

CLOVERDALE ORDINANCE NO. 1997- 7

Re: Adult Bookstore/Business Regulation

SECTION ONE PURPOSE

The purpose of this ordinance is to regulate adult bookstores, adult business and similar businesses.

SECTION TWO INTENT

In the development and adoption of this ordinance, it is recognized that there are some businesses, by their very nature and their operational characteristics, that cause concern for the public safety of the residents of Cloverdale, when such businesses are located in close proximity to residential neighborhoods, schools and churches. These businesses have caused a public safety concern and a concern for potential deleterious impact upon property values and the quality of life in such surrounding areas. Special regulations are deemed necessary to control the effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to protect the public safety in general as well as the integrity, value, and character of residential neighborhoods, and to protect minors from the objectionable operational characteristics of these adult uses by restricting their close proximity to churches, parks, schools, day care centers, other businesses of similar nature and residential areas as well as hours of operations.

SECTION THREE DEFINITIONS

1. "ADULT BOOKSTORE" shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or related to "Specified Sexual Activities," or "Specified Anatomical Areas," or establishment with a segment or section devoted to the sale or display of such material.

2. "ADULT BUSINESS" shall mean any commercial activity whether conducted intermittently or free time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other material, distinguished or characterized by an emphasis on matters depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breast or that is designed or marketed for use in conjunction with specified sexual activities. Such businesses shall include while not being exclusive of:

- (a) Adult Book Stores
- (b) Adult Mini Motion Picture Theater
- (c) Adult Motel

- (d) Adult Motion Picture Theater
- (e) Cabaret
- (f) Massage Parlor
- (g) Adult Motion Picture Arcade
- (h) Model Studio

3. "ADULT MINI MOTION PICTURE THEATER" shall mean an enclosed building with a capacity of fifty (50) persons or less used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," for observation of patrons therein.

4. "ADULT MOTEL" shall mean a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

5. "ADULT MOTION PICTURE ARCADE" shall mean any place to which the public is admitted or invited wherein coin or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."

6. "ADULT MOTION PICTURE THEATER" shall mean an enclosed building with a capacity of fifty one (51) or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or relating to "Specified Anatomical Areas," for observation by patrons therein.

7. "CABARET" shall mean a nightclub, theater, or other establishment which is licensed to serve food and/or alcoholic beverages which feature live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."

8. "MASSAGE PARLOR" shall mean any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations electric or magnetic treatments, or by any other treatment or manipulation of the human body occurs as part or in connection with "Sexual Conduct," or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."

9. "MODEL STUDIO" shall mean any place where, for any form of consideration or gratuity, figure models who display "Specified Anatomical Areas" are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.

10. "SEXUAL CONDUCT" includes the following:
 - (a) The fondling or other touching of human genitals, pubic region, buttocks, or female breasts;
 - (b) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation; sodomy;
 - (c) masturbation; and
 - (d) excretory functions as part of or in connection with any of the activities set forth in a through c above.

11. "SPECIFIED ANATOMICAL AREAS" includes the following:
 - (a) Less than completely and opaquely covered:
 - (i) human genital, pubic region
 - (ii) buttocks
 - (iii) female breast below a point immediately above the top of the areola; and
 - (b) Human genitals in a decernibly turgid state, even if completely and opaquely covered.

SECTION FOUR PROHIBITIONS

The establishment, enlargement, reconstruction, resumption, or structural alteration of any adult business shall be prohibited if such business is within:

- (a) one thousand (1000) feet of any church, public or private elementary or secondary school, private or public preschool or daycare center, or public park, or another business of this nature.
- (b) five hundred (500) feet of any residential zoning district, mobile home park district.
- (c) Provided further that no adult business shall be established, enlarged, reconstructed, resumed, or structurally altered unless the site or proposed site is located in a B-2 zoning district, with a special exception.

Said adult business shall be specifically excluded from all other zoning districts.

SECTION FIVE MEASUREMENT OF DISTANCES

The Distance between an adult business and any church, school, park, daycare center, residential zoning district, mobile home park district or other adult business shall be measured in a straight line, without regard to intervening structures or objects, from the closest property line of the adult business to the nearest property line of the church, daycare center, school park, residential zoning district or other adult business. If any adult business is part of or included within an integrated center, the portion of said center or leased space occupied by such adult business shall be included in determining the closes property line of said establishment.

SECTION SIX
EXTERIOR DISPLAY

No adult business shall be conducted in a manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decorations, signs, show window or other opening from any public walk way, street or alley.

SECTION SEVEN
SEVERABILITY

If any provision or clause of the ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court or competent jurisdiction, such decision shall not effect other ordinance provisions or clauses or applications thereof which can be implemented without the unconstitutional or invalid provision, clause or application, and to this end, the provisions and clauses of this ordinance are declared to be severable.

SECTION EIGHT
TIME OF OPERATION

The time of operation of adult business shall not be longer than 8:00 a.m. - 9:00 p.m., Monday through Saturday and 12:00 p.m. on Sunday.

SECTION NINE
AGE OF PATRONS

All customers, patrons or persons entering the establishment must be at least eighteen years of age to enter.

SECTION TEN
EMPLOYEES

No employee may be a convicted felon. The establishment must keep, on the premises, a criminal history check of all employees, which may be reviewed by the Town Police Department.

SECTION ELEVEN
ENFORCEMENT

This ordinance shall be enforced as other zoning ordinances of the Town of Cloverdale, Indiana.

SECTION TWELVE

EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and adoption by the Plan Commission and approval by the Town Council of the Town of Cloverdale, Indiana.

So recommended by the Planning Commission this 7th day of August, 1997.

CLOVERDALE PLAN COMMISSION

Daniel M. Johnson
President

Attest:

Sandy Langston
Secretary

So passed and adopted by the Town Council of the Town of Cloverdale, Indiana, this 19th day of August, 1997.

CLOVERDALE TOWN COUNCIL

June Peeper
President

Lonnie Brumfield

Alan McClannahan

Don Johnson

Attest:

Patricia May
Clerk-Treasurer