

ORDINANCE NO. 2006 - 1

CITY OF TRIMONT

AN ORDINANCE PLACING A MORATORIUM ON THE SITING OF ADULT ESTABLISHMENT WITHIN THE CITY OF TRIMONT AND DIRECTING A STUDY TO BE CONDUCTED.

THE CITY COUNCIL OF THE CITY OF TRIMONT ORDAINS:

Section 7.22 Background.

- Subd. 1 The state Attorney General has prepared a report entitled "Report of the Attorney General's Working Group on Regulation of Sexually Oriented Businesses", dated June 6, 1989, prepared by Hubert H. Humphrey, III, Attorney General of the State of Minnesota. Other reports include the Olmsted County Planning Department "Adult Entertainment Report" dated March 2, 1988, "A 40-Acre Study" prepared by the St. Paul Division of planning in 1987, a City of Ramsey Adult Uses Planning Report, and "The Impact of Pornography: A Decade of Literature", prepared for the Department of Justice Canada, all of which hereafter collectively referred to as "Reports". The Reports considered evidence from the studies conducted in Minneapolis and St. Paul and in other cities throughout the country relating to sexually oriented businesses.
- Subd. 2. The Reports, based upon the above referenced studies and the testimony presented to it has concluded "that sexually oriented businesses as associated with high crime rates and depression of the property values." In addition, the Attorney General's Working Group "...heard testimony that the character of a neighborhood can dramatically change when there is a concentrations of sexually oriented businesses adjacent to residential property." The Reports conclude that:
- a.) Adult uses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other commercial uses;
 - b.) Residential neighborhoods located within close proximity to adult theaters, bookstores and other adult uses experience increase crime rates (sex-related crimes in particular), lowered property values, increased transiency, and decreased stability of ownership;
 - c.) The adverse impacts which adult uses have on surrounding areas diminish as the distance from the adult uses increases;
 - d.) 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;
 - e.) The city of Phoenix, Arizona study confirmed that the sex crime rate was on

the average 500 percent higher in areas with sexually oriented businesses;

- 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; and
- h.) The Indianapolis, Indiana study established the professional real estate appraisers believe that an adult bookstore would have a negative effect on the value of both residential and commercial properties within a one to three block area of the store.

- Subd. 3 The City Council finds that the characteristics of Trimont are similar to those of the cities cited by the Reports when considering the affects of adult uses.
- Subd. 4. The City Council finds, based upon the Reports and the studies cited therein, that adult uses will have secondary effect upon certain pre-existing land uses within the City.
- Subd. 5. The City's zoning ordinances does not address such adult uses which have been found by other municipalities to cause similar adverse secondary effects.
- Subd. 6. The City Council is concerned that the City's zoning ordinance may be inadequate in its scope and in its restrictions to accomplish the purpose for which it was intended.
- Subd.7. In addition to the proper zoning classification of such uses, there are a number of significant planning and land use issues pertaining to the regulation of such uses, including the following:
 - a) The particular zoning districts in which such uses should be allowed as either permitted or conditional uses.
 - b.)The concentrations and density of such uses in the City and its neighborhoods.
 - c.) The effects of such uses on other uses in the surrounding areas.
- Subd. 8. There is a need for a study to be conducted so that the City can adopt a set of comprehensive plans and land use zoning regulations pertaining to adult establishment uses. Such a study will address land use and zoning issues, including those referenced above.
- Subd. 9. There is a need for an interim ordinance to be adopted for the purpose of protecting the planning process and the health, safety and welfare of the citizens

of the City and to ensure that the City and its citizens retain the benefits of the City's comprehensive plan and zoning ordinance until such a study had been completed. There is a need to restrict such uses until such a study has been completed and any modifications to the City's zoning and land use regulations are accomplished.

Subd 10. The City Council has directed that such a study be undertaken.

Subd. 11. Minnesota Statutes, section 462.355, subdivision 4 permits the adoption of interim zoning ordinances during the planning process.

Sec. 7.23. Definitions.

Subd. 1. **Adult Establishments.** An adult establishment in which an adult uses comprises more than 10 percents of the floor area of the establishment in which it is located or which comprises more than 20% of gross receipts of the entire business operation.

Subd. 2. **Adult Uses.** An adult use is any of these activated and businesses described below:

- a) **Adult Use – Body Painting Studio:** An establishment of business which provides the service of applying paint of 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.”
- b) **Adult Use – Bookstore:** 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 such building or portion of building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, and 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.”
- c) **Adult Use – Cabaret:** A building or portion of a building providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age and if such dancing or other live entertainment is distinguished and characterized by an emphasis on the presentations, display, depiction or description of “specified sexual activities” or “specified anatomical areas.”
- d) **Adult Use – Companionship Establishment:** A companionship establishment which excludes minors by reason of age, and which 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.”

- e) **Adult Use – Conversation/Rap Parlor:** A conversation/rap parlor which excludes minors by reason of age, and which provides the service 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.”
- f) **Adult Use – Health/Sport Club:** A health/sport club which excludes minors by reason of age, if such a club is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- g) **Adult Use – Hotel or Motel:** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and where material is presented which is distinguished and characterized by an emphasis on matter depicting describing of relation to “specified sexual activities” or “specified anatomical areas.”
- h) **Adult Use – Massage Parlor, Health Club:** A massage parlor or health club which restricts minors by reason of age, and which provides the service of massage, if such service is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- i) **Adult Use – Mini Motion Picture Theater:** A building or portion of a building with a capacity for less than 50 persons used for presenting material if such material is distinguished and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- j) **Adult Use – Modeling Studio:** An establishment whose major business is the provision to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculpted, photographed, or otherwise depicted by such customers.
- k) **Adult Use – Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electronically or mechanically controlled or operated still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished and characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas.”

- l) Adult Use – Motion Picture Theater: A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
- m) Adult Use – Novelty Business: A business involving the sale of novelties or devices which either simulate human genitals or are designed for sexual stimulation or devices or novelties or devices depicting “specified sexual activities” or “specified anatomical areas.”
- n) Adult Use – Sauna: A sauna which excludes minors by reason of age, and which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as cleaning, relaxing, reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”
- o) 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 such a 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 and characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

Subd. 3. Specified Anatomical Areas:

- a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast(s) below a point immediately above the areola; and
- b) Human male genitals in a discernibly turgid state, even if opaquely covered.

Subd. 4. Specified Sexual Activities.

- a) Actual or simulated sexual intercourse, oral copulations, anal intercourse, oral-anal copulations, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty,

- pedophilia, piquerism, sapphism, zooerasty; or
- b) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
 - c) Use of human or animal ejaculation, sodomy, oral copulations, coitus, or masturbation; or
 - d) Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
 - e) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually reveling costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or the physical restraint of any such persons; or
 - f) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
 - g) Human excretion, urination, menstruation, vaginal or anal irrigation.

Sec. 7.24. Planning and Zoning Study; Moratorium.

Subd. 1. A study is authorized to be conducted by City staff and consultants to determine how adult establishment uses should be regulated within the City. The scope of the study should include, but is not limited to, the following:

- a) The particular zoning districts in which adult establishments should be allowed as either permitted or conditional uses;
- b) The density and concentration of such uses;
- c) The effect of such uses on other uses in the surrounding area.

Subd. 2. Upon completion of the study, the City Council will review the matter and make and changes to the comprehensive plan and zoning regulations it considers appropriate.

Subd. 3. A Moratorium on the development or location of adult establishments is adopted pending completion of the study and the adoption of any amendments to the City's zoning district within the City of Trimont.

Sec. 7.25. Violations Enforcement. A violation of the ordinance shall be a misdemeanor. The City may enforce any provision of the ordinance by mandamus, injunction or any other appropriate civil or criminal remedy in any court of competent jurisdiction.

Sec.7.26. Separability. Every section, provision or part of this ordinance shall be a misdemeanor. The City may enforce any provision of the ordinance by mandamus, injunction or any other appropriate civil or criminal remedy in any court of competent jurisdiction.

Sec. 7.27 Duration. This ordinance shall remain effect for one year from the date of its effective date or until such earlier time as said ordinance shall be revoked or otherwise amended.

Sec. 7.28 Effective Date. This ordinance is effective upon its passage and publication as required by law.

Adopted by the City Council of the City of Trimont 27th day of February 2006

Mayor, Thomas Eckmann

ATTEST:

Melissa Flohrs
City Clerk