

ARTICLE XXXVII

ADULT ENTERTAINMENT BUSINESSES

Section 37.01 Purpose

The purpose of this Article is to promote the public health, safety and welfare through the regulation of adult entertainment businesses. It is the intent of this Article to regulate businesses, as defined herein, such a manner as to prevent the erosion of the character of the surrounding neighborhoods and to prohibit the establishment of such businesses within close proximity to schools, churches, residential areas, parks and playgrounds within the City,

Section 37.02 Definitions

A. "Adult Entertainment Facility" means any establishment which is involved in one or more of the following listed categories.

1. "Adult Book Store" means an establishment which utilizes fifteen percent (15%) or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or motion picture machines, projectors, or other image-producing devices, or both, books, magazines, newspaper, pamphlet, poster, print, picture, figure, Image, description, other periodicals, films, phonograph records, tapes, discs and cassettes or other analog, magnetic or digital storage media which are distinguished by their emphasis on "specified sexual activities" as defined below.
2. "Adult Motion Picture" means a facility for the display of motion pictures, by means of any projection or playback device utilizing storage media, which is regularly used or utilizes fifteen percent (15%) or more its total viewing time for presenting material distinguished or characterized by an emphasis to "specified sexual activities", sexual excitement or nudity for observation by patrons therein.
3. "Adult Entertainment Business" means any establishment involved in the sale of services or products characterized by the exposure, description or presentation of "specified sexual activities" or sexual excitement, nudity or physical contact with live males or females, and which is characterized by lascivious or salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products within the scope of adult entertainment business include, but are not limited to photography, dancing, reading, massage and similar conduct which utilize activities or areas as specified above for the purposes of sexual arousal or gratification or for commercial exploitation.

B. "Specified Sexual Activities" means any of the following:

1. Human genitals or female breast in a state of sexual stimulation or arousal.

2. Acts, real or simulated, of human masturbation, vaginal or anal intercourse, cunnilingus, fellation, bestiality, the insertion of any part of the body or any instrument, apparatus, or any object into the vaginal or anal cavity, or sadomasochistic activity.
 3. Fondling or any touching of an erogenous zone including without limitation the thigh, genitals, public regions, buttocks or female breasts for the purpose of sexual arousal or gratification or for commercial exploitation.
- C. “Sexual excitement” means the condition of human male or female genitals when in a state of sexual excitement or arousal.
- D. “Fine Art Gallery” means any display of art work which is individually crafted and signed by the artist or which is limited in edition to 1,000 or less.
- E. “Nudity” means the showing, representation or depiction of human male or female genitals, public area or buttocks with less than a full, opaque covering, or of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or covered male genitals in a discernibly turgid state.
- F. “Visibly displayed” means the material is visible on any sign, viewing screen, marquee, newsstand, display rack, window, show case, display case, or other similar display area that is visible from any part of the general public or otherwise, or that is visible from any part of the premises where a juvenile is or may be allowed, permitted, or invited, as part of the general public or otherwise, or that is visible from a public street, sidewalk, park, alley, residence, playground, school, or other place to which juveniles, as part of the general public or otherwise, has unrestrained and reasonable anticipated access and presence.

Section 37.03 Exceptions

Nothing in this Article shall be construed to pertain to:

- A. The purchase, distribution, exhibition and/or loan of any work of art, book, magazine or other printed material or manuscript by an accredited museum, library, fine art gallery, school or museum of higher learning for a genuine scientific, educational, sociological, moral or artistic purpose,
- B. The exhibition and/or performance of any play, drama tableau, or motion picture by any theater, museum, library, fine art gallery, school, or institution of higher learning either supported by public appropriation or which is an accredited institution supported by private funds.

Section 37.04 Location

Adult entertainment facilities shall be considered a conditional use in the LIC. District and shall be subject to the following conditions.

- A. No adult entertainment facility shall be established within 1,500 feet of any residence or district where residences are a permitted use.
- B. No adult entertainment facility shall be established within a radius of 1,500 feet of any day care center, school, library or teaching facility, whether public or private, when such school, library or teaching facility is intended for use by persons under 18 years of age.
- C. No adult entertainment facility shall be established within a radius of 1,500 feet of any park or recreational facility intended for use by persons under 18 years of age.
- D. No adult entertainment facility shall be established within a radius of 1,500 feet of any church, synagogue, or permanently established place of religious services.
- E. No adult entertainment facility shall be established within a radius of 1,500 feet of any other adult entertainment facility
- F. No advertisements, displays or other promotional materials displaying specified sexual activities, sexual excitement or nudity shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or from other public or semi-public areas.
- G. All building openings, entries, windows, etc. for adult entertainment uses shall be located, covered or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street.
- H. No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned from public or semi-public area.
- I. No adult entertainment facility shall be established within a radius of 1,500 feet from any office or building owned, rented, leased or otherwise regularly used by a political subdivision of public institution, including any board, commission, agency, institution or authority of a political subdivision or local public institution.