

CHAPTER 13
CITY OF MAPLE LAKE

**ORDINANCE REGULATING PREMISES CONDUCTIVE TO
HIGH-RISK SEXUAL CONDUCT**

13.01 FINDINGS

It is hereby found that there are within the City of Maple Lake commercial premises, buildings and structures, or parts thereof, which, by reason of the design and use of such premises, persons frequenting such premises, buildings and structures, and to the public health, safety and welfare of the community. The health, safety and welfare of all persons in the City of Maple Lake must be protected through the application and enforcement of standards regulating such premises, buildings, and structures, in order to eliminate the possibility of the spread of, or infection by, contagious disease. The sexually transmittable disease of Acquired Immune Deficiency Syndrome (AIDS), currently found to be irreversible and uniformly fatal, is found to be a particular danger to persons in this community. The incidence of this disease is found to occur in discernible population groups. The risk factors for obtaining or spreading the disease are associated with high-risk sexual conduct. The commercial premises, buildings and structures where persons are placed at high risk of infection from this disease or other communicable diseases facilitated by their design or use for the prevention of the spread of this disease and other communicable diseases for the protection of the public health, safety and welfare of the community.

13.02 DEFINITIONS

1. The term “high-risk sexual conduct” means:
 - A. Fellatio.
 - B. Anal intercourse.
 - C. Vaginal intercourse with persons who engage in sexual acts in exchange for money.
2. The term “hazardous site” means any commercial premises, building or structure, or any part thereof, which is a site of high-risk sexual conduct.
2. The phrase “booths, stalls, or partitioned portions of a room or individual rooms” means:
 - A. Enclosing specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or
 - B. Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including

enclosures wherein movies or other entertainment is dispensed for a fee. The phrase “booth, stalls, or partitioned portions of a room or individual rooms” does not mean enclosures which are private offices used by the owners, managers, or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for a fee, and are not open to any persons other than employees.

4. The phrase “doors, curtains or portal partitions” means full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.

5. The phrase “open to an adjacent public room so that the area inside is visible to persons in the adjacent public room” means either the absence of any “door, curtain or portal partition” or a door or other device which is made of clear, transparent material such as glass, plexiglass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be viewed or seen by persons outside the enclosure.

6. The words “Health Authority” means the City of Maple Lake Health Authority, who shall be a physician licensed to practice medicine in the State of Minnesota.

13.03 BUILDING STANDARDS

1. No commercial building, structure, premises or part thereof, or facilities therein, shall be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.
2. No person shall own, operate, manage, rent, lease, or exercise control of any commercial building, structure, premises, or portion or part thereof, which contains:
 - A. Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition.
 - B. Booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the area used for viewing motion pictures or others forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

3. The standards as set forth in this section shall not apply to buildings, structures and premises which are lawfully operating as hotels, motels, apartment complexes, condominiums or rooming houses.

13.04 POWERS OF THE CITY'S HEALTH AUTHORITY

1. In exercising powers conferred by this or any other section of this Code relating to communicable diseases, the City's Health Authority shall be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services which relate to the spread of infectious diseases.
2. In order to ascertain the source of infection and reduce its spread, the City's Health Authority, and persons under the Health Authority's direction and control, shall have full power and authority to inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, which may be a site of high-risk sexual conduct. If the Health Authority determines that a hazardous site exists, the Health Authority shall declare it to be a public health hazard and public health nuisance and shall then:
 - A. Notify the management, owner or tenant of the premises that the Health Authority has reasonable belief that the premises, building or structure is a hazardous site.
 - B. Issue two written warnings at least ten days apart to the management, owner, or tenant of the premises stating the reasons for the health Authority's belief that the premises, building, or structure is a hazardous site.
 - C. Once such notice and warnings have been issued, the Health Authority, or the Health Authority's appointee shall proceed as follows:
3. After the management, owner or tenant of the premises has been notified in writing as to the basis of the Health Authority's determination, the management, owner or tenant shall have ten (10) days from the date of the last warning to request a hearing before the Health Authority or the Health Authority's appointee for a determination as to the existence of such hazardous site. If the management, owner or tenant of the premises does not request a hearing within ten (10) days of the date of the last warning advising the public that the premises have been declared a hazardous site. The Health Authority shall cause orders to be issued to the management, owner or tenant of the premises constituting the hazardous site to take corrective measures to prevent high-risk sexual conduct from taking place within the premises.
4. If the management, owner or tenant of the premises requests a hearing, the hearing shall be held before the Health Authority or the Health Authority's appointee at a date not more than thirty (30) days after demand for a hearing. After considering all evidence, the Health Authority or the Health Authority's appointee shall make a determination as to whether the premises constitute a hazardous site. The Health

Authority shall then issue a decision based upon all evidence presented. If the Health Authority or the Health Authority's appointee makes a determination that the premises constitute a hazardous site, the Health Authority shall then issue an order and cause the premises, building or structure to be posted with a warning advising the public that the premises have been declared a hazardous site.

- A. If, within thirty (30) days from issuance of the orders to the management, owner or tenant of the hazardous site, the Health Authority determines that such corrective measures have not been undertaken, then the Health Authority may order the abatement of the hazardous site as a public nuisance, which shall be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or may secure a court order for the closure of the premises constituting the "hazardous site" until the premises, building, or structure is in compliance with the standards set forth in 13.03.
- B. Any person who removes, destroys, or defaces warnings posted on premises shall be guilty of a misdemeanor.