

## CHAPTER 163

### ADULT ORIENTED ESTABLISHMENT REGULATIONS

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#### 163.01 FINDINGS.

1. The City Council finds that Adult-Oriented Establishments, as defined and otherwise regulated by the City in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety and welfare of the City.
2. Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Coleman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the City Council finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
3. The City Council intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
4. It is not the intent of the City Council to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
5. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the City, it is the intent of the City Council to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
6. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as

sexual assault, the City Council finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

### **163.02      DEFINITIONS.**

**"Adult Bookstore"** means an establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.

**"Adult Entertainment"** means any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.

**"Adult Motion Picture Theater"** means an enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.

**"Adult-Oriented Establishment"** means any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, where such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, or any other term of like import.

**"Operators"** means any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.

**"Specified Anatomical Areas"** means less than completely and opaquely covered human genitals, buttocks, female breasts below the areola; or, male genitalia.

**"Specified Sexual Activities"** means simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of sexual activity, sodomy, or sado-masochism; or (c) fondling or erotic touching of human genitals, buttocks, or female breasts.

### **163.03 LOCATION RESTRICTIONS.**

An adult-oriented establishment shall be permitted within the City of West Burlington only in the General Industrial (I-2) District upon receipt of a site plan, and only if it meets all of the location requirements set forth below. Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district boundary line from which the proposed adult entertainment business is to be separated.

1. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
2. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.
3. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years of Kindergarten and Twelfth grade.
4. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any daycare home or daycare business.
5. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public park or playground. For purposes of this section, bike paths, trails, waterways, and boat launches shall not be deemed a public park.
6. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any other adult entertainment business.
7. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.

### **163.04 DEVELOPMENT DESIGN STANDARDS.**

1. **Exterior.** It shall be unlawful for an owner of an adult-oriented establishment:
  - A. to allow the merchandise or activities of the establishment to be visible from a point outside the establishment
  - B. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or

pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.

C. to allow exterior portions of the establishment to be painted other than a single color.

2. **Signage.** The operator shall comply with Chapter 159 of the West Burlington Municipal Code. Additionally, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

**163.05 RESPONSIBILITIES OF THE OPERATOR** Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

**163.06 MINORS.** It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished a valid drivers license issued by a state reflecting that person's age.

**163.07 HOURS OF OPERATION.** An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 2:00 a.m., seven days a week.

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