

AMENDING CHAPTER 30 (LDO)
AN ORDINANCE AMENDING THE GREENSBORO CODE OF ORDINANCES WITH
RESPECT TO ZONING, PLANNING AND DEVELOPMENT

(Editor's Note: Added text shown with underlines and deleted text shown with strikethroughs)

Section 1. That Table 8-1 within Section 30-8-1, Permitted Use Table, is hereby amended by deleting "Central Business (CB)" as a zoning district where Sexually Oriented Businesses are allowed.

Section 2. That Subsection (N) of Section 30-8-10.4, Office, Retail and Commercial Uses, is hereby amended to read as follows:

(N) Sexually Oriented Businesses

1) Use Description

Sexually Oriented Businesses include: sex shops, ~~adult arcades, adult sexually oriented media~~ book stores or ~~adult video stores, adult cabarets~~ sexually oriented cabarets, ~~adult massage parlors, adult motels, adult motion picture theater~~ sexually oriented motion picture theaters, ~~adult theaters, escort agencies, nude model studios, sexual encounter centers~~, or any combination of these uses. All sexually oriented business uses are considered principal uses.

2) Property Separation

- a) No sexually oriented business is permitted to be located within 1,200 feet of any other sexually oriented business
- b) No sexually oriented business is permitted to be located within 1,000 feet of a religious assembly use, public or private elementary or secondary school, child day care center or nursery school, public park, or residentially zoned property

3) Prohibition in Historic District Overlay

No sexually oriented business is permitted to locate in the Old Greensborough National Register Historic District.

4) Prohibition of Sleeping Quarters

~~Except for an adult motel, a~~ No sexually oriented business is permitted to have sleeping quarters.

5) Restriction of Uses on the Same Property or in the Same Building

There shall not be more than one sexually oriented business in the same building, structure, or portion thereof. No other principal use may occupy the same building, structure, property or portion thereof with any sexually oriented business.

6) Prohibited Uses

The following uses are expressly prohibited in all zoning districts and shall not be allowed:

- a) Any massage establishment where a massage service is provided by a person not licensed by the state under the North Carolina Massage and Bodywork Act, N.C. Gen. Stat. 90-620 et seq., or other health care professional licensed by the State of North Carolina;
- b) Escort services, whether provided by an agency or individual, if massage or sexual act is advertised, offered or provided;
- c) Nude model or nude photography studio, except as part of a sexually oriented cabaret;
- d) Sexual encounter center;
- e) Sexually oriented motel;
- f) Sexually oriented video arcade; and
- g) No video, movie, or visual presentation shall be shown for a fee in a space of less than 150 square feet

7) Supplemental Standard Applicable to Sexually Oriented Cabarets

The lighting level in all areas occupied by customers shall be a minimum of two foot candles at floor level.

The provision of this subsection is not subject to the legal nonconforming provisions of Sec. 30-2-3.

8) Supplemental Standards Applicable to Sexually Oriented Motion Picture Theaters

Any building used for the operation of a sexually oriented motion picture theater shall meet the following standards:

a) Presentation Area

All screenings and presentations of motion pictures, videos or other media shall occur in a room open to all customers of the establishment and shall contain a minimum 600 square feet of floor area. No doors, curtains, screens, or other devices shall be used to obscure any part of the room.

b) Lighting

The lighting level in all areas occupied by customers shall be a minimum of two foot candles at floor level

c) Seating

Seating shall consist of individual, theater-style chairs, with solid arms separating the chairs; if the theater includes meal service, individual, dining-type chairs shall be allowed around tables. No couches, benches, individual chairs, beds, loose curtains, mattresses or

other forms of seating may be provided. Separate spaces for wheelchairs shall be provided in accordance with the applicable provisions of the NC building code and Americans with Disabilities Act.

The provisions of this subsection are not subject to the legal nonconforming provisions of Sec. 30-2-3.

6.9) Nonconforming Uses

All legal nonconforming sexually oriented businesses lawfully existing on May 6, 2007 are allowed to continue their legal nonconforming uses subject to the provisions of Sec. 30-2-3.

Section 3. That several of the definitions within Section 30-15-2, Terms Beginning with A, are hereby removed as follows:

~~Adult Arcade (Also known as “peep show”)~~

~~Any place to which the public is permitted or invited wherein coin operated or token 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 and/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:~~

- ~~A. 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 and/or specified anatomical areas; or~~
- ~~B. 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:~~

- ~~A. persons who appear nude or semi-nude; or~~
- ~~B. live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or~~
- ~~C. films, motion pictures, video cassettes, slides or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.~~

~~Adult Massage Parlor~~

~~A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.~~

~~Adult Motel~~

~~A hotel, motel, or similar commercial establishment that:~~

- ~~A. offers accommodations to the public, for any form of consideration, and provides patrons with close circuit television transmissions, films, motion picture, video cassettes, slide, or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas as one of its principal business purposes; or~~
- ~~B. offers a sleeping room for rent for a period of time that is less than 10 hours~~
- ~~C. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.~~

~~Adult Motion Picture Theater~~

~~A commercial establishment where, for any form of considerations, 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 and/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-nudity, or live performances that expose or depict specific anatomical areas and/or specified sexual activities.~~

Section 4. That several of the definitions within Section 30-15-6, Terms Beginning with E, are hereby amended to read as follows:

Escort

A Any person who for tips or any other forms of consideration agrees or offers, advertises, or provides for pecuniary compensation to act as a date for another person, or who agrees to privately model lingerie or to privately perform a striptease for another person, consort, socialize, visit or accompany another person for the purpose of engaging in specified sexual activities.

Escort Agency

A person or business that offers, advertises, or provides ~~furnishes, offers to furnish, or advertises to furnish~~ escorts as ~~one of its principal business purposes, for a fee, tip, or any other form of pecuniary compensation~~ consideration.

Section 5. That Section 30-15-8, Terms Beginning with G, is hereby amended by adding a new definition in alphabetical order and to read as follows:

Gross Public Floor Area

For the purposes of Section 30-10-8.4. the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, service areas, behind-counter areas, storage areas visible from other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

Section 6. That Section 30-15-13, Terms Beginning with M, is hereby amended by adding a new definition in alphabetical order and to read as follows:

Media Store

- A. A general term for the retail sale or rental of books and other media, including stores that may have some sexually explicit media, but excluding those stores that are classified as sexually oriented media stores. A store that sells or rents media in which less than 10 percent of the number of items in inventory on display to customers are sexually explicit media and in which less than 10 percent of the retail floor area is devoted to sexually explicit media shall be considered a general media store unless it is a sex shop. A general media store meeting these inventory and floor area limits shall not be considered a sexually oriented business.
- B. A general media store which devotes more than 10 percent of its floor area or more than 10 percent of the number of items in inventory on display to customers are sexually explicit media, but devotes less than 25 percent of its gross public floor area or less than 25 percent of the number of items in inventory on display to customer are sexually explicit media shall be treated for the purposes of this LDO as a general media store and not as a sexually oriented media store or other sexually oriented business, provided that it continuously meets the following conditions:
 1. All sexually explicit media is maintained in a room that is separated from other media by an opaque wall that extends to the ceiling or either (8) feet above the floor, whichever is less;

2. Access to the room containing sexually explicit media shall be posted with a notice indicating that only persons 18 years of age or older are allowed in the room;
3. The room containing sexually explicit media shall be posted with a notice indicating that only persons 18 years of age or older are allowed in the room;
4. Access to the room is physically limited to adults through control of access by an employee of the store, through the use of an access release located at least 66 inches off the floor, or through constant monitoring of the room by an employee on duty through direct, complete and unimpeded visibility or by a window, mirror or electronic means which provides direct, complete and unimpeded visibility of the interior of the room from the manager's or cashier's work station; and
5. If the 25 percent threshold of either gross floor area or number items in inventory on display to customers is exceeded, then the use shall be classified as a sexually oriented media store and considered a sexually oriented business.

Section 7. That several of the definitions within Section 30-15-13, Terms Beginning with N, are hereby removed and amended to read as follows:

Nude Model or Nude Photography Studio (Prohibited)

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, sculpted, photographed, or similarly depicted by other persons who pay money or any other form of consideration. Nude Model Studio shall not include any accredited educational institution ~~for which~~ where nude modeling is a legitimate part of the curriculum. For the purposes of this paragraph an accredited educational institution is an institution listed in the Database of Accredited Postsecondary Institutions and Programs maintained by the US Department of Education. ~~of the institution, and should not be held in a structure;~~

- ~~A. That has any sign visible from the exterior of the structure and any other advertising that indicates a nude or semi-nude person is available for viewing~~
- ~~B. Where in order to participate in a class a student may enroll less than 3 days in advance of the class; and~~
- ~~C. Where more than one nude or semi-nude model is on the premises at any one time~~

Nude or a State of Nudity

~~The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals or female genitals.~~

Section 8. That several definitions within Section 30-15-18, Terms Beginning with S, are hereby removed, added in alphabetical order, and amended to read as follows:

Sadomasochistic Practices

Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed or naked.

Sex Shop

An establishment offering goods for sale or rent that meets any of the following:

- A. More than 10 percent of its inventory on display to customers consists of sexually explicit media and/or sexually oriented devices, toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
- B. More than 25 percent of its inventory on display to customers which consists of sexually oriented devices, toys or novelties; or
- C. More than 25 percent of its gross public floor area is devoted to the display of sexually oriented devices, toys, or novelties; or
- D. More than 25 percent of the wall area of the walls in and around the gross public floor area is devoted to the display of sexually oriented devices, toys or novelties.

For purposes of this definition, the “gross public floor area” devoted to any class of items shall include the aisles or other areas where customers stand when viewing such items as well as the actual area under the display racks for the items.

Sexual Conduct

~~The engaging in or the commission of an act of sexual intercourse, oral genital contact, or the touching of the sexual organs, public regions, buttock or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.~~

Semi-Nude

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

Sexual Encounter Center (prohibited)

A business which provides two or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in “specified sexual activities” or displaying “specified anatomical areas”. This definition shall not be construed to refer to hotels or motels. This definition does not include a facility which is operated by a health care professional licensed by the State of North Carolina who provides a place to assemble for the purpose defined herein to persons as part of a lawfully prescribed course of therapeutic, health, or psychiatric care or treatment.

Sexually Explicit Media

Magazines, books, videotapes, movies, CDs, DVDs or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual conduct and/or specified anatomical areas.

Sexually Oriented Devices, Toys or Novelties

Instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Sexually Oriented Media Store

An establishment that rents and/or sells media and that meets any of the following:

- A. Twenty-five (25) percent or more of the gross public floor area is devoted to sexually explicit media
- B. Twenty-five (25) percent or more of the inventory on display to customers consists of sexually explicit media;
- C. It advertises or holds itself out in any forum as “XXX”, “adult”, “sex”, or otherwise as a sexually oriented business other than a sexually oriented movie theater or sexually oriented cabaret.

Sexually Oriented Cabaret

A commercial establishment that regularly features, exhibits, or displays ~~as one of its principal business purposes:~~

- A. Persons who appear nude ~~or semi-nude~~ or who displays specified anatomical areas; or
- B. Live performances which are characterized by the exposure of specified anatomical areas and/or by simulated specified sexual activities

Sexually Oriented Motel (prohibited)

A hotel, motel, or similar commercial establishment that, as its principal use:

- A. Offers accommodations to the public, for any form of consideration, and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that depict or describe specified sexual activities and/or specified anatomical areas ~~as one of its principal business purposes;~~ or
- B. Offers a sleeping room for rent for a period of time that is less than ~~40~~ 6 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 ~~40~~ 6 hours.

Sexually Oriented Motion Picture Theater

A commercial establishment where, as its principal use and for any form of consideration, films, motion picture, video recordings or similar media are regularly shown that depict or describe sexual conduct and/or specified anatomical areas.

Sexually Oriented Video Arcade (Also known as “peep show”) (prohibited)

Any place to which the public is permitted or invited wherein coin-operated or token-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 and/or specified anatomical areas.

Specified Anatomical Areas

Less than completely and opaquely covered hHuman genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specifie Specified Sexual Activities

An act of sexual intercourse, sodomy, oral-genital contact, masturbation or acts which simulate any such act; display of human genitals in a state of stimulation or arousal; masochism, sadism, erotic torture or other act which inflicts or simulates the infliction of pain; or erotic touching of the sexual organs, pubic region, buttock or female breast of a person.

Includes any of the following:

- ~~A. human genitals in a state of sexual stimulation, arousal, or tumescence; or~~
- ~~B. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or~~
- ~~C. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or~~
- ~~D. masturbation, actual or simulated; or~~
- ~~E. masochism, erotic or sexually oriented torture, beating or the infliction of pain; or~~
- ~~F. erotic or lewd touching, fondling, or other contact with an animal by a human being; or~~
- ~~G. human excretion, urination, menstruation, vaginal or anal irrigation.~~

Section 9. All ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict

Section 10. This ordinance shall become effective upon adoption