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APPENDIX

THE MACKINNON/DWORKIN PORNOGRAPHY ORDINANCE

Amending Title 7, Chapter 139 of the Minneapolis Code of Ordinances relating to Civil Rights: In General.

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

Section 1. That Section 139.10 of the above-entitled ordinance be amended to read as follows:

139.10 *Finding, declaration of policy and purpose.*

(a) *Findings.* The council finds that discrimination in employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment AND PORNOGRAPHY, affectional preference, disability, age[,] marital status, or status with regard to public assistance or in housing accommodations based on familial status adversely affects the health, welfare, peace and safety of the community. Such discriminatory practices degrade individuals, fosters intolerance and hate, and create and intensify unemployment, sub-standard housing, under-education, ill health, lawlessness and poverty, thereby injuring the public welfare.

(1) **SPECIAL FINDINGS ON PORNOGRAPHY: THE COUNCIL FINDS THAT PORNOGRAPHY IS CENTRAL IN CREATING AND MAINTAINING THE CIVIL INEQUALITY OF THE SEXES. PORNOGRAPHY IS A SYSTEMATIC PRACTICE OF EXPLOITATION AND SUBORDINATION BASED ON SEX WHICH DIFFERENTIALLY HARMS WOMEN. THE BIGOTRY AND CONTEMPT IT PROMOTES, WITH THE ACTS OF AGGRESSION IT FOSTERS, HARM WOMEN'S OPPORTUNITIES FOR EQUALITY OF RIGHTS IN EMPLOYMENT, EDUCATION, PROPERTY RIGHTS, PUBLIC ACCOMMODATIONS AND PUBLIC SERVICES; CREATE PUBLIC HARASSMENT AND PRIVATE DENIGRATION; PROMOTE INJURY AND DEGRADATION SUCH AS RAPE, BATTERY AND PROSTITUTION AND**

INHIBIT JUST ENFORCEMENT OF LAWS AGAINST THESE ACTS; CONTRIBUTE SIGNIFICANTLY TO RESTRICTING WOMEN FROM FULL EXERCISE OF CITIZENSHIP AND PARTICIPATION IN PUBLIC LIFE, INCLUDING IN NEIGHBORHOODS; DAMAGE RELATIONS BETWEEN THE SEXES; AND UNDERMINE WOMEN'S EQUAL EXERCISE OF RIGHTS TO SPEECH AND ACTION GUARANTEED TO ALL CITIZENS UNDER THE CONSTITUTIONS AND LAWS OF THE UNITED STATES AND THE STATE OF MINNESOTA.

(b) *Declaration of policy and purpose.* It is the public policy of the City of Minneapolis and the purpose of this title:

- (1) To recognize and declare that the opportunity to obtain employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services without discrimination based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment AND PORNOGRAPHY, affectional preference, disability, age, marital status, or status with regard to public assistance or to obtain housing accommodations without discrimination based on familial status is a civil right;
- (2) To prevent and prohibit all discriminatory practices based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment AND PORNOGRAPHY, affectional preference, disability, age, marital status, or status with regard to public assistance with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services;
- (3) To prevent and prohibit all discriminatory practices based on familial status with respect to housing accommodations;
- (4) TO PREVENT AND PROHIBIT ALL DISCRIMINATORY PRACTICES OF SEXUAL SUBORDINATION OR INEQUALITY THROUGH PORNOGRAPHY;
- (5) To protect all persons from unfounded charges of discriminatory practices;
- (6) To eliminate existing and the development of any ghettos in the community; and
- (7) To effettuate the foregoing policy by means of public infor-

mation and education, mediation and conciliation, and enforcement.

Section 3. That Section 139.20 of the above-entitled ordinance be amended by adding thereto a new subsection (gg) to read as follows:

(gg) *Pornography*. Pornography is a form of discrimination on the basis of sex.

- (1) Pornography is the sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that also includes one or more of the following:
 - (i) women are presented dehumanized as sexual objects, things or commodities; or
 - (ii) women are presented as sexual objects who enjoy pain or humiliation; or
 - (iii) women are presented as sexual objects who experience sexual pleasure in being raped; or
 - (iv) women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt; or
 - (v) women are presented in postures of sexual submission; or
 - (vi) women's body parts — including but not limited to vaginas, breasts, and buttocks — are exhibited, such that women are reduced to those parts; or
 - (vii) women are presented as whores by nature; or
 - (viii) women are presented being penetrated by objects or animals; or
 - (ix) women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual.
- (2) The use of men, children, or transsexuals in the place of women in (1) (i - ix) above is pornography for purposes of subsections (l) - (p) of this statute.

Section 4. That Section 139.40 of the above-entitled ordinance be amended by adding thereto new subsections (l), (m), (n), (o), (p), (q), (r) and (s) to read as follows:

(l) *Discrimination by trafficking in pornography*. The production, sale, exhibition, or distribution of pornography is discrimination against women by means of trafficking in pornography:

- (1) City, state, and federally funded public libraries or private

and public university and college libraries in which pornography is available for study, including on open shelves, shall not be construed to be trafficking in pornography but special display presentations of pornography in said places is sex discrimination.

- (2) The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.
- (3) Any woman has a cause of action hereunder as a woman acting against the subordination of women. Any man or transsexual who alleges injury by pornography in the way women are injured by it shall also have a cause of action.
 - (m) *Coercion into pornographic performances.* Any person, including transsexual, who is coerced, intimidated, or fraudulently induced (hereafter, "coerced") into performing for pornography shall have a cause of action against the maker(s), seller(s), exhibitor(s) or distributor(s) of said pornography for damages and for the elimination of the products of the performance(s) from the public view.
 - (1) *Limitation of action.* This claim shall not expire before five years have elapsed from the date of the coerced performance(s) or from the last appearance or sale of any product of the performance(s), whichever date is later;
 - (2) Proof of one or more of the following facts or conditions shall not, without more, negate a finding of coercion;
 - (i) that the person is a woman; or
 - (ii) that the person is or has been a prostitute; or
 - (iii) that the person has attained the age of majority; or
 - (iv) that the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or
 - (v) that the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or
 - (vi) that the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or
 - (vii) that anyone else, including a spouse or other relative, has given permission on the person's behalf; or

1985]

- (viii) that the person actually consented to a use of the performance that is changed into pornography; or
- (ix) that the person knew that the purpose of the acts or events in question was to make pornography; or
- (x) that the person showed no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or
- (xi) that the person signed a contract, or made statements affirming a willingness to cooperate in the production of pornography; or
- (xii) that no physical force, threats, or weapons were used in the making of the pornography; or
- (xiii) that the person was paid or otherwise compensated.

(n) *Forcing pornography on a person.* Any woman, man, child, or transsexual who has pornography forced on him/her in any place of employment, in education, in a home, or in any public place has a cause of action against the perpetrator and/or institution.

(o) *Assault or physical attack due to pornography.* Any woman, man, child, or transsexual who is assaulted, physically attacked or injured in a way that is directly caused by specific pornography has a claim for damages against the perpetrator, the maker(s), distributor(s), seller(s), and/or exhibitor(s), and for an injunction against the specific pornography's further exhibition, distribution, or sale. No damages shall be assessed (A) against maker(s) for pornography made, (B) against distributor(s) for pornography distributed, (C) against seller(s) for pornography sold, or (D) against exhibitors for pornography exhibited prior to the ENFORCEMENT date of this act.

(p) *Defenses.* Where the materials which are the subject matter of a cause of action under subsections (l), (m), (n), or (o) of this section are pornography, it shall not be a defense that the defendant did not know or intend that the materials were pornography or sex discrimination.

(q) *Severability.* Should any part(s) of this ordinance be found legally invalid, the remaining part(s) remain valid.

(r) Subsections (l), (m), (n), and (o) of this section are exceptions to the second clause of section 141.90 of this title.

(s) *Effective date.* Enforcement of this ordinance of December 30, 1983, shall be suspended until July 1, 1984 ("enforcement date") to facilitate training, education, voluntary compliance, and

implementation taking into consideration the opinions of the City Attorney and the Civil Rights Commission. No liability shall attach under (l) or as specifically provided in the second sentence of (o) until the enforcement date. Liability under all other sections of this act shall attach as of December 30, 1983.

Amending Title 7, Chapter 141 of the Minneapolis Code of Ordinances relating to Civil Rights: Administration and Enforcement.

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

Section 1. That Section 141.50 (l) of the above-entitled ordinance be amended by adding thereto a new subsection (3) to read as follows:

- (3) *Pornography*: The hearing committee or court may order relief, including the removal of violative material, permanent injunction against the sale, exhibition or distribution of violative material, or any other relief deemed just and equitable, including reasonable attorney's fees.

Section 2. That Section 141.60 of the above-entitled ordinance be amended as follows:

141.60 *Civil action, judicial review and enforcement.*

(a) *Civil actions.*

- (1) AN INDIVIDUAL ALLEGING A VIOLATION OF THIS ORDINANCE MAY BRING A CIVIL ACTION DIRECTLY IN COURT.
- (2) A complainant may bring a civil action at the following times:
- (i) Within forty-five (45) days after the director, a review committee or a hearing committee has dismissed a complaint for reasons other than a conciliation agreement to which the complainant is a signator; or
- (ii) After forty-five (45) days from the filing of a verified complaint if a hearing has not been held pursuant to section 141.50 or the department has not entered into a conciliation agreement to which the complainant is a signator. The complainant shall notify the de-

partment of his/her intention to bring a civil action, which shall be commenced within ninety (90) days of giving the notice. A complainant bringing a civil action shall mail, by registered or certified mail, a copy of the summons and complaint to the department and upon receipt of same, the director shall terminate all proceedings before the department relating to the complaint and shall dismiss the complaint.

No complaint shall be filed or reinstated with the department after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

