

Chapter 35
Town of Skowhegan

Ordinance for Adult Entertainment Businesses

SECTION I Authority and Applicability

This ordinance is adopted pursuant to the enabling provisions of Article VIII, part 2, Section 1 of the Maine Constitution; the provisions of the Municipal Home Rule Authority (30-A MRSA Section 3001 et seq.) Persons or entities wishing to establish a sexually oriented business within the Town of Skowhegan shall first obtain a permit from the town and shall be subject to the provisions of this ordinance.

SECTION II Purpose

It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

SECTION III Definitions

Person:

(a) A person, firm, partnership, corporation, association, or legal representative, acting individually or jointly.

Specific Anatomical Area:

(a) Less than completely covered human genitals, pubic regions, buttock, and female breasts below a point immediately above the top of the areola, and the human male genitals in a discernible turgid state.

Specific Sexual Activity:

a) Human male genitals in a state of sexual stimulation or arousal;

(b) Ultimate sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation or sodomy;

(c) Fondling or other erotic touching of human or animal genitals, pubic regions, buttocks or female breasts.

Adult Entertainment Business:

(a) Adult Book Store is a person, establishment or business having more than a minimal portion of its stock in trade, such as recordings, books, magazines, periodical films, video tapes/cassettes or other reading or viewing materials for sale or viewing at the premises, materials which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific or general sexual activities or anatomical areas; or an establishment with a section devoted to the sale or display or viewing of such materials.

(b) Adult Motion Picture Theater is a structure--either indoors or outdoors--used for showing, displaying or presenting to patrons therein or thereat materials distinguished and characterized by emphasis on depicting, describing or relating to specific or general sexual activities or specific anatomical areas.

(c) Adult Motion Picture Arcade is a place to which the public is permitted or invited, wherein coin or slug-operated or electronically, electrically, mechanically or otherwise controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to any one person, at any machine, at any time so displayed as to distinguish or characterize by emphasis on depicting or describing specific sexual activities or specific anatomical areas.

(d) Massage Establishment is a place of business where any person, firm, association, or corporation engages in, carries on, or permits to be engaged in or carried on, any of the following activities:

Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or device, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or others similar preparations.

The term "Massage Establishment" shall not apply to hospitals, nursing homes, or medical clinics or to persons possessing a license to practice massage therapy under the laws of the State of Maine.

SECTION IV Prohibitions

(1) No person shall cause or permit the establishment of any of the above specific Adult Entertainment Businesses within 1000 feet of any church, school, park, playground, library or day care center.

(2) For the purpose of this Ordinance, measurements shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises for an Adult Entertainment Business to the nearest property line of a church, school, library, day care center or to the nearest boundary of a park or playground.

(3) Any person who violates this Ordinance commits a civil violation for which a forfeiture not to exceed five hundred dollars (\$500.00) may be adjudged. Each day, during any portion of which, any violation of the Ordinance is committed, permitted or continued, shall constitute a separate offense. The Board of Selectmen may, after notice to the licensee and hearing, suspend or revoke the permit issued under this Ordinance upon a finding that the licensee has violated any of the provisions of this Ordinance.

SECTION V Inspection

To ensure that the health and welfare of the public is protected, the premises will be inspected prior to the issuance of the license and may be inspected anytime thereafter by the code enforcement officer or health officer during regular business hours and without notice.

SECTION VI Application for a Permit to Operate an Adult Entertainment Business

Applications for a permit to operate an Adult Entertainment Business shall be available at the Town Clerk's Office and shall include the following:

(1) Name, address and telephone number of applicant.

(2) Name and address of the person, firm, corporation or association which will operate the Adult Entertainment Business, if the permit is granted.

(3) Such other information as the Board of Selectmen shall request in order to have all facts before it prior to making a decision.

(4) Upon receipt of such application and any necessary supplementary information, the Board of Selectmen shall set a date for a public hearing in regard to the granting of such a license, and a notice of such public hearing shall be published no earlier than twenty (20) days and no later than ten (10) days before the date of such public hearing.

(5) Licenses issued pursuant to this Ordinance shall be for a term of no more than one year. The fee for an Adult Entertainment Business license shall be set by the Board of Selectmen.

SECTION VII Enforcement

This Ordinance shall be enforced by the Skowhegan Police Department.

SECTION VIII Severability

If any provision of this Ordinance is determined invalid by a court of competent jurisdiction, such determination shall not render invalid the remaining portions of the Ordinance.