

ORDINANCE REGULATING ADULT ESTABLISHMENTS

WHEREAS, GS § 153A–134 permits counties to regulate and license businesses; and

WHEREAS, GS § 153A–135 permits counties to regulate places of amusement; and

WHEREAS, the Board of Commissioners recognizes that important and substantial governmental interests provide a constitutional basis for reasonable regulation of the time, place and manner under which sexually oriented businesses operate; and

WHEREAS, the Board of Commissioners has determined that persons seeking to operate sexually oriented businesses shall be required to observe specific location requirements before they commence business; and

WHEREAS, the Board of Commissioners finds it is necessary in order to protect the public order and morality to regulate and license certain adult establishment businesses.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF ALAMANCE DOTH ORDAIN:

- 1) DEFINITIONS:
 - A) Adult Book/ Video Store — An establishment having as a substantial or significant portion of its stock in trade, books, magazines, periodicals, videos, and related merchandise which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Anatomical Areas.
 - B) Adult Motion Picture Theater — An enclosed building or open air theater with a capacity of fifty or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - C) Adult Mini–Motion Picture Theater — An enclosed building or open air theater with a capacity of less than fifty persons used for presenting material distinguished or characterized by an emphasis on material depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - D) Specified Sexual Activities —
 - a) Human genitals in a state of sexual stimulation or arousal;
 - b) Acts of human masturbation, sexual intercourse or sodomy; or

- c) Fondling or other erotic touching of human genitals, pubic region, or female breast or breasts.
- E) Specified Anatomical Areas —
- a) Less than completely and opaquely covered:
 - 1) human genitals, pubic region, or
 - 2) the areola of the female breast; or
 - b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- F) Cabaret — Any place wherein any type of alcoholic beverage is sold (or given away) to be consumed on the premises and the operator thereof holds a license from the state to sell such beverages.
- G) Adult Cabaret — A Cabaret which features topless dancers or waitresses, go-go dancers, exotic dancers, male or female impersonators, or similar entertainment.
- H) Adult Motel — A hotel, motel, or similar commercial establishment that:
- a) Offers accommodations to the public for any form of consideration; 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;
 - b) Offers a sleeping room for rent for a period of time that is less than ten hours; or
 - c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

2) RESTRICTIONS

- A) No Adult Book Store, Adult Motion Picture Theater, Adult Mini-Motion Picture Theater, Adult Cabaret, or Adult Motel shall be located within one thousand feet of any other Adult Book Store, Adult Motion Picture Theater, Adult Mini-Motion Picture Theater, Adult Cabaret, or Adult Motel.

- B) No Adult Book Store, Adult Motion Picture Theater, Adult Mini–Motion Picture Theater, Adult Cabaret, or Adult Motel shall be located within fifteen hundred feet of any church, elementary or secondary school, public park, or child day care center.
 - C) Measurements shall be taken in a straight line from property line to property line.
- 3) LICENSE REQUIRED
- A) Any person or other entity desiring to open or operate an Adult Book Store, Adult Motion Picture Theater, Adult Mini–Motion Picture Theater, Adult Cabaret, or Adult Motel shall obtain a license by filing an application with the Alamance County Assistant County Manager/Operations. The application shall be on a form which may be obtained from the Alamance County Administrative Services Department, and shall contain the name and address of the applicant, and, if such applicant is a corporation, the address of such corporation and its officers. The application shall also contain the address of the proposed business, including tax map block and lot number.
 - B) It shall be a violation of this Ordinance to operate any Adult Book Store, Adult Motion Picture Theater, Adult Mini–Motion Picture Theater, Adult Cabaret, or Adult Motel without a license issued hereunder.
 - C) A fee in the amount of twenty dollars (\$20.00) shall be paid at the time the application for license is filed.
 - D) If the applicant for a license has met all the requirements of this Ordinance, a license shall be issued for the Adult Book Store, Adult Motion Picture Theater, Adult Mini–Motion Picture Theater, Adult Cabaret, or Adult Motel. Once issued, the license remains in effect with no renewal required so long as all provisions of this Ordinance are met. This license is personal to the applicant and cannot be transferred.
 - E) If the applicant is denied a license, the Assistant County Manager/Operations shall notify the applicant in writing of the denial along with the reasons for the denial. This notice shall be sent immediately to the applicant at the address listed on the application by certified mail.
 - F) The denial of a license can be appealed to the Board of County Commissioners by the filing of a notice of appeal with the Clerk to the Board of Commissioners within ten days of the date of the denial.
 - G) A license can be revoked by the Assistant County Manager/Operations

upon notice by certified mail to the holder of the license and hearing if the license did not meet the requirements of this Ordinance at the time of issuance, or if any information in the application for license was falsified. Any revocation of the license can be appealed to the Board of County Commissioners on the same conditions and using the same procedure as a denial of a license.

4) PENALTIES AND ENFORCEMENT

- A) The violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine of five hundred dollars (\$500.00) or imprisonment of thirty (30) days or both fine and imprisonment. Each day on which any violation of this Ordinance shall continue shall constitute a separate and distinct violation and offense.
- B) In addition, this Ordinance may be enforced by injunction or other equitable relief by an action brought in the General Court of Justice.

5) SEVERABILITY

Each and every provision of this Ordinance is independent and stands alone. If any provision, part, paragraph, phrase, or sentence is found to be invalid, all other provisions, parts, paragraphs, phrases, and sentences shall remain valid and in full force and effect.

6) EFFECTIVE DATE

This Ordinance shall be in full force and effect on and after the 1st day of March, 1994.

This the 21st day of February, 1994.

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The foregoing ordinance was adopted by the Board of Commissioners for the County of Alamance during regular session on February 21, 1994. See Minute Book No. 30, Page 87.