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Article 1305  
Adult Oriented Businesses

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1305.01 SPECIFIC TERMS

The specific terms set forth in Article 1302.02 shall be applicable to this Article, except the following words and phrases shall have the meaning given in this Article:

**ADULT ARCADE.** 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 five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE, ADULT NOVELTY STORE, 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, digital video discs, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- (2) instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities; or
- (3) both (1) and (2).

For purposes of this definition, "principal business purposes" shall mean twenty (20%) percent or greater of inventory or stock, or twenty (20%) percent or greater of gross annual sales, whichever is less.

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. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an 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 any form of consideration the above described materials which depict or describe specified sexual activities or specified anatomical areas.

**ADULT CABARET.** A night club, bar, restaurant, or similar commercial establishment which regularly features:

- (1) persons who appear in a state of nudity, or
- (2) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) films, motion pictures, video cassettes or video reproductions, digital video discs, slides or other visual representations or photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT MOTEL.** A hotel, motel or similar commercial establishment which offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, digital video discs, slides or other visual representations or photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and:

- (1) has a sign visible from the public right of way which advertises the availability of such adult type of visual representations or photographic reproductions, 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 unit to sub rent the room for a period of time 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 or video reproductions, digital video discs, slides or other visual representations or photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**ADULT ORIENTED BUSINESS.** Any commercial establishment to which the public is permitted or invited where the primary items for sale or rent consist of books, magazines, periodicals, or other printed material or matter, photographs, films, motion pictures, video cassettes, or digital video discs, or where instruments, devices or paraphernalia are offered for sale all in connection with or depicting specified sexual activities or specified anatomical areas. The term includes any adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or tattoo parlor.

**ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**CHILD ORIENTED BUSINESS.** Any commercial establishment which, as one of its principal business purposes, serves and/or sells to children and their families food, apparel, goods, services, play and/or entertainment.

**ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** Any person who furnishes, offers to furnish, or advertises to furnish escorts as one of that person's primary business purposes for a fee, tip, or other consideration.

**ESTABLISHMENT.** For purposes of this Article, in the context of an adult oriented business, establishment shall mean and include any of the following:

- (1) The opening or commencement of any adult oriented business as a new business; or
- (2) The conversion of an existing business, whether or not an adult oriented business, to an adult oriented business; or
- (3) The addition of an adult oriented business to any other existing adult oriented business; or

- (4) The relocation of an adult oriented business.

**NUDE MODEL STUDIO.** Any place where a person who appears in a state of nudity or 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.

**NUDITY, STATE OF NUDITY.** The appearance of a human bare buttock, anus, male genitals, female genitals, or full female breast.

**SEMI-NUDE.** A state of dress in which clothing covers no more than the genitals, pubic region, and aureole of the female breast, as well as portions of the body covered by supporting straps or devices.

**SEXUAL ENCOUNTER CENTER.** A business or commercial establishment or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**SPECIFIED ANATOMICAL AREAS.** The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

**SPECIFIED SEXUAL ACTIVITIES.** Any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic 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), (2) or (3).

**SUBSTANTIAL ENLARGEMENT.** The increase in net floor area occupied by an adult oriented business by more than twenty-five (25%) percent.

**TATTOO PARLOR.** A business or commercial establishment or commercial enterprise that, as one of its primary business purposes, offers for sale, for any form of consideration, tattoos, body art, or piercings, on any part of the human anatomy. An establishment that offers ear piercings only shall not be considered a tattoo parlor, including, without limitation, a beauty salon, beauty parlor, or medical office.

**TRANSFER OF OWNERSHIP OR CONTROL.** In the context of an adult oriented business, transfer of ownership or control shall mean and include any of the following:

- (1) The sale, lease, or sublease of the adult oriented business; or
- (2) The transfer of securities which constitute a controlling interest in the adult oriented business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the adult oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

#### 1305.02 CERTAIN STANDARDS

The following standards and criteria shall be applicable to adult oriented businesses:

- (a) No adult oriented businesses shall be established or operated outside a district in which an adult oriented business is a permitted use or special exception, and no person shall establish or operate, or cause to be operated, an adult oriented business outside of the district in which an adult oriented business is a permitted use or special exception.
- (b) No adult oriented business shall be established or operated within one thousand (1,000) feet of:
  - (1) A church or other religious activity;
  - (2) A public or private school;
  - (3) A public library;
  - (4) A group day care;
  - (5) An outdoor recreation area adjacent to any residential district; and
  - (6) A child oriented business.

For the purpose of this section, measurement shall be made in a straight line, without regard to intervening buildings, structures or objects, from the nearest building line of the building or structure where an adult oriented business is established or operated, to the nearest property line of the premises of an affected church or other religious activity, public or private school, public library, group day care, or child oriented business, or to the nearest property line of an affected outdoor recreation area.

- (c) No adult oriented business shall be established or operated, and no person shall cause the substantial enlargement or transfer of ownership or control of an adult oriented business, within five thousand (5,000) feet of another adult oriented business. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening buildings, structures or objects, from the nearest building line of the building or structure where an adult oriented business is established or operated, to the nearest building line of the line of the building or structure where another adult oriented business is established or operated.
- (d) No person shall cause or permit the establishment or operation of more than one (1) adult oriented business in the same building, structure, or portion thereof, or the increase of the net floor area of an adult oriented business in any building, structure, or portion thereof containing another adult oriented business.
- (e) Any adult oriented business lawfully operating on date of enactment of this Ordinance that is in violation of Sections 1305.02(a) through 1305.02(d) shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. In the event that two or more adult oriented businesses are within five thousand (5,000) feet of one another and otherwise in a permissible location, the adult oriented business that was first established and continually operating at a particular location is the conforming use and the later-established business is the nonconforming use.

- (f) An adult oriented business lawfully operating as a conforming use shall not be rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult oriented business permit, of a church or other religious activity, public or private school, public library, group day care, child oriented business, or outdoor recreation area adjacent to a residential area within one thousand (1,000) feet of the adult oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

### 1305.03 EXEMPTIONS

The following activities shall not be considered as the establishment or operation of an adult oriented business subject to the rules and regulations of this Article:

- (a) A person appearing in a state of nudity in a modeling class operated:
  - (1) by a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation; or
  - (2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - (3) in a structure:
    - (a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - (b) where, in order to participate in a modeling class, a student must enroll at least three (3) days in advance of the class; and
    - (c) where no more than one (1) nude model is on the premises at any one time.

- (b) A person appearing in a state of nudity in a live theatrical production or performance within the Central Business District at an indoor theater that seats more than three hundred (300) patrons at any one (1) live theatrical production or performance.