

Article XIV, Location of Sexually Oriented Businesses

Sec. 14.01 Purpose and Findings.

- (a) *Purpose.* It is the purpose of this Article to regulate Sexually Oriented Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Village, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the Village. The provisions of this Article do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this Article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Article to condone or legitimize the distribution of obscene material.
- (b) *Findings.* The Council has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theaters*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

Sec. 14.02 Definitions.

- (a) *Adult Arcade.* Any place to which the public is permitted or invited where either or both (i) motion picture machines, projectors, video or laser disc players, or (ii) other video or image-producing devices are available, run via coin, token or any form of consideration, to show images to five or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (b) *Adult Bookstore, Adult Novelty Store, or Adult video Store.* A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

- (i) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; or
- (ii) Instruments, devices, or paraphernalia, other than prophylactics, that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” or “specified anatomical areas” and still be categorized as “adult bookstore, adult novelty store, or adult video store” so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

- (c) *Adult Cabaret.* A nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - (i) Person who appear in a state of semi-nudity;
 - (ii) Live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities;
 - (iii) Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - (iv) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (d) *Adult Motion Picture Theater.* A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.
- (e) *Adult Theater.* A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description of specified anatomical areas, specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.
- (f) *Covering.* Any clothing or wearing apparel, including pasties, but does not include any substance that can be washed off the skin, such as paint or make-up, or any substance designed to simulate the appearance of the anatomic area beneath it.

- (g) *Nude Model Studio.* Any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include:
- (i) A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.
 - (ii) A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - (iii) An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model s on the premises at any on the premises at any one time.
- (h) *Nudity or State of Nudity of Nude.* Exposing to view the genitals, pubic area, vulva perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or stimulates any of these anatomical areas.
- (i) *Person.* An individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals whatever form or character.
- (j) *Principal Business Purpose.* 25 percent or more of the stock in trade of the business offered for sale or rental for consideration measured as a percentage of either the total linear feet of merchandise for sale or rental for consideration on display or the gross receipts of merchandise for sale or rental for consideration, whichever is greater.
- (k) *Semi-Nudity or Semi-Nude Condition or Semi-Nude.* Exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.
- (l) *Sexual Encounter Center.* A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (i) Physical contact in the form of wrestling or tumbling between persons of the

- opposite sex; or
 - (ii) Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude
- (m) *Sexually Oriented Business.* An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.
- (n) *Specified Anatomical Areas.*
 - (i) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (ii) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.
- (o) *Specified Sexual Activities.* Any of the following:
 - (i) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (ii) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - (iii) Excretory functions as part of or in connections with any of the activities set forth in (i) and (ii) above.

Sec. 14.03 Classifications.

Sexually Oriented Businesses are classified as follows:

- (a) Adult arcades;
- (b) Adult bookstores, adult novelty stores or adult video stores;
- (c) Adult cabarets;
- (d) Adult motion picture theaters;
- (e) Adult theaters;
- (f) Nude model studios; and
- (g) Sexual encounter centers.

Sec. 14.04 Location of Sexually Oriented Businesses.

- (a) Sexually Oriented Businesses may be located only in accordance with the restrictions contained in subsections (b) through (h) hereof.
- (b) Sexually Oriented Businesses may be located only in the MU District.
- (c) No Sexually Oriented Business may be established on a lot which borders on or touches Main Street (SR 303), Locust Street (Akron-Peninsula Road), or Riverview Road.
- (d) No Sexually Oriented Business may be established as follows:
 - (i) Within 800 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - (ii) Within 800 feet of a public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; schools includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - (iii) Within 500 feet of a licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State;
 - (iv) Within 200 feet of a public park or recreation area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the Village which is under the control, operation or management of either the Village, MetroParks Serving Summit County, or the Cuyahoga Valley National Park; or
 - (v) Within 200 feet of the property line of a lot devoted to a residential use as defined in this Ordinance.
- (e) No Sexually Oriented Business may be established, operated or enlarged within 200 feet of another Sexually Oriented Business.
- (f) Not more than one Sexually Oriented Business shall be established or operated in the same building, structure or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure or portion thereof containing another Sexually Oriented Business may not be increased.

- (g) For the purpose of subsection (d) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a Sexually Oriented Business is conducted, to the nearest property line of the premises of a use listed in subsection (d) hereof.
- (h) For the purpose of subsection (e) hereof, the distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is conducted.

Sec. 14.05 Additional Regulations Concerning Lot, Yard, Height, Parking, Building, and Site Design Standards, and Site Plan Requirements.

- (a) Lot, yard, height, parking, and building and site design standards for a Sexually Oriented Business shall conform to those requirements applicable to all uses in the district in which the Sexually Oriented Business is proposed to be located.
- (b) The site plan for a Sexually Oriented Businesses shall be submitted to the Commission for site plan review and approval in accordance with the procedures for all uses to which site plan review is applicable under this Ordinance.
- (c) Review and approval procedures for a site plan for a Sexually Oriented Business shall also be in accordance with any procedures duly adopted by the Council as may be applicable to the licensing and operation of Sexually Oriented Businesses.

Sec. 14.06 Sign Regulations for Sexually Oriented Businesses.

- (a) All signs shall be “wall signs” as defined in this Ordinance, with a maximum allowable sign area of 50 square feet as measured in accordance with the standards specified in this Ordinance, and shall comply with the location standards specified in this Ordinance, and the illumination standards specified in this Ordinance.
- (b) Review and approval for a sign permit for a Sexually Oriented Business shall also be in accordance with any procedures duly adopted by the Council as may be applicable to the licensing and operation of Sexually Oriented Businesses.
- (c) All signs shall be maintained in accordance with the provisions of this Ordinance and may be ordered to be removed in accordance with the provisions of this Ordinance.

- (d) No merchandise or pictures of the products or entertainment on the premises shall be displayed in the window areas or any area where they can be viewed from the sidewalk or street in front of the building.
- (e) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign may be placed on the door to state hours of operation and admittance to adults only.

Sec. 14.07 Severability.

If any section, subsection or clause of this Article shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.