

# **CHAPTER 2**

## **ADULT ENTERTAINMENT**

BOROUGH OF WYALUSING  
ORDINANCE NO. 2

AN ORDINANCE CHAPTER NO. 2, ADULT ENTERTAINMENT, OF  
THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF  
BRADFORD, COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate Adult Entertainment as authorized under the Borough Code found at 53 P.S. § 46202, Specific powers.

(28) Noxious and offensive businesses. To prohibit, within the borough, the carrying on of any manufacture, art, trade, or business which may be noxious or offensive to the inhabitants.

(30) Regulating and prohibiting amusements. To regulate, license, fix the time of opening and closing, or prohibit theatrical exhibitions, amusements and dances, at which an admission or other fee is charged, and other exhibitions; to regulate, license and fix the time of opening and closing of pool-rooms, billiard-rooms, shooting galleries, skating rinks and bowling alleys.

The Borough of Wyalusing hereby ordains and enacts as follows:

§ 1. FINDINGS.

The Borough Council finds that:

- A. There has been an establishment of an adult bookstore in a municipality close to the Borough of Wyalusing and inquiries to locate an adult bookstore in Wyalusing Borough.
- B. A concentration of such adult bookstores can cause a deleterious effect on the aesthetics and economics of the areas in which these uses are located.
- C. In order to prevent the deterioration of communities and neighborhoods in the Borough of Wyalusing and to provide for the orderly, planned future development of the borough, in addition to existing zoning regulations, certain

additional special regulations are necessary to ensure that these adverse effects will not continue to contribute to the blight and downgrading of surrounding neighborhoods.

D. For the purpose of controlling the concentration of certain uses, special regulations relating to the location of these uses are necessary.

## § 2. DEFINITIONS.

As used in this chapter, the following terms shall have the meanings indicated:

**ADULT BOOKSTORE** -- An establishment having a substantial or significant portion of its stock-in-trade, books, magazines and other periodicals distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material and/or rental of said material, including but not limited to videotapes.

**ADULT MINI-MOTION-PICTURE THEATER** -- An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT MOTION-PICTURE THEATER** -- An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to specified sexual activities or specified anatomical areas for observation by patrons therein.

**CABARET** -- An adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.

**DRUG PARAPHERNALIA STORES** -- Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession is subject to the provisions of the Controlled Substance, Drug, Device and Cosmetic Act, April 14, 1972, P.L. 233, No. 64, 51 et seq., 35 P.S. §

780-101 et seq., including but not limited to water pipes, pipe screens, hashish pipes, roach clips, coke spoons, bongos and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling paper by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.

**SPECIFIED ANATOMICAL AREAS:**

- A. Less than completely and opaquely covered:
  - (1) Human genitals or pubic region.
  - (2) Buttocks.
  - (3) Female breasts below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES:**

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

**§ 3. REGULATED USES.**

The following uses are designated as regulated uses:

- A. Adult bookstores.
- B. Adult mini-motion-picture theaters.
- C. Adult motion-picture theaters.
- D. Cabarets.
- E. Drug paraphernalia stores.

**§ 4. PROHIBITED ACTS.**

- A. No regulated use shall be permitted:
  - (1) Within 1,000 feet of any other existing regulated use.
  - (2) Within 1,000 feet of any existing residential property or any of the following residentially related uses:

- (a) Churches, chapels, convents, rectories, religious article or religious apparel stores.
- (b) Schools, up to and including the 12th grade, and their adjunct play areas, including vocational schools.
- (c) Public playgrounds, public swimming pools, public parks and public libraries.
- (d) All other public buildings and offices.

B. For the purposes of this section, spacing distances shall be measured as follows:

- (1) From all property lines of any regulated use as listed in § 3.
- (2) From the outward line of boundary of all residential occupancies.
- (3) From all property lines of any residentially related use listed in Subsection A(2).

C. Said uses as described in § 3, adult bookstores, adult mini motion-picture theater, adult motion-picture theater, cabaret and drug paraphernalia stores shall only be allowed in the Agricultural District as set forth in Chapter \_\_\_\_\_, Zoning.

#### § 5. SIGNS AND OTHER VISIBLE MESSAGES.

All regulated uses shall be permitted to have signs and visible messages based on the allowable sign area of the zoning district in which they are located, provided that:

A. Signs:

- (1) Sign messages shall be limited to verbal description of material or services available on the premises; and
- (2) Sign messages may not include any graphic or pictorial depiction of material or services available on the premises.

B. Other visible messages. Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display material, items, publications, pictures, films or printed material available on the premises; or pictures, films or live presentation of persons performing or services offered on the premises.

§6. DISCONTINUANCE OF OPERATION.

Should any of the regulated uses listed in §3A through E above cease or discontinue operation for a period of 90 or more consecutive days, it may not resume nor be replaced by any other regulated use unless it complies with all the requirements set forth in § 4 and §5 above.

§ 7. VIOLATIONS AND PENALTIES.

Any person violating any of the provisions of this chapter shall be subject to the penalties previously adopted by the borough under the Pennsylvania Municipalities Code.