

CITY OF SPRINGFIELD, FLORIDA

ORDINANCE 419

AN ORDINANCE REGULATING , HUMAN BODY TATTOOING, TATTOO SALONS, HUMAN BODY PIERCING, BODY PIERCING SALONS, ADULT THEATERS, MASSAGE ESTABLISHMENTS, SEXUALLY EXPLICIT MATERIALS AND THE ESTABLISHMENTS DEALING IN SUCH ITEMS OR ACTIVITIES.

WHEREAS, the City Commissioners of the City of Springfield, Florida, after due consideration and deliberation, has determined the need for an ordinance regulating the sale of sexually explicit materials, human body tattooing and piercing and the establishments which handle, sale or display sexually explicit materials or engage in human body tattooing or piercing within the City;

WHEREAS, The City Commission of the City of Springfield reserves the right to make modifications to this ordinance, as determined to be in the best interest of the City;

WHEREAS, The City Commission finds that it is in the interests of health, safety and welfare of both visitors and the residents of the City of Springfield to enact such regulations;

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF SPRINGFIELD, IN THE COUNTY OF BAY, FLORIDA:

SECTION 1, DEFINITIONS - As used in this ordinance:

ADULT THEATER shall be an establishment devoting any space used for presenting either filmed, or other video media or live plays, dances or other performances by individuals or groups distinguished or characterized by an emphasis on material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section for observation by patrons therein or for the production or creation of any such film or video mater for public distribution or sale.

BODY PIERCING shall mean for commercial purposes the act of penetrating the skin to make, generally permanent in nature, a hole mark or scar. "Body piercing" does not include the use of mechanized, presterilized ear piercing system that penetrates the outer perimeter or lobe of the ear or both.

BODY PIERCING SALON shall mean any place where body piercing occurs or any establishment which engages in the act of piercing, puncturing or cutting the skin of any human body for the purpose of inserting or implanting any foreign materials including jewelry, decorations or other materials whether artistic or not. This will not include piercing of the outer perimeter of the ear or lobe.

CHURCH shall mean any church, temple, synagogue or other structure used on a permanent basis primarily for public worship.

ESTABLISHMENT DEALING IN SEXUALLY EXPLICIT MATERIALS shall be any establishment whether open to the public at large or where entrance is restricted by membership or other requirements having as a substantial or significant portion of its stock in trade, books, magazines, films, video, newspapers, photographs, paintings, drawings, or other publications, or graphic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section, or an establishment with a section devoted to the sale or display of such materials.

MESSAGE ESTABLISHMENT shall mean any commercial establishment or place of business offering or practicing the manipulation of the superficial tissues of the human body with the hand, foot, arm or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation; provided, however, that for the purpose of this subdivision, the term "message establishment" shall not include any massage establishment wherein at least one (1) State of Florida-licensed message therapist is employed and on duty full time during the hours open for business. Nothing in this definition shall be construed to apply to licensed barbers, cosmetologists, manicurists, pedicurists, physical therapists, midwives, nurses, or agents, servants or employees of a licensed hospital, nursing home or other licensed healthcare entity, licensed physicians, osteopaths, chiropractors podiatrists, naturopathic physicians or other licensed medical practitioners, or agents, servants or employees of such licensed medical practitioners acting in course of such agency, service or employment and under the supervision of the licensee; provided in all cases that such license is issued by the State of Florida and is in good standing.

SPECIFIED ANATOMICAL AREAS shall mean:

- a. Less than completely and opaquely covered - human genitals or pubic region, buttock, female breast below a point immediately above the top of the areola;
- b. Human male genitals in a discernable turgid state, even if completely or opaquely covered.

SPECIAL SEXUAL ACTIVITIES shall mean:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy, whether actual or simulated.;
- c. Fondling or other touching of human genitals, pubic region, buttock or breast.
- d. Sadism or masochism.

SPECIAL CABARETS OR ADULT CLUB shall be any establishment whether food or beverages, alcoholic or non-alcoholic, are served or allowed or not which feature topless dancers, go-go dancers, exotic dancer, strippers, male or female impersonators or similar entertainers, live entertainment including the exhibition of any portion of the entertainer's buttocks or simulation thereof, or, if female, any portion of the entertainer's breast below the top of the areola or simulation thereof or dancing with employees or independent contractors in exchange for compensation or any such establishment which advertises by any method or media as featuring such with such words as "adult", "topless", "nude" or other words of similar import.

PUBLIC RECREATIONAL AREA OR PARK shall mean and include any publicly owned facility.

TATTOO shall mean a permanent design or mark made on the skin by pricking it and ingraining in it an indelible pigment or by raising scars on it.

TATTOO SALON shall mean any place where tattooing occurs. This will not include any medical facility where a medical physician and/or a registered nurse is on hand full time.

SECTION II - RESTRICTIONS

FLORIDA STATE STATUTE 877.04 - It is unlawful for any person to tattoo the body of any human being, except that tattooing may be performed by a person licensed to practice medicine or dentistry or by a person under his general supervision as defined by the board of medicine.

DISTANCE LIMITATIONS

No establishment dealing in sexually explicit materials, adult theater, special cabaret, body piercing salon, tattoo salon, massage establishment or adult theater shall be located in the City of Springfield and no person dealing in or performing such activities shall do so within 2000 feet of any residential area, church, public or private school or any public recreational area or park.

No establishment which is the subject of this ordinance shall be located nearer than one thousand (1000) feet radial spacing to any other establishment which is the subject of this ordinance or within one thousand (1000) feet of the right-of-way of any tourism corridor named in this ordinance.

No establishment which is the subject of this ordinance shall be located within two hundred (200) feet of the rights-of-way of the following corridors of the City of Springfield;

15th Street
Tyndall Parkway
Tram Road
11th Street

7th Street
3rd St
State Road 22
Cherry Street
Everitt Avenue
School Avenue
Transmitter Road
Bob Little Road (State Road 22A)

SIGN AND APPEARANCE REQUIREMENTS

All establishments that are the subject of this ordinance shall comply with the following on-premises sign and appearance requirements:

1. All signs shall be flat wall signs
2. The amount of allowable sign area shall be on (1) square foot of sign area per linear foot of frontage of that premises, to a maximum of twenty-five (25) square feet.
3. No merchandise or pictures of adult oriented products, materials or entertainment on the premises shall be displayed in the building glass areas or any area viewable from the exterior of the building.
4. Window signs are prohibited for any adult oriented products, materials or entertainment. A single one (1) square foot sign shall be placed on the door to state the hours of operation and "Admittance to adults only". A single three (3) foot square sign stating "Open" or "Closed" may be placed in a window or glass area.
5. Exterior free standing signs are prohibited.

APPLICATION TO NEW CHURCHES AND RESIDENTIAL SUBDIVISIONS

Where establishments which are the subject of this ordinance may be in conformity with this subsection, the subsequent locating of a church within 2000 feet radial spacing of such establishment shall not be construed to cause such establishment to be in violation of this subsection.

APPLICATION TO NEW SCHOOLS AND PUBLIC RECREATIONAL AREAS AND PARKS

Where establishments which are the subject of this ordinance may be in conformity with this subsection, the subsequent locating of a public school, recreational area or park shall cause the establishment to be in a nonconforming use. Such subsequent nonconforming use shall be allowed to continue for one (1) year from the date of the opening of the public school, recreational area or park whereupon the establishment must be relocated into conforming use or closed.

SUBSECTION NOT INDEPENDENTLY AUTHORIZING USE

Nothing in this subdivision shall be construed to permit the establishment of any adult theater, special cabaret, adult club, message establishment, tattoo salon, body piercing salon or establishment dealing in sexually explicit materials not otherwise permitted by any other applicable code or ordinance.

SECTION III - SEVERABILITY


If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION IV - EFFECTIVE DATE

This ordinance shall become effective upon passage.

PASSED AND ADOPTED by the City Commission, in Regular Session, in Springfield, Bay County, Florida, on this 3rd day of September, 2002.

CITY OF SPRINGFIELD



Robert E. Walker, Mayor

ATTEST:



Rhonda J. Taylor, City Clerk

First Reading: August 5, 2002
Second Reading: September 3, 2002
Date Published: August 9, 2002