

## **ARTICLE 18. ADULT AND SEXUALLY ORIENTED ESTABLISHMENTS**

### **Section 18-1: Purpose**

Adult and sexually oriented establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. The Board of Commissioners finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods, and to regulate acts, omissions, or conditions detrimental to the health, safety, and welfare of the Town which can be reasonably expected to result from the inappropriate location or concentration of such establishments. For the purpose of promoting the health, safety, and general welfare of the citizenry of the Town of Lillington, this Article is adopted by the Board of Commissioners to regulate Adult and Sexually Oriented Establishments located in the jurisdiction of the Town.

The provisions of this Article including amendments have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Article to restrict or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This Article represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time, and manner regulation of businesses, without limiting alternative avenues of communication.

### **Section 18-2: Operation of Sexually Oriented Establishment Prohibited; Exception**

It shall be unlawful for any person or group of persons, partnership, limited partnership, or corporation or any other entity to operate or cause to be operated an adult entertainment establishment except as permitted herein.

### **Section 18-3: Conditional Use**

- (A) Adult and Sexually Oriented Establishments are allowed as listed in the Table of Permitted Uses. The Planning Board shall review and recommend approval to the Board of Commissioners the location of all adult entertainment establishments prior to the issuance of a certificate of zoning compliance by the Administrator.

- (B) No more than one adult entertainment establishment shall be located on any one lot or parcel.

**Section 18-4: Location**

- (A) Adult and Sexually Oriented Establishments shall not be located closer than:
  - (1) One thousand (1,000) feet from any residential zoning district.
  - (2) One thousand five hundred (1,500) feet from any church, day care center, public or private, elementary or secondary educational school, public park, public library, cemetery, or motion picture establishment which shows G or PG rated movies to the general public on a regular basis.
  - (3) Two thousand (2,000) feet from any other adult entertainment establishment.
- (B) Measurements of distance separation shall be in a straight line from the closest points of the building at which the adult uses are located.

**Section 18-5: Temporary Use Permit**

- (A) A temporary use permit shall be required prior to the staging of any adult entertainment show or contest in an adult entertainment establishment which schedules such entertainment less than 12 times per calendar year.
- (B) Activities requiring permits shall include but are not necessarily limited to mail and/or female burlesque or fantasy shows, wet T-shirt contests, and other such one time, or irregularly scheduled events.
- (C) Complete application forms shall be submitted within 30 days prior to the date of the event.
- (D) A permit fee of \$250 shall accompany the application.
- (E) A site plan showing parking ingress and egress and maximum seating capacity of the structure shall be required.

(F) A written certification of type of entertainment shall be provided.

(G) Temporary uses shall be subject to conditional use provisions.

#### **Section 18-6: Ownership Disclosure**

If a person who wishes to operate an adult entertainment establishment is an individual, he must sign the application as applicant. If a person who wishes to operate an adult entertainment establishment is other than an individual, each individual who has a ten (10) percent or greater interest in the business must sign an application for a permit and/or license as applicant. If a corporation is listed as an owner of the adult business or is an entity which wishes to operate such a business, each individual having a ten (10) percent or greater interest in the corporation, must sign the application for a permit and/or license as applicant. All corporate officers shall also sign the application. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.

#### **Section 18-7: Age Requirements**

An adult entertainment establishment shall neither employ nor permit the admittance/patronage of any person who is under 21 years of age.

#### **Section 18-8: Inspections**

The management of adult entertainment establishments shall permit representatives of the Police Department, Sheriff's Department, Health Department, Building Inspection Department, Zoning Codes Enforcement Department, Fire Department, Planning and Zoning Department, or other municipal, county, or state departments to inspect the premises at any time it is open for business.

#### **Section 18-9: Revocation of Zoning Compliance**

The Board of Commissioners may revoke the conditional use permit thereby suspending the operation of any adult entertainment establishment for the following:

(A) Giving false or misleading information by the permittee at any time in the application process.

- (B) Illegal sale of any controlled substance on the premises.
- (C) Failure to permit inspection by authorized municipal, county, and state agencies or personnel.
- (D) Violation of age restrictions as specified in this Article. It is a violation to reveal specified anatomical areas or perform sexual actions as specified in this Article.
- (E) For the arrest and conviction of any owner or employee for violation of any of the ABC laws or controlled substance laws of the state.

#### **Section 18-10: Exterior Portions of Regulated Establishments**

- (A) It shall be unlawful for an owner or operator of a regulated establishment to allow the merchandise or activities of the regulated establishment to be visible from any point outside such regulated establishment.
- (B) It shall be unlawful for the owner or operator of a regulated establishment to allow the exterior portions of the regulated establishment to have flashing lights, or any words, lettering, photographs, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Article.
- (C) It shall be unlawful for the owner or operator of a regulated establishment to allow exterior portions of the regulated establishment to be painted any color other than a single achromatic color (such as, zero saturation and without hue). This provision shall not apply to any regulated establishment if the following conditions are met:
  - (1) The regulated establishment is a part of a commercial multi-unit center.
  - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the regulated establishment are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

- (D) Nothing in this Article shall be construed to require the painting of an otherwise unpainted exterior portion of a regulated establishment.
- (E) Nothing in this section shall supersede or replace any sign ordinance already in effect within the Town, but shall be in addition thereto.

## Section 18-11: Signage

- (A) It shall be unlawful for the owner or operator of any regulated establishment or any other person to erect, construct, or maintain any sign for the regulated establishment other than one primary sign and one secondary sign, as provided herein.
- (B) Primary signs shall have no more than two display surfaces. Each such display surface shall:
  - (1) Not contain any flashing lights.
  - (2) Be a flat plane, rectangular in shape.
  - (3) Not exceed seventy-five (75) square feet in area.
  - (4) Not exceed ten (10) feet in height or ten (10) feet in length.
- (C) Primary signs shall contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:
  - (1) The name of the regulated establishment, and/or
  - (2) One or more of the following phrases:
    - (a) “Adult Bookstore.”
    - (b) “Adult Movie Theater.”
    - (c) “Adult Cabaret.”
    - (d) “Adult Entertainment.”
    - (e) “Adult Model Studio.”
  - (3) Primary signs for adult movie theaters may contain the additional phrase, “Movie Titles Posted on Premises.”

- (D) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size, and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- (E) Secondary signs shall have only one display surface. Such display surface shall:
  - (1) Be a flat plane, rectangular in shape.
  - (2) Not exceed twenty (20) square feet in area.
  - (3) Not exceed five (5) feet in height and four (4) feet in width.
  - (4) Be affixed or attached to any wall or door of the establishment.
  - (5) These provisions shall supplement the sign requirements established by existing Town ordinances.

#### **Section 18-12: Parking**

Adult entertainment establishments shall be required to provide one on-premise parking space for each one hundred (100) square feet of gross floor area of the structure or one on-premise parking space per every three persons of maximum seating capacity, whichever is greater; plus one space per employee. Maximum seating capacity shall be determined by the County Fire Marshall and/or County Building Inspection Department.

#### **Section 18-13: Hours of Operation**

No adult establishment shall operate before 4:00 p.m. or after 12:00 midnight.

#### **Section 18-14: Business License**

Any person or other entity, prior to operating an adult entertainment establishment, shall apply for a business license for the appropriate category of business of the adult entertainment establishment. The applicant shall pay the fee therefore as set forth in NCGS Chapter 105.

**Section 18-15: Penalty**

- (A) Any person or other entity violating this Article shall be guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned not more than thirty (30) days.
  
- (B) In addition to any other remedies, the Town may apply to General Court of Justice for suitable equitable relief to abate or otherwise enjoin any violation of this Article. Any violation would result in revocation of permit or license.