

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2015-001 Adult-Oriented Businesses

Description: Consider an amendment to Title 25 of the City Code related to location requirements and zoning regulations for adult-oriented businesses.

Proposed Language: See attached draft language.

Summary of proposed code changes:

- Makes all adult-oriented business conditional in the CBD and DMU zoning districts.
- Prohibits adult-oriented businesses from being located within 1000 feet of a public library or museum.

Background: Initiated by Council Resolution 20150226-038.

Council Resolution 20150226-038 initiated a code amendment related to adult-oriented businesses, stating that “Austin’s Downtown is a thriving hub of cultural and economic activity as well as being the center of state government and a growing residential area,” and “museums and libraries are other sites often frequented by children but do not trigger prohibitions for proposed adult-oriented businesses.” The resolution further stated that “making adult-oriented businesses conditional rather than permitted uses in the CBD and DMU zoning categories will allow for more public participation and more thoughtful consideration of how a proposed adult-oriented business use relates to the visions outlined in the Downtown Austin Plan, Imagine Austin, and other Council-adopted plans.”

Staff Recommendation: Staff recommends the proposed code amendment.

Board and Commission Actions

March 17, 2015: Recommended by the Codes and Ordinances Subcommittee on a 3-0 vote (Commissioners Chimenti and Zaragoza absent), with additional direction to staff to look at changing floor area percentage requirements for certain AOBs.

March 18, 2015: To be reviewed by the Downtown Commission.

March 24, 2015: To be reviewed by the Planning Commission.

Council Action

April 23, 2015: A public hearing has been set.

Ordinance Number: NA

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CURRENT CODE w/ draft changes

§ 25-2-801 - ADULT-ORIENTED BUSINESSES.

(A) In this title:

- (1) **ADULT ARCADE** means a movie arcade, game arcade, or other business that primarily offers still or motion pictures or games that emphasize specified sexual activities or specified anatomical areas.
 - (2) **ADULT BOOKSTORE** means a business:
 - (a) that primarily offers books, magazines, films or videotapes, periodicals, or other printed or pictorial materials that emphasize specified sexual activities or specified anatomical areas; and
 - (b) in which at least 35 percent of the gross floor area is devoted to offering merchandise described in Subsection (A)(2)(a).
 - (3) **ADULT CABARET** means a business that primarily offers live entertainment that emphasizes specified sexual activities or specified anatomical areas.
 - (4) **ADULT LOUNGE** means an adult cabaret that serves alcoholic beverages.
 - (5) **ADULT NOVELTY SHOP** means a business that primarily sells products that emphasize specified sexual activities or specified anatomical areas, and in which at least 35 percent of the gross floor area is devoted to the sale of those products.
 - (6) **ADULT-ORIENTED BUSINESS** means an adult arcade, adult bookstore, adult cabaret, adult lounge, adult novelty shop, adult service business, or adult theater.
 - (7) **ADULT SERVICE BUSINESS** means an adult encounter parlor, adult retreat, nude modeling studio, or a commercial enterprise that holds itself out to be primarily in the business of offering a service that is distinguished or characterized by an emphasis on depicting, describing, or relating to specified sexual activities or specified anatomical areas.
 - (8) **ADULT THEATER** means a business that primarily exhibits motion pictures that emphasize specified sexual activities or specified anatomical areas.
 - (9) **SPECIFIED SEXUAL ACTIVITIES** means:
 - (a) human genitals in a state of sexual stimulation or arousal;
 - (b) acts of human masturbation, sexual intercourse, or sodomy; or
 - (c) erotic touching of human genitals, the pubic region, the buttock, or the female breast.
 - (10) **SPECIFIED ANATOMICAL AREAS** means:
 - (a) less than completely and opaquely covered:
 - (i) human genitals or pubic region;
 - (ii) buttock; or
 - (iii) female breast below a point immediately above the top of the areola; or
 - (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (B) On-premises advertisements, displays, or other promotional materials for an adult-oriented business that emphasize specified sexual activities or specified anatomical areas must not be visible from public or semi-public places outside the business.**
- (C) Except as provided in Subsection (E), an adult-oriented business other than an adult lounge is a permitted use in a **GDD, DMU, CS, CS-1, or CH** zoning district and a conditional use in a CBD or DMU zoning district.**

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- (D) Except as provided in Subsection (E), an adult lounge is a permitted use in a CBD zoning district, and a conditional use in a **CBD**, DMU, CS-1, or CH zoning district.
- (E) An adult-oriented business may not be located on a lot:
 - (1) that is within 1,000 feet of a lot on which another adult-oriented business is located;
 - (2) that is within 1,000 feet of a lot on which a school, church, public park or playground, museum, public library, or licensed day-care center is located; or
 - (3) where 50 percent or more of the lots within a 1,000 foot radius are zoned or used for a residential use.
- (F) A radius or distance described in Subsection (E) is measured from the midpoint of a line joining the two most distant points on the boundaries of the lot.

Source: Section 13-2-265; Ord. 990225-70; Ord. 031211-11.

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RESOLUTION NO. 20150226-038

WHEREAS, Austin's Downtown is a thriving hub of cultural and economic activity as well as being the center of state government and a growing residential area; and

WHEREAS, many properties within the Downtown core have Central Business District ("CBD") or Downtown Mixed Use ("DMU") zoning; and

WHEREAS, unlike many other zoning categories, CBD allows all adult-oriented businesses as permitted uses and DMU allows adult-oriented businesses, except for adult lounges, as permitted uses; and

WHEREAS, the Land Development Code makes an adult lounge a conditional use in DMU zoning, which triggers a review by the Planning or Zoning and Platting Commission; and

WHEREAS, the Land Development Code prohibits adult-oriented businesses from opening within close proximity to schools, churches, parks and playgrounds, or licensed day-care facilities; and

WHEREAS, museums and libraries are other sites often frequented by children but do not trigger prohibitions for proposed adult-oriented businesses; and

WHEREAS, making adult-oriented businesses conditional rather than permitted uses in the CBD and DMU zoning categories will allow for more public participation and more thoughtful consideration of how a proposed adult-oriented business use relates to the visions outlined in the Downtown Austin Plan, Imagine Austin, and other Council-adopted plans; **NOW, THEREFORE,**

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates amendments to Title 25 of the City Code and directs the City Manager to process an ordinance that makes all adult-oriented businesses a conditional use in the CBD and DMU zoning categories.

BE IT FURTHER RESOLVED:

The City Manager is directed to consider including in the proposed ordinance a prohibition against locating adult-oriented businesses on lots within 1,000 feet of a museum or library.

BE IT FURTHER RESOLVED:

The City Manager is further directed that the Planning Commission's recommendation should be presented to the Council Planning and Neighborhoods Committee or the full City Council no later than April 23, 2015.

ADOPTED: February 26, 2015

ATTEST: *J. Goodall* For
Jannette S. Goodall
City Clerk