

CITY OF TRAVERSE CITY
Ordinance Amendment No. 906
Effective date: 2-22-11

TITLE: ORDINANCE ESTABLISHING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS OR LICENSES FOR ESTABLISHMENTS OR USES ENGAGED OR INTENDING TO ENGAGE IN THE EXHIBITION OF ANY ADULT-ORIENTED MOTION PICTURE, LIVE PERFORMANCE, DISPLAY OR DANCE OF ANY TYPE THAT HAS AS A PRINCIPAL OR PREDOMINANT THEME, EMPHASIS, OR PORTION OF SUCH THAT INCLUDES THE SIMULATED PERFORMANCE OF SPECIFIED SEXUAL ACTIVITIES AS DEFINED BY SECTION 1360.03 OF THE ZONING ORDINANCE OF THE CITY OF TRAVERSE CITY

BECAUSE, Chapter 1360 of the City’s Zoning Ordinance regulates Sexually Oriented Businesses and provides definitions for the Regulated Uses, which include uses depicting, describing, or relating to “specified sexual activities”; and

BECAUSE, the definition of “specified sexual activities” does not expressly include the performance of “simulated” sexual activities; and

BECAUSE, the documentation establishing the adverse secondary effects of adult uses cited by the City in establishing Chapter 1360 is applicable to businesses exhibiting adult-oriented motion pictures, live performances, displays or dances of any type that have as a principal or predominant theme, emphasis, or portion of such that includes simulated performances of specified sexual activities (“Simulated Sexual Activities Adult Businesses”); and

BECAUSE, the City desires to amend Chapter 1360 to clearly indicate that such Regulated Uses include Simulated Sexual Activities Adult Businesses and study the proper zoning regulations applicable thereto; and

BECAUSE, processing land use permit or occupancy permit requests for land uses associated with Simulated Sexual Activities Adult Businesses prior to the amendment of the Zoning Ordinance would be detrimental to the public health, safety, and welfare and would not ensure that the use is situated in appropriate locations; and

BECAUSE, the City desires to amend Chapter 1360 of its Zoning Ordinance to expressly include Simulated Sexual Activities Adult Business within the Regulated Uses in order to protect the public health, safety, and welfare; and

BECAUSE, the City Commission wishes there to be further study and the preparation of an amendment to Chapter 1360 of its Zoning Ordinance in the very near future; and

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BECAUSE, the City Commission determines that it is desirable to immediately forbid the issuance of permits and licenses for land uses associated with Simulated Sexual Activities Adult Businesses until an amendment to the Zoning Ordinance becomes effective; and,

BECAUSE, Chapter IV, Section 31, of the City Charter authorizes the City Commission to enact ordinances immediately necessary for the preservation of the public health, peace, or safety on the date of introduction and give them immediate effect, and the City Commission determines that the following ordinance satisfies that requirement;

THE CITY OF TRAVERSE CITY ORDAINS AS FOLLOWS:

- (1) A moratorium is established on the issuance of all City permits, licenses, and approvals, including building permits, land use permits, and certificates of occupancy, in regard to land uses associated with the exhibition of adult-oriented motion pictures, live performances, displays or dances of any type that have as a principal or predominant theme, emphasis, or portion of such that includes simulated performances of specified sexual activities as defined in Section 1360.03 of the City's Zoning Ordinance from the effective date hereof, until May 31, 2011, or the effective date of the adoption of proper text amendments to the Zoning Ordinance and any necessary licensing requirements, whichever occurs first.
- (2) All City boards and commissions are asked and authorized to give their analysis and recommendation regarding a zoning ordinance or licensing regulation concerning Simulated Sexual Activities Adult Businesses.
- (3) Nothing in this ordinance shall apply to persons operating Sexually Oriented Businesses pursuant to the Chapter 1360 of the City Zoning Ordinance or establishments engaged in uses that are devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of literary, artistic, scientific, or political value.
- (4) The provisions of this Ordinance may be waived by the City Commission upon submittal of evidence establishing by a preponderance of the evidence that this moratorium deprives the person or property owner of all economically use of its property.
- (4) This ordinance shall be given immediate effect.

The effective date of this ordinance shall be the 22nd day of February 2011.

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I hereby certify that this ordinance was introduced, enacted and given immediate effect by the City Commission of the City of Traverse City at its regular meeting held on February 22, 2011, in the second floor of the Commission Chambers, 400 Boardman Avenue, Traverse City, Michigan, by a vote of: Yes 7, No 0.



Christopher M. Bzdok, Mayor



Debra A. Curtiss, City Clerk

I hereby certify that a notice of publication of the above ordinance was published in the Traverse City Record-Eagle, a newspaper of general circulation in Traverse City, Michigan, on March 1, 2011.



Debra A. Curtiss, City Clerk