not to exceed sixty (60) days if it determines than an owner, operator, employee or entertainer:

(1) Violated or is not in compliance with any section of this ordinance; and/or

(2) Refused to allow an inspection of the sexually oriented business facility and premises as authorized by this ordinance.

b. In the event any owner, operator, employee or entertainer has been found to be in violation of this ordinance in a court of law or under the county's ordinance hearing procedures, no hearing is necessary prior to suspension of the license under this section.

Section 21. Cause for Revocation of License.

a. The Delaware County Board of Supervisors may revoke a sexually oriented business license if a cause of suspension set forth in Section 20 occurs and the same sexually oriented business license has been suspended within the preceding twelve (12) months or, if any owner, operator, employee, or entertainer is convicted of any of the aforementioned criminal activity.

b. The Delaware County Board of Supervisors may revoke a sexually oriented business license if it determines that an owner, operator, employee or entertainer of the sexually oriented business:

(1) Gave false or misleading information in the material submitted during the application process; and/or

(2) Has knowingly allowed the possession, use or sale of a controlled substance on or about the premises constituting the sexually oriented business; and/or

(3) Has knowingly allowed the possession, use or sale of any alcoholic beverage, beer or wine on or about the premises constituting the sexually oriented business; and/or

(4) Has knowingly allowed prostitution on the premises constituting the sexually oriented business; and/or

(5) Knowingly operated the sexually oriented business during a period of time when the sexually oriented business's license was suspended; and/or

(6) Has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the premises constituting the sexually oriented business; and/or

(7) Is delinquent in the payment of any city, county, state or federal taxes, of any nature, or fees past due; and/or

(8) Has knowingly or intentionally facilitated another in the commission of any criminal act or violation of this ordinance.

c. When the Delaware County Board of Supervisors revoke a license to operate a sexually oriented business, the revocation shall continue for one (1) year. No applicant, owner, operator, employee or entertainer of the sexually oriented business whose license was revoked shall be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, however, subsequent to revocation, the Delaware County Board of Supervisors find that the factual basis for the revocation did not occur, the revoked license shall be reinstated.

d. After denial of an application, or denial of a renewal of an application or suspension or revocation of any sexually business license, any applicant or owner may seek prompt judicial review of such action in any court of competent jurisdiction.

Section 22. Violations and Penalties.

a. Unless otherwise provided, any person who violates any section of this ordinance shall be assessed a fine of not less than fifty ($50.00) dollars nor more than five hundred ($500.00) dollars, and may be imprisoned in the county jail for a term not to exceed thirty (30) days. In addition, the person shall be responsible for all criminal penalty surcharges required by the Code of Iowa and any other surcharges imposed by county ordinance or resolution which shall not be considered part of the county's penalty.

b. Any person who violates any section of this ordinance shall also be responsible for the costs of prosecution and in the event of a default of payment of said fine, surcharges and/or costs of prosecution, he/she may be imprisoned in the county jail until said financial obligations are paid, but not to exceed thirty (30) days for each violation.

c. A violation may also result in the suspension or revocation of the license to operate a sexually oriented business in Delaware County pursuant to Sections 20 and 21 of this ordinance.

Section 23. Severability.

a. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or in any section provision or part not adjudged invalid or unconstitutional.

Section 24. Effective Date.

a. This ordinance shall become effective after final passage, approval and publication as provided in Iowa Code Chapter 331.302.

PASSED AND ADOPTED THIS 19th DAY OF JUNE, 2006.

/S/ William J. Skinner, Chairperson
Delaware County Board of Supervisors

ATTEST: /S/ Sharon McCrabb, County Auditor

All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Treasurer's Investment Report showing $4,224,476.96 invested in banks for Delaware County through June 1, 2006, be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the project plans for the 310th Avenue bridge set for September 19th, 2006 letting through the DOT with 80% federal funding and 20% local, be approved. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Iowa Department of Transportation Federal-aid Agreement for a County Highway Bridge Program Project No. BROS-Co28(57)--8J-28 for a FHWA Structure Number 142230 on 310th Avenue over a branch of Bear Creek with the preliminary estimated total cost of $225,000.00 be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the following secondary road policies be approved: Fence Replacement Policy for Construction Projects; Speed Limit Requests; Use of Demolition Materials for Riprap on Bridges and Culverts. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the following resolution be approved:

2006 Resolution for the Destruction of Noxious Weeds

To All Property Owners:

BE IT RESOLVED by the Board of Supervisors of Delaware County, Iowa; this 19th day of June, 2006,

That pursuant to the provisions of Chapter 317, 2005, Code of Iowa, it is hereby ordered:

1. That each owner and each person in possession or control of any lands in Delaware County, shall cut, burn, or otherwise destroy all noxious weeds thereon, as defined in this chapter, at such times in each year and in such manner as shall prevent said weeds from blooming or coming to maturity, and shall keep said lands free from such growth of any other weeds as shall render the streets or highways adjoining said land unsafe for public travel. Noxious weeds shall be cut or otherwise destroyed on or before the following dates and as often thereafter as is necessary to prevent seed production.

   Group 1, June 19 to June 30, 2006 for Leafy Spurge, Perennial Pepper Grass, Sour Dock, Smooth Dock, Sheep Sorrel, Teasel, Wild Sunflower.

   Group 2, June 15-30, 2006 for Canadian Thistle, Russian Knapweed, Buckhorn, Wild Mustard, Musk Thistle, and Marijuana.

   Group 3, July 1-15, 2006 for Field Bindweed, Wild Carrot, European Morning Glory, Buckhorn and Multiflora Rose.

   Group 4, July 15-30, 2006 for Horse Nettle, Perennial Sow Thistle, Quack Grass, Butterprint, Puncture Vine, Cocklebur, Shattercane, and Bull Thistle.

2. That each owner and each person in the possession or control of any lands in Delaware County infested with any noxious weeds including Quack Grass Perennial Sow Thistle, Canadian Thistle, Field

Bindweed, Horse Nettle, Leafy Spurge, Perennial Pepper Grass, Russian Knapweed, shall adopt a program of weed destruction, described by the Weed Commissioner, which, in five years may be expected to destroy and will immediately keep under control such infestations of said noxious weeds.

3. That if owners or persons in possession or control of any land in Delaware County fail to comply with the foregoing orders, the Weed Commissioner shall cause this to be done and the expense of said work, including costs of serving notice or other costs, if any, to be assessed against said real estate.

4. That the County Auditor be and is hereby directed to cause notice of the making and entering of the foregoing order by one publication in each of the official newspapers of the county.

Board of Supervisors - Delaware County, Iowa

/S/ Bill Skinner, Chair
/S/ Steven L. Koeneke
/S/ Shirley E. Helmrichs

Attest: Sharon McCrabb, Delaware County Auditor

All ayes.

The Board discussed distribution and funding for the Delaware County libraries and came up with the following library funding to be paid quarterly: 2006/2007 - $49,875; 2007/2008 - $53,865; 2008/2009 - $58,174; 2009/2010 - $62,828.

Motion made by Koeneke, seconded by Helmrichs and carried that the libraries be notified of the funding and distribution for their consideration. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the "Application for Iowa Retail Cigarette/ Tobacco Permit for The Pizza Place, Inc. (Nancy Tjaden) for the period July 1, 2006 through June 30, 2007, be approved. All ayes.

Mark Nahra, County Engineer, gave the Board an update on secondary road projects.

There being no further business, this meeting adjourned. These minutes were read and approved.

Bill Skinner
Bill Skinner, Chairperson

Sharon McCrabb
Sharon McCrabb, Auditor

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June 26, 2006
Manchester, Iowa
1:15 p.m.

STATE OF IOWA)
) SS:
DELAWARE COUNTY)

The Delaware County Board of Supervisors met in regular session this date with all members present. Also present were Mark Nahra, Dave Gudenkauf and three members of the media. Bill Skinner, Chairperson, called the meeting to order.

Motion made by Helmrichs, seconded by Koeneke and carried that the following employees be allowed to attend their respective meetings: Monica Heiserman to attend an ES&S users group meeting in Des Moines on June 29, 2006; Mark Nahra to attend a Hot Asphalt Mix meeting in Ames on June 28, 2006 and an Iowa Highway Research Board meeting in Iowa City on June 30, 2006; Steve Koeneke to attend a rural utilities meeting in Dubuque on June 28, 2006. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the following claims as shown on page 390a through 390b be allowed for payment along with the 6-23-06 payroll in the amount of $121,893.74 through warrants #22411 - #22526 and the following handwritten claims:

	General Basic Fund	
Aquila	utility service	$35.18
Group Services	insurance expense	3,747.57
Iowa Law Enforcement Academy	dispatcher training	105.00
Manchester Family Medical	medical expense	90.00
West Payment Center	law library	676.00
Honey Creek Acres	repair of equipment	31.70
	Mental Health Fund	
Bard Concrete	concrete work	9,500.28
Erickson Construction	excavating & site preparation	18,268.00
BP	fuel	420.00

All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the "Application for Approval of Underground Construction on Delaware County Right-of-Way" for Iowa Telecom for a buried copper telephone cable crossing 325th Ave. 1 mile NW from Dyersville in Bremen Township, be approved. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the "Application for Iowa Retail Cigarette/ Tobacco Permit" for Allen M. & Wendy Kruse d/b/a The Detour and for Holcomb Enterprises d/b/a Camp-O Beach Resort, both for the period July 1, 2006 through June 30, 2007, be approved. All ayes.

Motion made by Helmrichs, seconded by Koeneke and carried that the Services Agreement for Psychiatric and Chemical Dependency patients with Mercy Medical Center in Cedar Rapids, Iowa, be approved. All ayes.

Motion made by Koeneke, seconded by Helmrichs and carried that the following "Wages To Be Set For 2006/2007" be approved:

WAGES TO BE SET FOR 2006/2007

Auditor's Office	Present Salary	2006/2007 Salary
Carla Becker (80%)	$31,482.00	$32,731.00
Julie Hackbarth (75%)	27.538.00	30.685.00