



# City of West Allis

## Legislation Text

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File #: O-2004-0050, Version: 1

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An Ordinance to Amend Section 9.28(1)(b), (e), (q) & (r) of the West Allis Revised Municipal Code Relating to Adult Oriented Establishments.

The Common Council of the City of West Allis do ordain as follows:

PART I. Section 9.28(1)(b) of the Revised Municipal Code is hereby amended to read:

### 9.28 ADULT ORIENTED ESTABLISHMENTS.

(1) Definitions. For the purpose of this section, the following words and phrases shall have the following definitions:

(2) (2)

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(b) "Adult bookstore" means a retail establishment that has:

(1) As one of its principal business purposes the sale or rental of, or a substantial or significant portion of its stock in trade for sale or rental:

(a) Publication which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section; and/or

(b) Sexually oriented devices, as defined in this section.

(2) As used in this definition, publications include, by way of illustration, books, magazines, other periodicals, movies, video tapes, and other products offered in photographic, electronic, magnetic, digital, or other imaging medium.

(3) Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of: (1) publications 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, and/or (2) sexually oriented devices, as defined in this section:

(a) The business advertises the sale or rental of adult publications including but not limited to "x-rated" movies, and/or sexually oriented devices;

(b) Access by persons under eighteen (18) years of age to the business establishment or portions

of the business establishment is restricted;

(c) Signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;

(d) The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

Such indicia shall be considered along with all other factors and available information.

(4) Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented devices shall not constitute an "adult bookstore" even though it offers for sale and/or rental video tapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section, so long as:

(a) Such described videotapes are stocked and displayed in a room separate from the area of the business establishment where general circulation videotapes are stocked and displayed;

(b) Access by persons under eighteen (18) years of age to the room where such described videotapes are stocked and displayed is restricted;

(c) The square footage of the separate room where such described video tapes are stocked and displayed in no more than ten (10) percent of the square footage of the area where general circulation videotapes are stocked and displayed; and

(c) The general circulation videotapes portion of the business establishment offers a quantity and selection of new release general circulation videotapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation video tapes that are organized and displayed in a manner that is typical of a general circulation video store.

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PART II. Section 9.28(1)(e) of the Revised Municipal Code is hereby amended to read:

(e) "Adult mini-motion picture theater" means a commercial establishment with one or more adult mini motion picture booths where:

(1) One of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

(2) A substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below.

(3) Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths still or motion pictures which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below:

(a) Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under eighteen (18) years of age.

(b) Posted signs or notices outside and/or inside the business establishment indicating that the material offered for presentation and viewing in the viewing booths might be offensive.

Such indicia shall be considered along with other factors and available information.

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PART III. Section 9.28(1)(q) of the Revised Municipal Code is hereby amended to read:

(q) "Specified anatomical areas" means:

1. Less than completely and opaquely covered:

(a) Human genitals, pubic region; or

(b) Showing the areola or nipple of a female breast.

2. Human male genitals in a discernible turgid state, even if opaquely covered.

PART IV. Section 9.28(1)(r) of the Revised Municipal Code is hereby amended to read:

(r) "Specified sexual activities" means simulated or actual:

1. Showing of human genitals in a state of sexual stimulation or arousal;

2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;

3. Fondling or erotic touching of human genitals, pubic region, or areola or nipple of a female breast.

4. Excretory functions, as part of or in connection with any of the activities set forth in subsections (1) through (3) above.

PART V. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART VI. This ordinance shall take effect and be in force from and after its passage and publication.

ATTO-AmendSec9.28(1)(b)(e)(q)(r)AdultOrientedEstalibhments