

ORDINANCE NO. 111

AN ORDINANCE TO ENACT A ZONING CLASSIFICATION PERTAINING TO REGULATIONS AND DEFINING ADULT ENTERTAINMENT CENTERS.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WASHBURN, NORTH DAKOTA.

Section 1. Amendment. Ordinance No. 83 of the City of Washburn, is hereby amended by the addition thereto of the following definitions.

**Adult Bookstore.** An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by the emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

**Adult Cinema.** An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for payment of a consideration, irrespective of the numbers of patrons who may be able to view the presentation at one time.

**Adult Entertainment Center.** An adult bookstore or adult cinema, or both.

**Specified Anatomical Areas:**

- (a) Less than completely and opaquely covered.
  - (1) Human genitals, pubic region;
  - (2) Buttocks;
  - (3) Female breast 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:**

- (a) Human genitals in a state of sexual stimulations or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling of human genitals, pubic region, buttock or female breast.

Section 3.4. Ordinance No. 83 of the City of Washburn, North Dakota, as amended is hereby amended by adding Item (13) Adult Entertainment Center.

(13) Adult Entertainment Center:

Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only in an "industrial" district and in no other district, providing the center meets the following conditions:

- (a) The center is located no closer than 1500 feet from any preexisting church, school, <sup>recreational</sup> or residentially zoned property and/or property used for residential purposes;
- (b) The center excludes from its premises those persons less than 18 years of age;
- (c) The center displays no signs visible from the exterior of the center except signs identifying the center as an adult bookstore or adult cinema or both;
- (d) No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center;
- (e) The manager and the owners of the center are registered with the chief of Police and have provided him with such information as he reasonably may require with respect to their identities, including fingerprints, and prior criminal records, if any;
- (f) The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the city police force who may wish to enter thereon provided the entry is in the course of the discharge of the policeman's duties;
- (g) The business premises of the center which are generally open to its patrons shall be closed to its patrons from 1:00 a.m. to 8:00 a.m. daily except on Sundays 12:01 a.m. to 8:00 a.m. the following day;
- (h) the center be licensed by the City.

Section 3. Taking Effect. This ordinance shall be in full force and effect from and after its final passage and adoption.

Section 4. Severability. The provisions in the ordinance are severable and if any of the provisions, sentences, clauses or paragraphs shall be held unconstitutional, contrary to statute, exceeding

the authority of the city or otherwise illegal or inoperative by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions, unless the court should conclude that the partial invalidation would frustrate the intent of this ordinance.

1st Reading-----February 17, 1981

2nd Reading-----March 2, 1981

Passed-----March 2, 1981

APPROVED: Robert Regine PRESIDENT

ATTEST: Clayton E. Carr AUDITOR