

**CITY OF EAST GRAND FORKS  
ORDINANCE NO. 12, 4<sup>th</sup> Series**

**AN ORDINANCE AMENDING TITLE XI OF  
THE CITY CODE BY ADDING A NEW CHAPTER  
TO DEFINE AND REGULATE ADULT USES AND  
AMENDING CHAPTER 152 OF THE CITY CODE REGARDING  
LOCATION OF ADULT USES**

**The City Council of the City of East Grand Forks hereby ordains:**

**Section 1. Title XI of the City Code for the City of East Grand Forks is amended by adding a new Chapter 118 as follows:**

**CHAPTER 118: ADULT ESTABLISHMENTS**

**§ 118.01 FINDINGS AND PURPOSE.**

Studies conducted by the Minnesota Attorney General and the Texas City Attorneys' Association, as well as the cities of St. Paul, Alexandria, and Rochester, Minnesota; Indianapolis, Indiana; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; St. Croix County, Wisconsin; Adams County and the City of Denver, Colorado, have examined the impact that adult establishments have on their respective communities. These studies concluded that adult establishments have an adverse impact on surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of East Grand Forks recognizes that the same or similar adverse impacts could occur in a smaller city. Therefore, the City Council makes the following findings regarding the need to regulate adult establishments:

- (A) The public health, safety, morals and general welfare will be promoted by the city adopting regulations governing adult establishments;
- (B) Adult establishments have adverse secondary impacts of the types set forth above, which are distinct from the impacts caused by other commercial uses;
- (C) Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increased crime rates (sex-related crimes in particular), lower property values, increased transiency and decreased stability of ownership;
- (D) The adverse impacts that adult uses have on surrounding areas diminish as the distance from the adult uses increases;
- (E) Studies of other cities have shown that among the crimes which tend to increase either within or in the near vicinity of adult uses are rapes, prostitution, child molestation, indecent exposure and other lewd and lascivious behavior;
- (F) Many members of the public perceive areas within which adult uses are located as less safe than other areas which do not have such uses;

(G) Studies of other cities have shown that the values of both commercial and residential properties either are diminished or fail to appreciate at the rate of other comparable properties when located in proximity to adult uses;

(H) It is not the intent to prohibit adult establishments from having a reasonable opportunity to locate in the city;

(I) Small cities experience many of the same adverse impacts of adult establishments present in larger communities; and

(J) The East Grand Forks City Council finds that adult uses will have adverse secondary effects upon certain pre-existing land uses within the City.

## **§ 118.02 DEFINITIONS.**

For the purposes of this Chapter, the following terms shall have the meanings given below:

(A) *Adult Establishments.*

(1) Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion 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 a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas as described herein; or

(2) Any business that engages in any Adult Use as defined in paragraph (B) below.

(B) *Adult Use.* An adult use is any of the activities and businesses described below. Activities classified as obscene as defined by Minnesota Statutes 617.241 are not included.

(1) *Adult Use- Body Painting Studio:* An establishment or business that provides the service of applying paint or other substance, whether transparent or non-transparent, to the body of a patron when such body is wholly or partially nude in terms of Specified Anatomical Areas.

(2) *Adult Use- Bookstore or Videostore:* A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape or motion picture film if a substantial or significant portion of such items are distinguished and characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(3) *Adult Use- Cabaret.* A building or portion of a building used for dancing or other live entertainment that is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(4) *Adult Use- Companionship Establishment:* A companionship establishment that provides the service of engaging in or listening to conversation, talk or discussion between an

employee of the establishment and a customer, if such service is distinguished and characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(5) Adult Use- Conversation/Rap Parlor: A conversation/rap parlor that provides the services of engaging in or listening to conversation, talk or discussion, if such service is distinguished and characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(6) Adult Use- Health/Sport Club: A health/sport club that is distinguished and characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(7) Adult Use- Hotel or Motel: Adult hotel or motel means a hotel or motel from which minors are specifically excluded and where material is presented that is distinguished and characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

(8) Adult Use- Massage Parlor, Health Club: A massage parlor or health club that provides the services of massage, if such service is distinguished and characterized by an emphasis on Specific Sexual Activities or Specified Anatomical Areas.

(9) Adult Use- Modeling Studio: An establishment that provides figure models to customers with the intent of providing sexual stimulation or sexual gratification to such customers and where the models engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by customers.

(10) Adult Use- Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are maintained and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

(11) Adult Use- Motion Picture Theatre: A building or portion of a building used for presenting material if such business as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

(12) Adult Use- Novelty Business: A business in which a substantial or significant portion of its sales are of devices that stimulate human genitals or devices that are designed for sexual stimulation.

(13) Adult Use- Sauna: A sauna that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(14) Adult Use- 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, utilizing steam or hot air as a cleaning, relaxing or reducing agent if the

service provided by the steam room/bathhouse facility is distinguished and characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(C) *Specified Sexual Activities.*

Any of the following, whether performed directly or indirectly through clothing or other covering: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; and (4) excretory functions as part of or in connection with any of the other activities described in (1) through (3) of this paragraph.

(D) *Specified Anatomical Areas.*

The showing of the human male or female genitals, pubic area, or anus with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which device simulates and gives the realistic appearance of nipples and/or areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(E) *Substantial or significant portion.* Twenty-five percent (25%) or more.

**§ 118.03 LOCATION.**

Adult establishments may be located as permitted in Subchapters 152.231 and 152.246 of the City Code.

**§ 118.04 ENFORCEMENT.**

(A) Violation of any portion of this Chapter shall be a misdemeanor punishable by imprisonment for up to 90 days and a fine of \$1000 or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense.

(B) The City may enforce any provision of this Chapter by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

**§ 118.05 STATE LAW.**

Minnesota Statutes, section 617.242 shall not apply in the City.

**§ 118.06 SEPARABILITY.**

Every provision of this Chapter is declared separable from every other provision of this Chapter. If any provision of this Chapter is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other provision of this Chapter.

**Section 2. Subchapter 152.231 of the City Code for the City of East Grand Forks is amended as follows:**

**§ 152.231 PERMITTED USES.**

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the I-1, Light Industrial District:

...

(W) “Adult Establishments”, subject to the requirements of Chapter 118 and the location requirements in subchapter 152.234.

**Section 3. Chapter 152 of the City Code for the City of East Grand Forks is amended by adding the following new subchapter 152.234:**

**§ 152.234 LOCATION OF ADULT ESTABLISHMENTS.**

(A) Adult establishments as defined in Chapter 118 of the City Code must be located at least 250 feet from:

- (1) Property used or zoned for residential uses;
- (2) A daycare facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;
- (3) Premises licensed under Chapter 117, Alcoholic Beverages; and,
- (4) Another adult use.

(B) Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the parcels where the two uses are located.

**Section 4. Subchapter 152.246 of the City Code for the City of East Grand Forks is amended as follows:**

**§ 152.246 PERMITTED USES.**

In addition to other uses specifically identified elsewhere in this subchapter, the following are permitted uses in the I-2, General Industrial District:

(A) All permitted uses allowed in the Light Industrial (I-1) district. Adult establishments are subject to the requirements of Chapter 118 and the location requirements in subchapter 152.234.

**Section 5. EFFECTIVE DATE.** This ordinance shall take effect the day after its adoption and publication.

*Voting Aye: Helms, Buckalew, Tweten, Olstad, Leigh, Grassel, and Vetter.*  
*Voting Nay: None.*  
*Absent: None.*

The President declared the Ordinance passed.

ATTEST:

PASSED: April 15, 2014

\_\_\_\_\_  
City Administrator/Clerk-Treasurer

\_\_\_\_\_  
President of Council

I hereby approve the foregoing Ordinance this 15<sup>th</sup> day of April, 2014.

\_\_\_\_\_  
Mayor