

Sexually Oriented Business.

A. Purpose.

The purpose of defining and regulating sexually oriented businesses as a distinct use classification is to prevent community-wide adverse secondary effects that can be generated by the unregulated operation of sexually oriented businesses. These adverse secondary effects include, but are not limited to: depreciation of property values; increased vacancy rates in residential and commercial areas; increased criminal activity; increased litter, noise, and vandalism; and interference with the enjoyment of residential property in the vicinity of such businesses.

B. Definitions.

1. "Sexually oriented business" shall mean a business whose primary purpose is the offering of sexually explicit matter and includes any of the following:
 - a) Adult arcade. An "adult arcade" is an establishment where, for any form of consideration, as a regular and primary course of conduct one (1) or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic, digital, or video reproductions that are characterized by an emphasis upon any specified sexual activities described in (B)(7) or the exposure of any specified anatomical areas described in (B)(6).
 - b) Adult cabaret. An "adult cabaret" is an establishment that, for any form of consideration, as a regular and primary course of conduct presents live performances that are characterized by an emphasis upon any specified sexual activities described in (B)(7).
 - c) Adult motion picture theater. An "adult motion picture theater" is an establishment that, for any form of consideration, as a regular and primary course of conduct offers to show films, computer-generated images, motion pictures, video cassettes, slides, or other photographic, digital, or video reproductions that are characterized by an emphasis upon any specified sexual activities described in (B)(7) or the exposure of any specified anatomical areas described in (B)(6).
 - d) Adult retail store. An "adult retail store" is an establishment that, for any form of consideration, as a regular and primary course of conduct offers for sale, rent, or viewing either any adult entertainment material described in (B)(2), any adult entertainment merchandise described in (B)(3) or both.
 - e) Any business that, for any form of consideration, as a regular and primary course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis upon any specified sexual activities described in (B)(7) or the exposure of any specified anatomical areas described in (B)(6).
2. "Adult entertainment material" shall mean any audio tape, book, periodical, magazine, photograph, drawing, sculpture, motion-picture film, videotape recording, or other visual representation, characterized by an emphasis upon any specified sexual activities described in (B)(7) or the exposure of any specified anatomical areas described in (B)(6). "Adult entertainment material" shall not include any material that does not fall within the definition of "Harmful Matter" in Sections § 313 et. seq. of the California Penal Code.

3. "Adult entertainment merchandise" shall mean adult entertainment implements or paraphernalia, such as, but not limited to: dildos; auto sucks; vibrators; edible underwear; benwa balls; inflatable orifices; anatomical balloons with orifices; simulated vaginas and similar adult entertainment devices that are designed or marketed primarily for the stimulation of human genital organs or sadomasochistic activity.
4. "Characterized by an emphasis upon" shall mean the dominant or essential theme of the object described by such phrase.
5. "Regular and primary course of conduct" shall mean that any of the following conditions exist:
 - a) At least sixty percent (60%) of the stock-in-trade is devoted to adult entertainment material, adult entertainment merchandise, or both; provided, however, that this criteria shall not apply to mail order businesses or wholesale businesses with no patrons on the premises.
 - b) At least sixty percent (60%) of the total display area is devoted to adult entertainment material, adult entertainment merchandise, or both; provided, however, that this criteria shall not apply to mail order businesses or wholesale businesses with no patrons on the premises.
 - c) The business presents, as at least sixty percent (60%) of its total performance time presented, any type of entertainment, live or otherwise, characterized by an emphasis upon any specified sexual activities described in (B)(7) or featuring any specified anatomical areas described in (B)(6).
 - d) At least sixty percent (60%) of the gross receipts of the business are derived from the sale, trade, rental, display or presentation of services, products, materials or entertainment that is characterized by an emphasis upon any specified sexual activities described in (B)(7) or the exposure of any specified anatomical areas described in (B)(6).
6. "Specified anatomical areas" shall mean any of the following:
 - a) Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola;
 - b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;
 - c) Any device, costume or covering that simulates any of the body parts included in subparagraphs (1) or (2) above.
7. "Specified sexual activities" shall mean any of the following, whether performed directly or indirectly through clothing or other covering:
 - a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;

- b) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- c) Masturbation, actual or simulated;
- d) Excretory functions as part of, or in connection with, any of the other activities described in subparagraphs (1) through (3) of this paragraph.