

**ORDINANCE NO. 936**

**AN ORDINANCE ESTABLISHING PERMITTED LOCATIONS FOR ADULT CABARET AND SEXUALLY ORIENTED BUSINESSES IN THE M-2: HEAVY INDUSTRIAL DISTRICT IN THE CITY OF WILLISTON**

**DEFINITIONS**

“Adult cabaret” means a nightclub, bar, juice bar, restaurant, , or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- a. Persons who appear in a state of nudity or seminudity;
- b. Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities; and
- c. Video, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

“Adult entertainment” means the sale, rental, or exhibition, for any form of consideration, of books, video, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

“Sexually oriented business” means an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, or sexual encounter center, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

WHEREAS, The City of Williston having made findings of the adverse secondary effects of adult cabaret and sexually oriented businesses;

WHEREAS, The City of Williston having received additional comment and evidence of the adverse secondary effects of adult cabaret and sexually oriented businesses in the downtown area of the City of Williston;

WHEREAS, It is the purpose of this Ordinance to regulate the location of adult cabaret and sexually oriented businesses in order to promote the health, morals, safety and general welfare of the citizens of Williston. This ordinance has neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials, and it is not the intent of this ordinance to condone or legitimize the distribution of obscene material;

WHEREAS, Adult cabaret and sexually oriented businesses should be segregated from one another by a minimum distance and should not be in close proximity to churches, schools, child

care facilities, hospitals, public parks, public playgrounds and residential areas because as a category of commercial uses, are associated with a wide variety of adverse secondary effects including crime, illicit and unsanitary sexual activity, drug use, decreased desirability of and negative impacts on the use of surrounding property and urban blight; and

WHEREAS, the City of Williston has a substantial governmental interest in regulating the appropriate location of adult cabaret and sexually oriented businesses and has a substantial interest in preventing the adverse secondary effects.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WILLISTON:

§1. That the Code of Ordinances, City of Williston, North Dakota, is hereby amended by adding sections to be numbered 9-88 and 9-89, which said sections reads as follows:

**Sec. 9-88. Permitted locations for sexually oriented businesses.**

- (a) A sexually oriented business is prohibited from being established, located, operated or licensed in any district within the City of Williston other than the M-2 Heavy Industrial District, and then only if it meets the conditions set forth in the City of Williston Ordinance.
- (b) Any adult cabaret and sexually oriented business lawfully operating as of the effective date of this section and that is in violation of subsection 1 of this section shall be deemed a nonconforming use. However, that existing business may continue to operate under present ownership and it may be sold to another party, as long as it continues to operate in its present location. If a nonconforming use is discontinued for a period of thirty days or more it may not be reestablished. Such nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

**Sec. 9-89. Adult Entertainment Center/Sexually Oriented Business:**

- (a) Notwithstanding anything in this zoning ordinance to the contrary, an adult cabaret, adult entertainment center or sexually oriented business (as defined at Section 9-86 of the City of Williston Code of Ordinances) shall be permitted only in the M-2 Districts and in no other districts, and then only if it meets the following conditions: (1) it is located no closer than one thousand two hundred fifty (1250) feet from any pre-existing church, school, child care facility, hospital, public park, public playground, or property zoned or used as residential; (2) it excludes from its premises those persons less than twenty one (21) years of age; (3) it displays no signs visible from the exterior, except for signs identifying it as an adult bookstore, adult cinema or other as the case may be; (4) No materials depicting specified sexual activities or specified anatomical areas shall be visible from its exterior; (5) the manager and the owners of each business are registered

with the Chief of Police and have provided him with information on their identities and whether they have been convicted or are awaiting trial on charges of a specified criminal activity; (6) the business premises of the center which is generally open to its patrons is 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 police officer's duties.

- (b) For the purpose of subsection (a)(1), measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest property line of the premises where the adult entertainment center/sexually oriented business is conducted, to the nearest property line of the premises of a use listed in subsection (a)(1).

§2. This ordinance shall become effective upon final passage and approval.

Commissioner Tate Cymbaluk moved the adoption of the foregoing Ordinance. The motion was seconded by Commissioner Brent Bogar. Upon roll call vote the following Commissioners voted "AYE": Klug, Cymbaluk, Bogar and Bekkedahl, and the following Commissioners voted "NAY": None. Absent and not voting: Koeser.

WHEREUPON, the motion was passed, and the Ordinance declared amended this 10th day of May, 2011.



ATTEST:

BRAD BEKKEDAHL, Vice-President  
Board of City Commissioners

JOHN KAUTZMAN, City Auditor

FIRST READING: April 26, 2011

SECOND READING: May 10, 2011

PUBLISHED: N/A