

Chapter 34

ADULT ENTERTAINMENT USES

[HISTORY: Adopted by the Town Board of the Town of Urbana 4-17-2007 by L.L. No. 1-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 105.

§ 34-1. Legislative findings; intent; determination.

A. The Town of Urbana is a residential community consisting of approximately 2,600 people encompassed within an area of 41.1 square miles. Even though the Town does not currently have an adult business, the possibility exists since it is served by several highways providing easy access from all directions.

B. It is recognized that there are some uses, which, because of their very nature, have serious objectionable operational characteristics under certain circumstances, thereby producing a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that their adverse effects will not contribute to the blighting or downgrading of the surrounding residential neighborhoods and sensitive areas. The Town Board of the Town of Urbana finds it in the public interest to enact these regulations.

C. The unrestrained proliferation and inappropriate location of such businesses is inconsistent with existing development and future plans for the Town of Urbana because, quite often, they result in influences on the community which increase the crime rate and undermine the economic and social welfare of the community. The deleterious effects of these businesses change the economic and social character of the existing community and adversely affect existing businesses and community and family life.

D. Having no adult entertainment business, the Adult Entertainment Uses Law Advisory Committee relied upon the studies in the Village of Scotia, New York; Village of Savona, New York; Austin, Texas; Newport News, Virginia; Garden Grove, California; Islip, New York; Indianapolis, Indiana, and the City of New Rochelle, New York, to determine if adult entertainment regulations were necessary within the Town's boundaries. After reviewing these studies, the Adult Entertainment Uses Law Advisory Committee determined that the impact of adult entertainment decreased residential property values, deteriorated conditions of the residential neighborhood, attracted the wrong type of clientele, increased traffic, increased noise, increased criminal activity, including sex crimes, and threatened the character and general quality of life in a small town. The Committee was also concerned that, because the Town of Urbana is residential and has several sensitive areas, the placement of adult businesses anywhere within its boundaries would most likely result in increased home sales by the elderly, as well as families with children, thus having a negative impact on the Town's growth.

E. The Town Board recognizes the right for an adult entertainment business to exist. It is not the Board's intent to prohibit such activities but to reasonably regulate their location through the Town's zoning powers. Since the residential district and sensitive areas comprise the largest part of the community, finding an area for adult uses within the Town, and still maintaining the required 1,000 feet from residential districts and 1,500 feet from sensitive use areas, was difficult.

F. The only area determined to be a suitable area for adult entertainment uses is designated to be located along County Route 113, commencing at its intersection with Longwell Road and continuing thereon in a general southerly direction to the borderline of the Town of Bath, to be zoned for adult entertainment uses. By limiting adult entertainment uses to this district, the impact of such a business is minimized while still providing a reasonable area for meeting all of the requisite legal criteria.

G. Accordingly, the Town Board of the Town of Urbana declares that the purpose of this chapter is to prevent or lessen the negative effects of adult entertainment uses and not to inhibit the right of free expression guaranteed by the United States and New York State Constitutions as they may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

H. Therefore, the Town Board of the Town of Urbana hereby concludes that the health, safety and general welfare of the Town would be protected and promoted, and the overall public interest would best be served, by its enactment of this chapter.

§ 34-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADULT ENTERTAINMENT USE —

A. **ADULT BOOK AND/OR VIDEO STORE** — An establishment having as a substantial or significant portion of its stock in trade books, magazines, periodicals, or other printed matter or photographs, films, videos, slides or other visual representations which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas, or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities and which are for sale, rental or viewing on or off the premises.

B. **ADULT ENTERTAINMENT CABARET** — A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters or waitresses, male or female impersonators, lingerie models or exotic dancers, or other similar entertainment or films, motion pictures, videos, slides or other photographic material, or which utilizes employees who, as part of their employment, regularly expose patrons to specified sexual activities or specified anatomical areas and which has a prevailing practice of excluding minors by virtue of their age.

C. **ADULT THEATER** — A theater, concert hall, auditorium or similar establishment which, for any type of consideration, regularly features live

performances characterized by the exposure of specified sexual activities or anatomical areas.

D. ADULT MOTION PICTURE THEATER — Any motion-picture theater where, for any type of consideration, films, motion pictures, video cassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

E. MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths or steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

F. ADULT MODEL STUDIO — Any place where a person appearing in a state of nudity or displaying specified anatomical areas is made available for observation or to be sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any other type of consideration therefor.

G. PEEP SHOWS — A theater which presents materials distinguished or characterized by primary emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, in the form of live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged.

SPECIFIED ANATOMICAL AREAS — Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY — Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling, or other erotic touching of human genitals, pubic region, buttocks or breasts.

§ 34-3. Locational restrictions.

A. Adult entertainment uses shall be permitted only in that area hereinabove set forth in § 34-1F.

B. Adult entertainment uses shall be prohibited within a distance of 1,000 feet from the property line of any residence.

C. Adult entertainment uses shall be located at a distance of at least 1,500 feet from sensitive use areas wherein is located any private or public school; or any

church or other religious facility or institution; or any public park, public bike path, playground, playing field, cemetery, civic or recreational facility.

D. No adult entertainment use shall be permitted to be within 500 feet of another such use, and only one such use shall be located on any lot.

E. The distances provided hereinabove shall be measured by following a straight line without regard to intervening buildings, from the nearest point of the property parcel upon which the adult entertainment use is to be located to the nearest point of the parcel of property or the land use district boundary line from which the adult entertainment use is to be separated.

§ 34-4. Exterior displays; advertising; site plan approval; compliance requirements; hours of operation.

A. No adult entertainment use shall be conducted in any manner that allows the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not containing an adult entertainment use. This provision shall apply to any display, decoration, sign, show, window or other opening.

B. There shall be no outdoor sign, display, or advertising of any kind other than one identification sign limited only to the name of the establishment.

C. Adult entertainment uses shall be required to obtain site plan approval from the Town Planning Board in accordance with Chapter 88 of the Urbana Town Code.

D. Adult entertainment uses shall meet all other regulations of the Town of Urbana, including but not limited to district lot and bulk regulations, parking regulations and signage.

E. It shall be unlawful to operate any adult entertainment use between the hours of 12:00 midnight and 8:00 a.m.