

CORRECTED MAY 9, 1983*

PC 1-83

Attachment B

*Section 1 (D) added and (E) renumbered from (D); and Section 6 added. They were inadvertently left out of ordinance originally.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 373

An Ordinance amending the Zoning Code by establishing locational and spacing requirements for adult bookstores and adult theaters and requiring removal of non-conforming adult bookstores after a six month amortization period.

Multnomah County ordains as follows:

SECTION 1. AMENDMENT

Section 11.15.4037 is added to the Multnomah County Code and shall read as follows:

11.15.4037 Adult Bookstores and Adult Theaters

(A) Findings

1. The County regularly receives a large number of complaints about adult bookstores from residents, neighborhood associations and businesses. These complaints concern criminal activities: vandalism, public display of activities being conducted on the premises, and late night traffic and noise. The County is advised that the City of Portland receives similar complaints regarding adult theaters located in the City. There are presently no adult theaters in unincorporated Multnomah County.
2. Adult bookstores and adult theaters are currently allowed as Uses Under Prescribed Conditions in two zones: GC (General Commercial) and EC (Extensive Commercial). They are also allowed as conditional uses in three other zones: LM (Light Manufacturing), GM (General Manufacturing) and HM (Heavy Manufacturing).

3. These zones sometimes abut residential zones or include residential neighborhoods. Consequently, some of these businesses are located in close proximity to residential uses and other uses which are incompatible with "adult entertainment".
4. Adult bookstores and theaters are inherently incompatible with residential zones and related uses such as schools and religious institutions because these businesses adversely affect the quality and stability of nearby residential and commercial areas.
5. It is in the best interest of the County to resolve this conflict by separating adult bookstores and theaters from residential zones and related uses.
6. It is in the best interest of the County to require adult bookstores that cannot meet the new requirements to relocate or cease operations within six months so as to resolve the conflicts between residential uses and these businesses. The six month amortization period has been considered reasonable in other jurisdictions as an appropriate period to allow these businesses to recoup investment costs.
7. The locational regulations for adult bookstores, adult theaters and related businesses established herein restrict the areas where these businesses may locate. Since the allowable areas for these businesses have decreased, the likelihood of such businesses clustering has increased.
8. The potential for clustering of adult bookstores and adult theaters within the areas where such businesses are allowed deserves attention. Residents, neighborhood organizations, and businesses located in these areas have stated that clustering of adult businesses in the allowable areas will increase crime, create or accelerate blighted conditions, and make the areas more resistant to the County's revitalization efforts.
9. The concerns expressed by residents of urban neighborhoods in which adult businesses are allowed have been raised at various public hearings and have been deemed valid. The Board finds that the measures contained herein to avoid the ill effects of uncontrolled concentrations of adult businesses are a necessary response to these concerns.

10. Other jurisdictions, such as the City of Portland, have adopted minimum spacing regulations for adult businesses in conjunction with locational requirements. These regulations have been upheld in cases outside of Oregon. No case law from this state provides direct guidance on this subject as yet.
 11. Establishing minimum distances of 1000 feet between adult businesses will effectively discourage clusters of such businesses in the allowable areas. These prescribed distances, however, will allow reasonable opportunity forr existing businesses required to relocate and for new businesses to be established.
- (B) No adult bookstore or adult theater shall be located within 1000 feet of any of the following protected districts and uses:
1. A residential district;
 2. A church;
 3. A library;
 4. A hospital;
 5. A day care center;
 6. A public or private elementary, junior high or high school;
 7. A nursing home;
 8. A park or public playground; and
 9. Another adult bookstore or adult theater.
 10. A mortuary.
 11. A cemetery.
 12. Clinics.
- (C) The distances referred to above shall be measured in a straight line, without regard to intervening structures or objections, from the closest point of the structure or portion of the structure containing the adult use to the closest point of the protected district or use.
- (D) In the event that two or more "adult businesses" are too close together and all but one are required to be removed under this ordinance the one legally established for the longer time has superior rights to remain.
- (E) Any existing adult bookstore which does not conform with the locational and spacing requirements of Ordinance No. 373 is declared a nuisance and shall be removed and/or relocated to a conforming location within six months of the effective date of said ordinance.

SECTION 2. AMENDMENT

Multnomah County Code, Section 11.15.4210 (A) (11) is amended to read as follows:

- (11) adult bookstore or adult theater, when in compliance with MCC 11.15.4037.

SECTION 3. AMENDMENT

Multnomah County Code, Section 11.15.4702 is amended by adding the following:

- (D) adult bookstore or adult theater, when in compliance with MCC 11.15.4037.

SECTION 4. AMENDMENT

Multnomah County Code, Section 11.15.5475 is amended by adding the following:

- (D) adult bookstores or adult theater, when in compliance with MCC 11.15.4037.

SECTION 5. AMENDMENT

Multnomah County Code, Section 11.15.0010 (definitions) is amended by adding the following:

"Adult Bookstore" means an establishment having, as a substantial or significant portion of its merchandise, items such as books, magazines or other publications, films or video tapes which are for sale, rent or viewing on premise and which are distinguished or characterized by their emphasis on matters depicting specified sexual activities. Any bookstore or similar establishment which bars entry by persons 17 years old or younger is an adult bookstore.

"Adult Theater" means an establishment used primarily for presenting material for observation by patrons therein, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting specified sexual activities. Any theater which bars entry by persons 17 years old or younger is an adult theater.

"Specified sexual activities" means real or simulated acts of human sexual intercourse, masturbation, sadomasochistic abuse, of sodomy; or human genitals in a state of sexual stimulation or arousal.

"Clinic" is a place in which out-patients are given health related treatment and in which one or more health related professionals practice (LUBA definition of "clinic" from the 1981 case of Theland vs. Multnomah County).

SECTION 6. SAVINGS CLAUSE

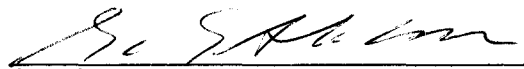
If any article, section, subsection, subdivision, phrase, clause, sentence, or word in this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, it shall not nullify the remainder of the Ordinance, but shall be confined to the article, section, subsection, subdivision, clause, phrase, sentence, or word so held invalid or unconstitutional.

ADOPTED this 5th day of April, 1983.

CORRECTED THIS 9th day of May, 1983

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY,, OREGON

(SEAL)



Gordon E. Shadburne
Presiding Officer

AUTHENTICATED this 6th day of April, 1983.


Dennis Buchanan
County Executive

APPROVED AS TO FORM:

JOHN B. LEAHY, County Counsel
For Multnomah County, Oregon

By 
Laurence Kressel
Chief Assistant County Counsel