

No. LF

88-Or- 048

Date _____

1st Reading 3/18/88

AN ORDINANCE

Date to Mayor _____

Ref. to PH&S Comm.

of the

Date Returned _____

Public Hearing 3/21/88

CITY OF

Date Resubmitted
to Council _____

2nd Reading & Final
Passage 4/1/88

MINNEAPOLIS

Council Member Hilary

_____ presents the following ordinance:

Amending Title 11, Chapter 219 of the Minneapolis Code of Ordinances relating to Health and Sanitation: Contagious Diseases, adding a new ARTICLE V. High Risk Sexual Conduct.

The City Council of the City of Minneapolis do ordain as follows:

That Chapter 219 of the above entitled ordinance be amended by adding a new Article V to read as follows:

ARTICLE V. HIGH RISK SEXUAL CONDUCT

Section 219.500 Findings. It is hereby found that there are within the City of Minneapolis commercial premises, buildings and structures, or parts thereof, which, by reason of the design and use of such premises, buildings or structures are conducive to the spread of communicable disease of danger to 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 Minneapolis 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, currently found to be irreversible and uniformly fatal, is found to be of 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 risk of infection from

this disease or other communicable diseases facilitated by their design or use for high-risk sexual conduct are in need of regulation, and of establishment of minimal standards 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.

Section 219.510 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.

(3) The phrase "booths, stalls, or partitioned portions of a room or individual rooms" means: (a) enclosures 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 "booths, 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 hire or for a fee or for the purpose of viewing movies or other entertainment 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 "Commissioner of Health" mean the City of Minneapolis Commissioner of Health.

Section 219.520 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 areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of 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.

Section 219.530 Powers of the Commissioner of Health.

(1) In exercising powers conferred by this or any other section of this Code relating to communicable diseases, the Board of Health and the Commissioner of Health 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. Any regulations which are adopted by the Board of Health which relate to controlling the spread of infectious diseases shall also apply in exercising the powers authorized by this code.

(2) In order to ascertain the source of infection and reduce its spread, the Commissioner of Health, and persons under the Commissioner'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 Commissioner of Health determines that a hazardous site

exists, the Commissioner of Health 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 Commissioner has reasonable belief that the premises, building or structure is a hazardous site.

(b) Issue warnings to the management, owner or tenant of the premises stating the reasons for the Commissioner's belief that the premises, building, or structure is a hazardous site.

(c) Once such notice and warnings have been issued, the Commissioner, or the Commissioner's appointee shall proceed as follows:

(i) After the management, owner or tenant of the premises has been notified in writing as to the basis of the Commissioner's determination, the management, owner or tenant shall have ten (10) days to request a hearing before the Commissioner or the Commissioner'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 notice, the Commissioner shall then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site. The Commissioner of Health 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.

(ii) If the management, owner or tenant of the premises requests a hearing, the hearing shall be held before the Commissioner or the Commissioner's appointee at a date not more than thirty (30) days after demand for a hearing. After considering all evidence, the Commissioner or the

Commissioner's appointee shall make a determination as to whether the premises constitute a hazardous site. The Commissioner shall then issue a decision based upon all evidence presented. If the Commissioner or the Commissioner's appointee makes a determination that the premises constitute a hazardous site, the Commissioner 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.

(d) If, within thirty (30) days from issuance of the orders to the management, owner or tenant of the hazardous site, the Commissioner of Health determines that such corrective measures have not been undertaken, then the Commissioner of Health 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 Section 219.520.

(e) Any person who removes, destroys, or defaces warnings posted on premises shall be guilty of a misdemeanor.

RECORD OF COUNCIL VOTE

Council Member	Aye	Nav	N.V.	Abs.	Ovrd.	Sust.	Council Member	Aye	Nav	N.V.	Abs.	Ovrd.	Sust.
Dziedzic	X						Scallon			X			
O'Brien	X						Niemiec	X					
Hilary	X						Cramer	X					
White	X						Schulstad	X					
Covle	X						Johnson	X					
Carlson				X			Pres. Rainville	X					
Savies Beiton	X												

X INDICATES VOTE — N.V. - Not Voting Abs. — Absent Ovrd. - Vote to Override Sust. - Vote to Sustain

PASSED. APR - 1 1988 19

APPROVED APR 7 1988 19

~~NOT APPROVED~~

~~REFUSED~~

ATTEST Mary Kooze
City Clerk

Alvin W. Rainville
President of Council

[Signature]
Mayor