

## **ORDINANCE NO. 112**

### **ADULT ENTERTAINMENT USES AND ESTABLISHMENTS ORDINANCE**

WHEREAS, studies conducted by the Minnesota Attorney General, the American Planning Association and numerous cities have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have adverse impacts on the surrounding neighborhoods, including, but not limited to, increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks.

WHEREAS, based on these studies and findings, the Alexandria Town Board concludes that:

- a. Adult use establishments have clearly identified adverse secondary impacts as set forth above;
- b. The adverse impacts resulting from such adult use establishments are decreased if such establishments are governed by various location and license requirements;
- c. It is not the intent of the Town to prohibit adult establishments from having a reasonable opportunity to locate within the Town;
- d. Minnesota Statutes § 462.357 allows the Town to adopt regulations to promote the public health, safety, and general welfare of the residents of Alexandria Township;
- e. The public health, safety, and general welfare will be promoted by the Town Board adopting regulations governing adult use establishments.

**WHEREAS**, the Alexandria Town Board adopts the following Findings of Fact.

Based upon the information reviewed by the Alexandria Town Board relating to the impact of adult uses and adult entertainment on the health, safety and welfare of residents of a Town, the Alexandria Township Board makes the following:

#### **FINDINGS OF FACTS**

1. The Adult Entertainment Uses and Establishments Ordinance is necessary to protect the health, safety and welfare of Alexandria Township citizens. In developing this Ordinance the Town Board considered the goals repeatedly stated at Town Board Meetings by the residents of Alexandria Township regarding the health, safety and welfare of Alexandria Township residents.

2. In developing this Ordinance, the Town Board considered conversations with Alexandria Township residents, reviewed other similar ordinances and compared those

goals and reviewed numerous publications which discussed the impact of adult uses on the health, safety and welfare of citizens.

3. The Town Board considered the impact of this Ordinance on property values in Alexandria Township.

4. The Town Board considered issues related to the enforcement of the Ordinance, including, but not limited to, the cost of such enforcement, and who would monitor violations.

5. This Ordinance is necessary to protect the health, safety and welfare of Alexandria Township citizens.

The Township of Alexandria does hereby ORDAIN:

### **ADULT ENTERTAINMENT USES AND ESTABLISHMENTS ORDINANCE**

I. **DEFINITIONS.** For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***ADULT USE ESTABLISHMENT or ADULT ENTERTAINMENT USE OR ESTABLISHMENT.***

- a. Any business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to, or derives 25% or more of its revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, discussing or relating to specified sexual activities or specified anatomical areas;
- b. Any business that engages in any adult use as defined in this Ordinance.

#### ***ADULT USE.***

Adult uses include, but are not limited to the following list of activities or businesses: adult body painting studios, adult book stores, adult cabarets, adult entertainment facilities, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bath houses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios and other premises, enterprises, establishments, businesses or places open to some of all members of the public and membership clubs at or in which there is an emphasis on the presentation, display, depiction or description or “specified sexual activities” or of “specified anatomical areas.” This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed registered persons. Activities classified as obscene as defined by Minnesota Statutes § 617.241 are not lawful and are

not included in the definitions of adult uses. The previous activities are more fully defined as follows:

a. **ADULT BODY PAINTING STUDIO.** An establishment or business that provides the service of applying paint, ink or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

b. **ADULT BOOKSTORE.** An establishment or business used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if:

(1) The business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age; or

(2) 25% or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to, or 25% or more of the revenue of the business is derived from, items, merchandise or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas.

c. **ADULT CABARET.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(1) The depiction of specified sexual activities or specified anatomical areas;  
or

(2) The presentation, display or depiction of matter that seeks to evoke, arouse or excite sexual or erotic feelings or desire.

d. **ADULT COMPANIONSHIP ESTABLISHMENT.** A business or establishment that excludes minors by reason of age and that provides the service of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

e. **ADULT CONVERSATION/RAP PARLOR.** A business or establishment that excludes minors by reason of age and that provides the services of engaging in or listening to conversation, talk or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

f. **ADULT HEALTH/SPORT CLUB.** A health/sport club that excludes minors by reason of age and that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

g. **ADULT HOTEL OR MOTEL.** A hotel or motel that excludes minors by reason of age and that presents material distinguished or characterized by an emphasis on

matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

h. ***ADULT MASSAGE PARLOR/HEALTH CLUB.*** A massage parlor or health club that excludes minors by reason of age and that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

i. ***ADULT MINI-MOTION PICTURE THEATER.*** A business or establishment with a capacity of less than 50 persons that presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

j. ***ADULT MODELING STUDIO.*** A business or establishment that provides figure models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted.

k. ***ADULT MOTION PICTURE ARCADE.*** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are used to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

l. ***ADULT MOTION PICTURE THEATER.*** A motion picture theater with a capacity of 50 or more persons that as a prevailing practice excludes minors by reason of age or that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

m. ***ADULT NOVELTY BUSINESS.*** An establishment or business that devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) to, or derives 25% or more of its revenues from items, merchandise or devices that either simulate specified sexual activities or specified anatomical areas or are designed for sexual stimulation.

n. ***ADULT SAUNA.*** A sauna that excludes minors by reason of age and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

o. ***ADULT STEAM ROOM/BATHHOUSE FACILITY.*** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation or reducing, if the building or portion of a building

restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

***NUDE*** or ***SPECIFIED ANATOMICAL AREAS***. This term means:

- a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses or female breasts below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES***. This term means:

- a. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; or zooerastia;
- b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- d. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;
- e. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person;
- f. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation or vaginal or anal irrigation.

## **II. LOCATION.**

An adult use establishment may only be located in areas zoned industrial. The Planning Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions shall

include, but are not limited to, a requirement that no adult use shall be located within five hundred (500) feet of:

- a. any area zoned as Residential District or Residential Shoreland District
- b. any school, as defined in Minnesota Statutes § 120.101
- c. any church
- d. any daycare facility
- e. any residential or nonresidential program, as defined in Minnesota Statutes § 245A.02
- f. any hotel or motel
- g. any public park
- h. hospitals as defined by Minnesota Statutes §144.50
- i. nursing homes as defined by Minnesota Statutes § 144.50

### **III. HOURS OF OPERATION.**

An adult establishment may not be open to the public between the hours of 10:00 p.m. and 8:00 a.m.

### **IV. ADDITIONAL CONDITIONS FOR ADULT CABARETS.**

Subd. 1. An owner, operator or manager of an adult cabaret may not allow any dancer or other live entertainer to display specified anatomical areas or to display or perform specified sexual activities on the premises of the adult cabaret;

Subd. 2. A dancer, live entertainer, performer, patron or any other person may not display specified anatomical areas in an adult cabaret;

Subd. 3. The owner, operator or manager of an adult cabaret must provide the following information to the Town concerning any person who dances or performs live entertainment at the adult cabaret: the person's name, home address, home telephone number, date of birth and any aliases;

Subd. 4. A dancer, live entertainer or performer may not be under 18 years old;

Subd. 5. Dancing or live entertainment must occur on a platform intended for that purpose and that is raised at least two feet from the level of the floor;

Subd. 6. A dancer or performer may not perform a dance or live entertainment closer than ten feet from any patron;

Subd. 7. A dancer or performer may not fondle or caress any patron and no patron may fondle or caress any dancer or performer;

Subd. 8. A patron may not pay or give any gratuity to any dancer or performer; and

Subd. 9. A dancer or performer may not solicit or accept any pay or gratuity from any patron.

Subd. 10. Persons or entities seeking to open an adult use establishment shall provide to the Alexandria Township Planning Commission the name, residence, phone number and birth date of the person(s) or entit(y)(ies). If an entity, the name, residence, phone number and birth date of each general and limited partner. If a corporation, the names, residences, phone numbers and birth dates of all persons holding more than 5% of the issued and outstanding stock of the corporation. Additionally, said persons or entities shall provide the following:

a. The name, address, phone number and birth date of the operator and manager of the adult establishment, if different from the owner's;

b. The address and legal description of the premises where the adult establishment is to be located;

c. A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity or the operation of an adult establishment or adult business by the applicant, operator or manager and whether or not the persons or entities, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the owners of more than 5% of the issued and outstanding stock of the corporation and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;

d. The activities and types of business to be conducted;

e. The hours of operation;

f. The provisions made to restrict access by minors; and

g. A building plan of the premises detailing all internal operations and activities.

Subd. 11. The investigative fee is \$20.00 per person to be investigated and may be changed by Resolution of the Town Board on or before the thirty-first (31<sup>st</sup>) day of December each year.

Subd. 12. The following persons/entities will not be permitted to open an adult use business:

- a. Any person or entity who is, or whose ownership consists solely of persons, under 21 years of age.
- b. Any person or entity who is overdue or whose spouse is overdue in payments to the Town, county or state of taxes, fees, fines or penalties assessed against them or imposed upon them.
- c. Any person who, or entity whose owners, has/have been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses or adult establishments.
- d. Any person or entity who has not paid the investigative fees required by this Ordinance.
- e. Any adult establishment on which premises the owner or any of its officers, agents or employees has been convicted of a violation of this Ordinance until one year has elapsed after the conviction or revocation.
- f. Any adult establishment that is not in full compliance with the Town Ordinance and all provisions of state and federal law.

**V. SIGN AND PARKING RESTRICTIONS.**

Signs identifying or advertising adult use businesses must comply with the following restrictions:

- a. Each adult use establishment shall be limited to one (1) sign, which shall meet all requirements contained within Section V.A of the Alexandria Township Zoning Ordinance.
- b. No photos, pictures, digital representations or visual depictions of any person, product, device or service relating to “specified sexual activities” or “specified anatomical area” shall be displayed on any sign.
- c. No merchandise, photos, illustrations, representations or pictures of the sexually orient products, activities or entertainment offered on the premises of the adult use establishment may be displayed in an area where such items can be viewed from a sidewalk, public right-of-way or any building or structure adjoining or adjacent to the adult use business.

Parking requirements for adult uses shall meet the requirements of Section V.E of the Alexandria Township Zoning Ordinance.



## **VI. ADDITIONAL REQUIREMENTS.**

Subd. 1. A minor may not be permitted on the adult use establishment premises.

Subd. 2. Any designated inspection officer of the Town has the right to enter, inspect and search the premises during business hours.

Subd. 3. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor or displayed in a fashion that allows them to be viewed by a minor, whether or not the minor is on the premises.

Subd. 4. The adult use establishment must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. Said records must describe the date of the transaction, a description of the transaction, the purchase price or rental price and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the Town upon request.

Subd. 5. An Adult Use establishment shall not sell or dispense alcoholic beverages or hold a consumption and display permit, as those terms are defined in Minnesota Statute Chapter 340A, nor shall an adult use be located in a building that contains an establishment that sells or dispenses alcoholic beverages or holds a consumption and display permit, nor shall an adult use be located closer than 1,320 feet to any building that contains an establishment that sells or dispenses alcoholic beverages or holds a consumption and display permit. Measurements shall be made in a straight line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the licensed establishment containing alcohol use. An adult use establishment shall not allow the consumption of alcoholic beverages anywhere on a parcel containing that use or business. All setbacks identified in this section are reciprocal.

## **VII. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect from the date of its adoption.

## **VIII. PENALTIES.**

Any person or entity knowingly violating any provision of this Ordinance shall be subject to the penalties set forth in any applicable state or federal law, and any civil remedy available at law.

## **IX. SEVERABILITY.**

Every section, provision or part of this Ordinance is declared separate from every other section, provision or part of this Ordinance. If any section, provision or part of this Ordinance is adjudicated to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision or part of this Ordinance.

**X. ORDINANCE REPEALED.**

Ordinance Number 94-19, An Ordinance Licensing Erotic Dance Studios Within the Town of Alexandria, Douglas County, Minnesota, is hereby repealed.

ADOPTED by the Alexandria Town Board this 21st day of May, 2007, by the following vote:

Roger Thalman \_\_\_\_\_  
Jim Casper \_\_\_\_\_  
S. Louis Ross \_\_\_\_\_  
Joel Dahlheimer \_\_\_\_\_  
Bryon Alstead \_\_\_\_\_

\_\_\_\_\_  
S. Louis Ross, Board Vice Chair

\_\_\_\_\_  
Gregg Raisanan, Clerk

EFFECTIVE upon publication: May 30, 2007