

ORDINANCE
2004-08

AN ORDINANCE ADOPTING, PROMULGATING, AND ESTABLISHING RULES AND REGULATIONS TO DEFINE ADULT ENTERTAINMENT ESTABLISHMENT; LIMIT THE DISTANCE OF LOCATION OF ADULT ENTERTAINMENT ESTABLISHMENTS FROM WITHIN 750 FEET OF DAYCARE CENTERS, PARKS, CHURCHES, PUBLIC BUILDINGS, AND SCHOOLS; LIMIT THE ESTABLISHMENT OF ADULT ENTERTAINMENT ESTABLISHMENTS ON CERTAIN MAJOR ROADS WITHIN THE COUNTY;

WHEREAS, the Board of County Commissioners finds that the safety, health, and welfare of the citizens of, and visitors to, Walton County would be best protected by the regulation of the location of adult entertainment establishments;

WHEREAS, The Board of County Commissioners finds that adult entertainment establishments lead to increased criminal activity as based upon studies conducted by other communities;

WHEREAS, The Board of County Commissioners finds that adult entertainment establishments may lead to a decrease in property values;

WHEREAS, The Board of County Commissioners has established goals for guiding development in accordance with existing and future needs of the county in order to protect, promote, and improve the public health, safety and welfare;

WHEREAS, Secondary effects have been documented in other communities such as Detroit, Indianapolis, St. Paul, and New York City and have been documented in a report prepared by the Department of Legal Services;

WHEREAS, the report prepared by Legal Services outlines the need for regulations governing the location of adult entertainment establishments based upon specific characteristics of the county;

WHEREAS, there is convincing evidence that adult entertainment establishments have a deleterious effect on both existing businesses around them and the surrounding residential areas, causing increased crime and the downgrading of property values; and

WHEREAS, the Board of County Commissioners desires to control the adverse effects brought on by adult entertainment establishments and thereby protect the health, safety, and welfare of

the citizenry, protect the citizens from increased crime, preserve the family-oriented quality of life; and preserve the property values and unique natural environment which characterizes Walton County;

NOW, THEREFORE BE IT ORDAINED by the Board of County Commissioners to adopt the following:

Section 1. Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Adult arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically-controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five(5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of sexually oriented material, as defined herein.

Adult bookstore or video store means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.

An establishment will not be considered an adult bookstore if the establishment demonstrates either:

1. The sexually oriented material is accessible only by employees and the gross income from the sale or rental of sexually oriented material comprises less than forty percent (40%) of the gross income from the sale or rental of goods or services at the establishment, or
2. The individual items of sexually oriented material offered for sale or rental comprise less than ten percent (10%) of the inventory of stock in trade publicly displaced in the establishment.

Adult Cabaret means a nightclub, bar, club, restaurant, or similar commercial establishment which features:

1. Service to patrons by persons in a state of nudity or semi-nudity; or
2. Live performances, including nude and semi-nude dancing, which are characterized

by the exposure of “specified anatomical areas”, as defined herein, and which lack serious literary, artistic, political, or scientific value; or

3. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized as sexually oriented material.

Adult entertainment establishment means any one of the following: adult arcade, adult bookstore or video store, adult motel, adult theater, adult cabaret, unlicensed massage establishment, or any other such businesses that is characterized by the distribution of sexually oriented material.

Adult Motel means a hotel, motel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassette, slide or other photographic reproductions which are characterized as sexually oriented material as defined here in and advertises the availability of this sexually-oriented material by means of a sign visible from the public right-of-way;
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or;
3. Knowingly allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult theater means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on sexually oriented materials.

Establish means any of the following:

1. The opening or commencement of any sexually oriented business as a new business; or
2. The conversion of an existing business, whether or not a sexually oriented business; or;
3. The additions of any sexually oriented business to any other existing sexually oriented business; or
4. the relocation of any sexually oriented business.

Sexually oriented material means any book, article, magazine, publication, or written

matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Unlicensed massage establishment means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include an establishment licensed under s. 480.43 which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.

Section 2. Authority; purpose and intent.

This ordinance is adopted pursuant to Section 125.01 Florida Statutes.

Section 3. Adult entertainment establishments shall be subject to the following locational restrictions:

1. An adult entertainment establishment shall not be operated within 1320 feet of:
 - a. A church
 - b. A public park or public building, or
 - c. A daycare center, daycare educational center, public or private elementary or secondary school; or
 - d. The property line of a lot devoted to residential use.
2. No adult entertainment establishment shall be operated, established, substantially enlarged or transferred in ownership control if within 750 feet of another adult entertainment establishment.
3. No adult entertainment establishment shall be approved or established with said use having frontage, a vehicle entrance to the parking off the roadway, an entrance to the building facing the roadway, or a property line boundary located adjacent to the roadway or being within 300 feet of any one of the following roads:

U.S. Highways 98, 90 and 331, State Highways 20,81,83, 187, 285 and County Roads -

30A, 393, 83,283, 395,2, 2A, 1087, and 83A (Bay Loop Road), Chat Holley, 457 (Mack Bayou Road), Holiday Road, Scenic Gulf Drive (Old Highway 98).

4. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, and from the nearest portion of the building or structure used as a part of the premises where adult entertainment establishment is conducted, to the nearest property line of the premises of a church, public building, daycare center, daycare educational center or public or private elementary or secondary school, or to the nearest boundary of an affected public park or residential lot.
5. For the purposes of this section, the distance between any two adult entertainment establishment shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each establishment is located.

Section 4. Severability

Should any word, phrase, sentence, or section of this ordinance be held by a court of competent jurisdiction to be illegal, void, unenforceable, or unconstitutional, then such shall be severed from this ordinance and the remainder of the ordinance shall remain in full force and effect.

Section 5. Effective Date

This ordinance shall take effect as provided by law.

Duly enacted, by the Board of County Commissioners of Walton County, Florida, at a regular meeting, on the 2nd day of March, 2004.

BOARD OF COUNTY COMMISSIONERS

WALTON COUNTY, FLORIDA

Attest:



Martha Ingle

Clerk of Court.

By:



Larry D. Jones, Chair