

Proposed Amendment to Zoning Ordinance Adult Oriented Business

Authority and Jurisdiction

The provisions of this article are adopted by the Town Board of Commissioners under the authority granted by the General Assembly of the State of North Carolina. From and after the effective date hereof, this article shall apply to every building, lot, tract, or parcel of land within the Town of Grifton and its extraterritorial jurisdiction.

Purpose

For the purpose of promoting the health, safety, morals and general welfare of the citizenry of the Town of Grifton, this article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in the Town of Grifton and its extraterritorial jurisdiction. Further the regulations of this article have been made with reasonable consideration among other things, as to the character of the town and its areas.

Abrogation

These regulations shall not repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in the Town of Grifton. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

Definitions Relating to Adult Oriented Businesses

Adult Oriented Business. An adult arcade, adult bookstore, or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center (including adult massage parlor and adult health club), sexually oriented device business or any combination of the foregoing or any similar business. As used in this Ordinance the following definitions shall apply:

Adult Arcade (also know as “peep show”). Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Bookstore 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 any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe “specified sexual activities” or “specified anatomical areas”, or
2. Instruments, devices, or paraphernalia that are designed for use in connection with “specified sexual activities”

Adult Cabaret. A nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

1. Persons who appear nude or semi-nude; or
2. Live performance which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or
3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Motel. A hotel, motel, or similar commercial establishment that:

1. Offers accommodations to the public for any form of consideration which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe “specified sexual activities” or “specified anatomical areas” as one of its principal business purposes; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that that is less than ten (10) hours.

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 as one of its principal business purposes that depict or describe “specified sexual activities” or “specified anatomical areas”.

Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict “specified anatomical areas” or “specified sexual activities”.

Escort. A person who, for any tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency. A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Massage. Any manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

Massage Business. Any establishment or business wherein massage is practiced, including establishments commonly known health clubs, physical culture studios, massage studios or massage parlors.

Nude Model Studio. Any place where a person who appears, nude, or 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 a proprietary school licensed by the State of North Carolina or a college or university supported entirely or in part by public taxation; a private college or university which maintains an operated educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
2. Where in order to participate in a class a student must enroll at least three days in "advance of class, and
3. Where no more than one nude or semi-nude model is on the premises at any one time.

Nude or A state of Nudity.

1. The appearance of a human anus, male genitals or female genitals; or
2. A state of dress that fails to opaquely cover a human anus, male genitals or female genitals.

Semi-nude. A state of dress in which clothing covers no more than the genitals, public region, and areola of the female breast, as well as portions of the body covered by or supporting straps or devices.

Sexual Encounter Center. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the

form of wrestling or tumbling (including sexually oriented massaging) between persons of the opposite sex, or similar activities between male and female persons and/or between persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually Oriented Devices. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified Anatomical Areas. Human genitals in a state of sexual arousal.

Specified Sexual Activities. Is and includes any of the following:

1. The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts; or
2. Sex, acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory functions as part of or in connection with any of the activities set forth in 1. through 3. above.

Adult Oriented Business

No Adult Oriented Business shall be permitted in any building:

Located within one thousand five hundred (1,500) feet in any direction from a residential building or residentially zoned property.

Located within one thousand (1,000) feet in any direction from a building in which an adult oriented business is located.

Located within one thousand five hundred (1,500) feet in any direction from a building used as a church, synagogue or other house of worship.

Located within one thousand five hundred (1,500) feet in any direction from a building used as a public or private elementary or secondary school, child day care or nursery school.

Located within one thousand five hundred (1,500) feet in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.

Located within one thousand five hundred (1,500) feet in any direction from any establishment with an on-premise ABC license.

The gross floor area of any Adult Oriented Business shall not exceed three thousand (3,000) square feet and all business-related activity shall be conducted in a building.

Except for an adult motel, no Adult Oriented Business may have sleeping quarters.

There shall not be more than one (1) Adult Oriented Business in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any Adult Oriented Business.

Except for signs as may be permitted by Chapter 152.115 through 152.123, no printed material, slide, video, photograph, written text, live show, or other visual presentation format shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

No enclosed or underground parking shall be permitted.

Nonconforming Adult Oriented Businesses.

Any adult oriented business lawfully operating on April 10, 2001, that is in violation of this article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. Such nonconforming uses shall not be increased, enlarged, extended, or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for period of thirty (30) days or more it may not be reestablished. If two (2) or more adult oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and later-established business(es) shall be considered nonconforming. An adult oriented business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park within one thousand (1,000) feet of the adult oriented business.

Interpretation of terms and definitions

- (a) Words used in the present tense include the future tense.
- (b) Words used in the singular number include the plural and words used in the plural number include the singular.
- (c) The word “person” includes and owner, firm, joint venture, association, organization, partnership, corporation, trust, and company, as well as an individual.

- (d) The word “owner” when applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant, or tenant by entirety of the whole or part of such building or land.
- (e) The word “lot” includes the words “plot” or “parcel”.
- (f) The word “building” includes the word “structure”.
- (g) The word “shall” is always mandatory and not merely directory.
- (h) The words “located”, or “used” or “occupied” as applied to any land or building, shall be construed to include the words “intended, arranged or designed to be located, used or occupied.
- (i) The word “dwelling” shall mean a structure or portion thereof which is used exclusively for human habitation.

Severability

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this article is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this article, since the same would have been enacted by the board of commissioners without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

All permitted uses must meet all compliance regulations set forth in the Adult Oriented Business Ordinance.

Adult Oriented Businesses is a permitted use within the Highway Commercial (B-1) Zoning District.

Adult Oriented Businesses will not be a permitted use in the following Residential Zones:

Residential-Agricultural 20,000 (RA-20), Residential 14,000 (R-14), Residential 10,000 (R-10), Residential 8,000(R-8), and Residential 6,000 (R-6).

Adult Oriented Businesses will not be a permitted use in the Central Business District (CBD) Zoning District.

Adult Oriented Businesses will not be a permitted use in the Industrial (I) Zoning District.