

ORDINANCE No. 104

Section 1 Short title

This chapter shall be known as the "**Adult-Oriented Business Ordinance for the Town of Plainfield, Connecticut.**"

Section 2 Policy Statement

The Town of Plainfield, Connecticut finds:

1. Statistics and studies performed by a substantial number of cities and towns in the United States indicate that:
 - a. Large numbers of persons, primarily male, frequent such "adult-orientated establishments," especially those which provide closed booths, cubicles, studios and rooms for the private viewing of so-called "adult" motion pictures and/or video tapes and/or live entertainment; and
 - b. Such closed booths, cubicles, studios or rooms have been used by patrons, clients or customers of such "adult-orientated establishments" for the purposes of engaging in certain sexual acts; and
 - c. Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms; and
 - d. Doors, curtains, blinds and/or other closures installed in or on the entrances and/or exits of such booths, cubicles, studios and rooms which are closed while such booths, cubicles, studios, and rooms are in use encourage patrons using such booths, cubicles, studios and rooms to engage in sexual acts therein with prostitutes and/or with other members of the same sex, thereby promoting or encouraging prostitution and the commission of sexual acts which cause blood, semen and urine to be deposited on the floors and/or walls of such booths, cubicles, studios, and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and
 - e. The reasonable regulation and supervision of such "adult-orientated establishments" tends to discourage such sexual acts and prostitution, and thereby promotes the health, safety and welfare of the patrons, clients and customers of such establishments.
2. unregulated operation of "adult-orientated establishments" would be detrimental to the general welfare, health and safety of the citizens of Plainfield, Connecticut.
3. the constitution and laws of the state of Connecticut grant to the town powers, especially police power, to enact reasonable legislation and measures to regulate and supervise "adult-orientated establishments" as hereinafter defined on order to protect the public health, safety and welfare.
4. it is not the intent of the board of selectmen, enacting this chapter, to deny to any person rights to speech protected by the united states and/or state constitutions,

nor is it the intent of the board to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-orientated films, video-tapes, books and/or other materials. further, by enacting this chapter, the board does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually-orientated materials protected by the united states and/or state constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-orientated materials may have to sell, distribute or exhibit such materials.

Section 3 Definitions

For the purpose of this section, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

Adult amusement machine - includes any amusement machine that is regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

Adult book store - an establishment having a substantial or significant portion of its stock in trade, books, magazines, periodicals, video-cassettes, films for sale or viewing on premises by uses of motion picture devices or any coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical area", or an establishment with a segment or section devoted to the sale or display of such material.

Adult entertainment - means any exhibition of any adult-orientated motion pictures, live performance, display or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas," removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.

Adult motion picture theater An enclosed building with a capacity of 50 or more persons used regularly and routinely for material having a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Area", for observation by patrons therein.

Adult Mini-Motion Picture Theater - An enclosed building with a capacity for less than 50 persons used regularly and routinely for material having a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Area", for observation by patrons therein.

Adult-orientated establishment - shall include, without limitation, "adult bookstores", "adult motion picture theaters", "adult mini-motion picture theaters", and further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult' orientated motion pictures, or wherein and entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct, or indirect. An "adult-orientated establishment" further includes, without limitation, any "adult entertainment studio" or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, modeling studio or any other term of like import.

Amusement machine - includes any machine which upon the payment charge or upon the insertion of a coin, slug, token, plate or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated, and shall include but not limited to such devices as pinball machines, skillball, mechanical grab machines and any and all air propelled machines or games, pool tables, shooting games, and any and all video games and all other games similar thereto under whatever name they be indicated, including video monitoring machines. This definition shall not apply to those items generally described as jukeboxes or billiard tables or pool tables in billiard or pool parlors solely designated as such and permitted under the zoning regulations.

Board- means the Board of Selectmen of the Town of Plainfield, Connecticut

Current- information that is two months old or less from the present date.

Employee - means any and all persons, including independent contractors, who work in or at or render services directly related to the operation of an adult-orientated establishment.

Entertainer - means any person who provides entertainment within an adult-orientated establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

Inspector - means an employee of the Northeast District Department of Health authorized and designated by the director of health, or the zoning enforcement officer, or an employee of the Plainfield Building Department or a member of the Plainfield Police Department, or the Plainfield Fire Marshal, or an agent of any or all such persons who is designated by the board to inspect premises regulated under this chapter in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

Minor- shall be deemed to refer to a person under the age of eighteen (18) years old.

Operator - means any person, partnership or corporation operating, conducting or maintaining and adult-orientated establishment.

Sexual activities - as used in this article, is not intended to include any medical publications or films or bona fide educational publications or films, nor does it include any art or photography publications which devote at least twenty-five (25) percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

"*Specified anatomical areas*" is defined as:

- a. Less than completely and opaquely covered:
 1. human genitals, pubic region;
 2. buttock; and
 3. male or female breast 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*" is defined as:

- a. Human genitals in a state of sexual stimulation arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;
- d. Use of organic or non-organic materials for sexual stimulation arousal.

Section 4 Operating requirements

- a. No operator or employee of an adult-orientated establishment shall allow or permit any minor to loiter in any part of such establishment, including parking lots immediately adjacent to such establishment used by patrons of such adult-orientated establishment.
- b. Every adult orientated establishment doing business in the town, fifteen (15) days after publication of notice, shall be well lighted at all times and be physically arranged in such a manner that the entire portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided,

shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-orientated establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of adult-orientated motion pictures, or other types of adult-orientated entertainment.

- c. Any establishment serving alcohol: All employees and patrons shall be twenty-one (21) years of age, or older, with proper photo ID.
- d. Establishments not serving alcohol: All employees and patrons shall be eighteen (18) years of age or older, with proper photo ID.
- e. Meagan's Law Requirements:
 - 1. The operator of the establishment shall be responsible to maintain a current list of sexual offenders from both the Plainfield Police Department and the Connecticut Department of Public Safety. This list shall include both the sexual offenders of the Town of Plainfield and the State of Connecticut. Failure to maintain a current list will result in a \$100.00 fine. Any fines shall be issued by an inspector and collectable by the Town Clerk's Office of the Town of Plainfield. All fines shall be paid within ten (10) business days of issuance. All fines not paid in full, within ten (10) Business days shall be doubled.
 - 2. The establishment shall check the list required in Section 4.e. 1. with all patrons entering the establishment. Any person on said list shall be prohibited from entering the establishment or from being employed by the establishment. The fine for the operator's failure to comply with this section shall not exceed \$ 100.00. Any fines shall be issued by an inspector and collectable by the Town Clerk's Office of the Town of Plainfield. All fines shall be paid within ten (10) business days of issuance. All fines not paid in full, within ten (10) Business days shall be doubled.
- f. Fifteen (15) days after publication of notice, the operator of each adult-orientated establishment shall be responsible for and shall provided that any room or other area used for the purpose of viewing adult-orientated motion pictures or other types of live adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place which patrons are permitted access at an illumination not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- g. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if the operator, or as a result of the operator's negligent failure to

supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- h. All adult-orientated establishments shall be open to the Plainfield Police Department, inspectors employed by the town, or such other persons as the board may designate for inspection at all reasonable times.
- i. No adult orientated establishment shall be permitted on a site that is less than fifteen-hundred (1500) feet from an area zoned residential
- j. No adult-orientated establishment shall be permitted on a site that is less than one-thousand (1000) feet from an existing adult-orientated establishment.

Section 5 Conduct of establishment

- a. No disturbances, brawls, unnecessary noises, including loud and disturbing music, unlawful conduct or gambling of any kind where provided by the general statutes, and no slot machines or gambling devices which may be used for the purpose of securing money or any other valuable things, shall be permitted or suffered upon any establishment, not shall such establishment be conducted in such a manner as to constitute nuisance.
- b. The presence of dice or cards with money on tables or bars in any establishment shall be considered as prima facie evidence of gambling.
- c. No establishment or operator shall conduct the establishment in such a manner as to allow an intoxicated person or persons to loiter thereon.
- d. No entertainment shall be performed on any bar. No employee, shall perform specified sexual acts. No operator shall permit any patron or employee to remain in the establishment or on the premises who performs specified sexual activities or shows specified anatomical areas. Employees must perform in one location and entertainers may not mingle with the patrons.

Section 6 Violations

- a. Any person, partnership or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding one-hundred dollars (\$100.00) for each such violation.
- b. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation, c. The fine will be issued by an inspector and collected by the Town
- c. The fine will be issued by an inspector and collected by the Town Clerk's Office of the Town of Plainfield. All fines must be paid within ten (10) business days of issuance. Any fines not paid within ten (10) days shall be doubled.

Section 7 Savings Clause

Should any court of competent jurisdiction declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter.

As amended on October 20, 1998

Dated at Plainfield, CT this 22nd day October, 1998

AMENDED ORDINANCE No. 104

Section 1 Short title

This chapter shall be known as the "Adult-Oriented Business Ordinance for the Town of Plainfield, Connecticut."

Section 2 Policy Statement

The Town of Plainfield, Connecticut finds:

1. Statistics and studies performed by a substantial number of cities and towns in the United States indicate that:
 - a. Large numbers of persons, primarily male, frequent such "adult-orientated establishments," especially those which provide closed booths, cubicles, studies and rooms for the private viewing of so-called "adult" motion pictures and/or video tapes and/or live entertainment; and
 - b. Such closed booths, cubicles, studios or rooms have been used by patrons, clients or customers of such "adult-orientated establishments" for the purposes of engaging in certain sexual acts; and
 - c. Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms; and
 - d. Doors, curtains, blinds and/or other closures installed in or on the entrances and/or exits of such booths, cubicles, studios and rooms which are closed while such booths, cubicles, studios, and rooms are in use encourage patrons using such booths, cubicles, studios and rooms to engage in sexual acts therein with prostitutes and/or with other members of the same sex, thereby promoting or encouraging prostitution and the commission of sexual acts which cause blood, semen and urine to be deposited on the floors and/or walls of such booths, cubicles, studios, and rooms, which deposits

- could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and
- e. The reasonable regulation and supervision of such "adult-orientated establishments" tends to discourage such sexual acts and prostitution, and thereby promotes the health, safety and welfare of the patrons, clients and customers of such establishments.
 2. Unregulated operation of "adult-orientated establishments" would be detrimental to the general welfare, health and safety of the citizens of Plainfield, Connecticut.
 3. The Constitution and laws of the State of Connecticut grant to the town powers, especially police power, to enact reasonable legislation and measures to regulate and supervise "adult-orientated establishments" as hereinafter defined on order to protect the public health, safety and welfare.
 4. It is not the intent of the Board of Selectmen, enacting this chapter, to deny to any person rights to speech protected by the United States and/or state constitutions, nor is it the intent of the board to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually-orientated films, video-tapes, books and/or other materials. Further, by enacting this chapter, the board does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually-orientated materials protected by the United States and/or state constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually-orientated materials may have to sell, distribute or exhibit such materials.

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clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.

Adult motion picture theater- An enclosed building with a capacity of 50 or more persons used regularly and routinely for material having a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Area", for observation by patrons therein.

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Adult-orientated establishment shall include, without limitation, "adult bookstores", "adult motion picture theaters", "adult mini-motion picture theaters", and further means any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purposes of viewing adult-orientated motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct, or indirect. An "adult-orientated establishment" further includes, without limitation, any "adult entertainment studio" or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, modeling studio or any other term of like import.

Amusement machine - includes any machine which upon the payment charge or upon the insertion of a coin, slug, token, plate or disk, may be operated by the public for use as a game, entertainment or amusement, whether or not registering a score and whether or not electronically operated, and shall include but not limited to such devices as pinball machines, skillball, mechanical grab machines and any and all air propelled machines or games, pool tables, shooting games, and any and all video games and all other games similar thereto under whatever name they be indicated, including video monitoring machines. This definition shall not apply to those items generally described as jukeboxes or billiard tables or pool tables in billiard or pool parlors solely designated as such and permitted under the zoning regulations.

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Entertainer - means any person who provides entertainment within an adult-orientated establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

Inspector - means an employee of the Northeast District Department of Health authorized and designated by the director of health, or the zoning enforcement officer, or an employee of the Plainfield Building Department or a member of the Plainfield Police Department, or the Plainfield Fire Marshal, or an agent of any or all such persons who is designated by the board to inspect premises regulated under this chapter in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

Minor - shall be deemed to refer to a person under the age of eighteen (18) years old.

Operator - means any person, partnership or corporation operating, conducting or maintaining and adult-orientated establishment.

Sexual activities - as used in this article, is not intended to include any medical publications or films or bona fide educational publications or films, nor does it include any art or photography publications which devote at least twenty-five (25) percent of the lineage of each issue to articles and advertisements dealing with subjects of art or photography. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nudity is indigenous to the population.

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- a. Less than completely and opaquely covered:
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 3. male or female breast 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*" is defined as:

- a. Human genitals in a state of sexual stimulation arousal;
- b. Acts of human masturbation, sexual intercourse or sodomy;
- c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast;
- d. Use of organic or non-organic materials for sexual stimulation arousal.

Section 4 Operating requirements

- a. No operator or employee of an adult-orientated establishment shall allow or permit any minor to loiter in any part of such establishment, including parking lots immediately adjacent to such establishment used by patrons of such adult-orientated establishment.
- b. Every adult orientated establishment doing business in the town, fifteen (15) days after publication of notice, shall be well lighted at all times and be physically arranged in such a manner that the entire portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-orientated establishments for the purpose of providing for the secluded viewing of adult-orientated motion pictures, or other types of adult-orientated entertainment.
- c. Any establishment serving alcohol: All employees and patrons shall be twenty-one (21) years of age, or older, with proper photo ID.
- d. Establishments not serving alcohol: All employees and patrons shall be eighteen (18) years of age or older, with proper photo ID.
- e. Meagan's Law Requirements:
 - 1. The operator of the establishment shall be responsible to maintain a current list of sexual offenders from both the Plainfield Police Department and the Connecticut Department of Public Safety. This list shall include both the sexual offenders of the Town of Plainfield and the State of Connecticut. Failure to maintain a current list will result in a \$100.00 fine. Any fines shall be issued by an inspector and collectable by the Town Clerk's Office of the Town of Plainfield. All fines shall be paid within ten (10) business days of issuance. All fines not paid in full, within ten (10) Business days shall be doubled.
 - 2. The establishment shall check the list required in Section 4.e. 1. with all patrons entering the establishment. Any person on said list shall be prohibited from entering the establishment or from being employed by the establishment. The fine for the operator's failure to comply with this section shall not exceed \$100.00. Any fines shall be issued by an inspector and collectable by the Town Clerk's Office of the Town of Plainfield. All fines shall be paid within ten

- (10) business days of issuance. All fines not paid in full, within ten (10) Business days shall be doubled.
- f. Fifteen (15) days after publication of notice, the operator of each adult-orientated establishment shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-orientated motion pictures or other types of live adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place which patrons are permitted access at an illumination not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 - g. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if the operator had knowledge of the act or omission or the operator's failure to have knowledge of the act or omission is a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
 - h. All adult-orientated establishments shall be open to the Plainfield Police Department, inspectors employed by the town, or such other persons as the board may designate for inspection at all reasonable times.
 - i. No adult orientated establishment shall be permitted on a site that is less than fifteen-hundred (1500) feet from an area zoned residential
 - j. No adult-orientated establishment shall be permitted on a site that is less than one-thousand (1000) feet from an existing adult-orientated establishment.

Section 5 Conduct of establishment

- a. No disturbances, brawls, unnecessary noises, including loud and disturbing music, unlawful conduct or gambling of any kind where provided by the general statutes, and no slot machines or gambling devices which may be used for the purpose of securing money or any other valuable things, shall be permitted or suffered upon any establishment, nor shall such establishment be conducted in such a manner as to constitute a nuisance.
- b. The presence of dice or cards with money on tables or bars in any establishment shall be considered as prima facie evidence of gambling.
- c. No establishment or operator shall conduct the establishment in such a manner as to allow an intoxicated person or persons to loiter thereon.
- d. No entertainment shall be performed on any bar. No employee, shall perform specified sexual acts. No operator shall permit any patron or employee to remain in the establishment or on the premises who performs

specified sexual activities. Employees must perform in one location and entertainers may not mingle with the patrons.

Section 6 Violations

- a. Any person, partnership or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding one-hundred dollars (\$100.00) for each such violation.
- b. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.
- c. The fine will be issued by an inspector and collected by the Town Clerk's Office of the Town of Plainfield. All fines must be paid within ten (10) business days of issuance. Any fines not paid within ten (10) days shall be doubled.

Section 7 Savings Clause

Should any court of competent jurisdiction declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter.

Dated at Plainfield, CT this 22nd day of October 1998.

Amended November 30, 1998.

The amendment shall become effective fifteen days after publication in accordance with Connecticut General Statutes.

At a Town Meeting held on November 4, 1998, at the Plainfield Town Hall the following ordinance was adopted: