

Zoning Regulations Amendment 20-0977
Amendment to the Adult Oriented Establishments Section 622.4 and Related Defined Terms
Section 830
Adopted by the Planning and Zoning Commission September 8, 2020
Effective Date: September 16, 2020

Section 622 Adult-Oriented Establishments

Section 622.4 Relevant Definitions

622.4 Relevant Definitions

For the purpose of this regulations, the following will define and explain certain words use. Where a question arises to the precise meaning of the word, the Planning and Zoning Commission shall determine the meaning of the world, giving due consideration to the expressed purpose and intent of this regulation. Other words use in these Regulations shall have the meaning commonly attributed to them.

In addition to the terms in Article VII, the following definitions pertain specifically to Section 622:

Adult-Oriented Entertainment shall include, whether as a primary use or an accessory use, without limitation, adult bookstore, adult cabaret, adult media outlet, adult motion-picture theater, adult mini-motion-picture theater, adult news racks, adult novelty, adult personal service, adult retail establishment, and adult video arcade, and further means any premises to which the public, patrons or members are invited or admitted, and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls, separate from the common areas of the premises, for the purpose of viewing adult-oriented motion pictures, or any premises wherein any entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect, and from which minors are excluded by virtue of age. An “Adult-Oriented Establishment” further includes, without limitation, premises that are so physically arranged as above and are used such as whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, juice bar or any other term of like import.

Adult Media Outlet shall mean a business, whether as a primary use or accessory use, engage I the barter, rental or sale of items consisting of books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is open to the public, patrons or members, or if a substantial or significant portion of such items are distinguished or characterized by ab emphasis on the depiction or description of “Specified Sexual Activities” or “Specified Anatomical Areas,” (See below for definitions) and which excludes minors by virtue of age.

Adult Bookstore shall mean an establishment that has as a principal activity, whether as a primary use or accessory use, the sale or barter of books, magazines, newspapers or other printed material,

videotapes, video discs and motion-picture films or tapes, pictures, slides, audiotapes, videotapes on compact discs that are characterized by their emphasis on portrayals of human genitals and pubic areas or acts of human masturbation, sexual intercourse or sodomy, which establishment excludes minors by virtue of age.

Adult Mini-Motion-Picture Theater shall mean an enclosed building, or portion of said building, with a capacity of 50 or fewer persons, having a principal activity, whether as a primary use or accessory use, the presenting of material characterized by emphasis on portrayals human genitals and pubic regions or actions of human masturbations, sexual intercourse, or sodomy for observation by patrons therein in individual viewing booths, and from which minors are excluded by virtue of age.

Adult Cabaret shall mean an establishment licensed to serve food and/or alcoholic beverages, which features nude and/or partially nude dancers, go-go dancers, exotic dancers, strippers or similar entertainers, and from which minors are excluded by virtue of age.

Adult Novelty Business shall mean a business, whether as a primary use or accessory use, which has as the principal activity the sale of devices or stimulated human genitals designed for sexual stimulation and from which minors are excluded by virtue of age.

Adult Personal Service Business shall mean a business, whether as a primary use as accessory use having as a principal activity a person, while a nude, partially nude, or fully clothes, providing personal services for a person of the same or other sex, on an individual basis in an open or closed rooms, and which excludes minors by virtue of age. It includes, but it is not limited to the following activities: exotic rubs. It does not include activities performed by persons pursuant to, and in accordance with licenses issued to such persons by the State of Connecticut.

Adult Video shall mean any place to which the public is permitted or invited wherein coin 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting, describing or relating to "Specific Sexual Activities" or "Specified Anatomical Areas," and whereby excludes minors by virtue of age.

Adult Entertainment shall mean any exhibition of adult-oriented motion picture, live performance, displace or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of "Specified Sexual Activities" or exhibition and viewing of "Specified Anatomical Areas," removal of articles of clothing or appearing unclothed, pantomime, modeling, or other personal services offered customers, and from which minors are excluded by virtue of age.

Partially Nude shall mean having any or all of the following bodily parts exposed: buttocks, genitals, pubic area, or female breasts

Primary Use shall mean a use accounting for more than 25% of a business stock in-trade display space, or floor space, or movie-display time per month.

Secondary Use shall mean a use accounting for less than 25% of a business stock in-trade display space, or floor space, or movie-display time per month.

Employee shall mean any and all persons, including independent contractors, who work in or at, or render services directly related to the operation of, an adult-oriented establishment.

Minor shall be deemed to refer to a person under the age of 18 years.

Operator shall mean any person, proprietor, shareholder, general partner or limited partner who holds 20% or more of the shares or partnership interest in any business operating, conducting or maintaining an “Adult-Oriented Establishment.”

Specified Sexual Activities shall mean:

Human Genitals in a state of sexual stimulation or arousal;

Acts of human masturbation, sexual intercourse, or sodomy; and

Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Specified Anatomical Areas Shall mean:

Less than completely and opaquely covered:

Human Genitals, pubic region;

Buttocks;

Female breasts below the point immediately above the top of the areola; and

Human male genitals in a discernible turgid state, even if completely opaquely covered.

Sexual Activities as used in this Regulation is not intended to include any medical publications or films or bona fide educational publications or films, nor does it include any art or photography publications that denote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography, nor does this definition apply to any news periodical that reports or describes current events and that, from time to time, publishes or shows photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

Obscene Material or Performance is obscene to minors if it depicts a prohibited sexual act and, taken as a whole, it is harmful to minors. For purpose of this “harmful to minors” means:

That quality of any description or representation, in whatever form, of a prohibited sexual act, when it predominately appeals to the prurient, shameful or morbid interest of minors;

It is patently offensive prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

Taken as a whole; it lacks serious literary, artistic, educational, political or scientific value for minors.

Prohibited Sexual Act means erotic fondling, nude performance, sexual excitement, sadomasochistic abuse, masturbation or sexual intercourse.

Child Pornography means any material involving a live performance or photographic or other visual reproduction of a live performance that depicts a minor in a “prohibited sexual act”.

Regulated Uses

Regulated adult-oriented establishments include, but are not limited to the following:

- a. Adult Bookstore
- b. Adult Cabaret
- c. Adult Entertainment
- d. Adult Media Outlet
- e. Adult Mini-Motion-Picture Theater
- f. Adult Motion-Picture Theater
- g. Adult News wrack
- h. Adult Novelty
- i. Adult Personal Service
- j. Adult Retail Establishment
- k. Adult Video Arcade
- l. Business a/k/a:
 - i. Encounter Studio
 - ii. Exotic Dance Studio
 - iii. Juice Bar
 - iv. Or any other term of like impact

Permitted

Adult-oriented establishments, whether as a primary use or an accessory use, as that term is defined in Section 622 and further define in the Hamden Town Ordinances, which definition may be amended from time to time, shall be permitted in the Manufacturing (M-) Zone, subject to Special Permit and Site Plan One-Year Approval, to be renewed annually. Adult-oriented establishments shall be restricted to one use per building. The following restrictions in addition to conditions set forth in **Section 718** shall apply:

- A. Such establishments shall be a minimum of 100 feet from public, parochial or private schools, daycare centers, public parks, (including the Farmington Canal Greenway), playgrounds, recreational lands, or other areas where numbers of minors regularly travel or congregate in any zone, municipal boundary lines, residentially zoned property or libraries and 1,000 feet from other adult-oriented establishments.
- B. For the purposes of this section, distances shall be measured in a straight line, without regard to intervening structures, from the nearest portion of the building containing or proposing to contain an adult-oriented use, to the nearest boundary of the use herein specified.
- C. Nor shall any establishment be located within 100 feet of the property line of any church, convent, monastery, synagogue, mosque or similar place of worship or cemetery.

- D. Pursuant to Section 718, such establishments shall be subject to Special Permit and Site Plan approval by the Planning and Zoning Commission, for a limited period of time, not exceed one year with annual renewal required. The following site specific criteria shall apply:
- I. All exterior signs shall comply with Section 550 and no exterior sign shall contain any photographic or artistic representation of specified anatomical areas as defined in the Hamden Town Ordinance.
 - II. All building openings, entries, windows, doors shall be located covered or screen in such a manner as to prevent view into the interior of the building from any public right-of-way or adjacent properties.
 - III. No adult-oriented use shall be established in any building of which any part is used for residential purposes.
 - IV. No residential use shall be established in any building of which any part is used as an adult-oriented establishment.
 - V. Stairways, sloping or rising paths and building entrances and exits shall be well illuminated. No spotlight type fixtures attached to the building are permitted.

Adequate site lighting shall be provided to ensure the safe movement of persons and vehicles and for security purposes.

Exemptions

The provisions of this Section shall not apply to nor shall they prohibit the following uses and activities performed by persons pursuant to, and in accordance with, licenses issues to such persons by the State of Connecticut.

- a. Treatment by a licensed chiropractor, a licensed osteopath, a Connecticut-licensed masseur or masseuse, a licensed practical nurse or a registered professional nurse;*
- b. Electrolysis treatment by a licenses operator of electrolysis equipment;*
- c. Hospitals, nursing homes, medical clinics or medical offices;*
- d. Barbershops or beauty parlors that offer massage to the scalp, face, neck or shoulders only;*
- e. Athletic facilities of educational institution, including alumni club, or of a philanthropic or charitable institution; and*
- f. Health establishments, including commercial and non-commercial clubs that are equipped and arranged to provide instruction, services or activities that improve or affect a person's physical condition by physical exercise or by massage. Physical exercise programs include aerobics, martial arts, boxing, and/or the use of exercise equipment.*

Variances

Adult-oriented establishments shall not be permitted by variance in any zone.

Required Registration

All adult-oriented establishments shall be registered with the Zoning Enforcement Officer at the time of Special Permit application. Any unlawful preexisting adult-oriented establishment, whether as a

primary use or an accessory use, in operation prior to the effective date of this regulation (Section 622 inclusive) shall be registered within 30 days of the effective date of said regulations.

It shall be the responsibility of the owner or agent responsible for the management or control of a building that contains an adult-oriented establishment to furnish and maintain the registration with the Zoning Enforcement Officer, which shall include the following information:

- a. The correct street address of the premises;
- b. The name of the owner of the premises, or the names of the beneficial owners if the property is in a land trust, or the names of the owners interested in a corporation or limited-liability corporation;
- c. The address and phone numbers of the owners or beneficial owners or owners in interest;
- d. The trade name of the regulated adult-oriented establishment;
- e. The name(s), address(es) and telephone number(s) of the owner(s), beneficial owner(s) or the major stockholders or limited-liability partners of the regulated adult-oriented establishment;
- f. The date of the initiation of the regulated adult-oriented establishment;
- g. The issuance date of the license to operate an adult oriented establishment issued by the Hamden Police Chief or his/her designee; and
- h. If the building is leased, a copy of the lease shall be furnished.

It shall be unlawful for the owner or person in control of any property to establish or operate thereon, or to permit any person to establish or operate, an adult-oriented establishment without first having properly registered and received certification or approved registration and having received Planning and Zoning approval and a license to operate from the Chief of Police or his/her designee.

The owner, operator, manager or agent of a registered adult-oriented establishment shall display a copy of the Certification of Registration, approved by the Planning and Zoning Commission and certified by the Zoning Enforcement Officer, in a conspicuous place on the premises.

Required Renewals

The Planning and Zoning Commission requires the renewal of Special Permits for adult-oriented establishments in January of each calendar year, which shall conform to the following standards:

- a. The renewal process shall consist of a Special Permit Renewal Application pursuant to Section 718 and shall be submitted prior to the expiration date.
- b. Purchasers of buildings or structures that have had Special Permit approval for adult-oriented uses who want to continue a Special Permit that has not expired shall obtain a Zoning Permit and demonstrate that all conditions prerequisite to obtaining the relevant permit have been met prior to the continued operation of the adult-oriented use.
- c. Any such renewal shall be referred to the Planning and Zoning Commission for consideration. The Planning and Zoning Commission, at its sole discretion, may require a new application and a demonstration of compliance with all conditions necessary for a Special Permit prior to the continued operation of the adult-oriented uses.

Violations

It shall be a violation to establish or operate a regulated adult-oriented establishment, whether as a primary use or an accessory use without:

- a. Obtaining and maintaining a Special Permit from the Planning and Zoning Commission for the operation;
- b. Obtaining and maintaining a license to operate such establishment from the Chief of Police or his/her designee; and
- c. Obtaining and maintaining proper registration of such establishment from the Zoning Enforcement Officer.

Any person, partnership or corporation that is found to have violated this regulation (Section 622) shall be fined a definite sum not to exceed \$100 for each violation.

Each violation of this regulation (Section 622) shall be considered a separate offense and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.

Section 830 Defined Terms

Service Establishment, Personal and Business: Establishments providing services for home or business, as well as services of a personal nature such as accounting, house cleaning, tattoo parlors, nail and hair salons.