

City of Brookings WORKSHOP Agenda

CITY COUNCIL

Monday December 4, 2017, 4:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

A. Call to Order

B. Roll Call

C. Topics

1. Stout Park Lighting and Video [City Manager, Pg. 2]
 - a. Stout Park Lighting Project budget [Pg. 3]
2. Public Art Committee [City Recorder, Pg. 4]
 - a. Resolution 08-R-905 [Pg. 5]
 - b. 2017 Vacancy Press Releases [Pg. 8]
3. Adult Business Regulation [City Manager, Pg. 11]
 - a. "The Regulation of Adult Businesses" a publication by the League of Oregon Cities. [Pg. 12]
 - b. Chapter 5.24 of the Central Point Municipal Code [Pg. 28]

D. Council Member Requests for Workshop Topics

E. Adjournment

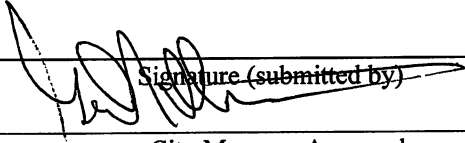
All public City meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

Council WORKSHOP Report

Meeting Date: December 4, 2017

Originating Dept: City Manager


Signature (submitted by)

City Manager Approval

Subject: Stout Park Lighting and Video

Financial Impact:

\$10,000 from General Fund; no current project budget.

Reviewed by Finance & Human Resources Director: 

Background/Discussion:

At the November City Council workshop it was requested that staff provide information on lighting and video equipment at Stout Park.

Staff provided the City Council with a Stout Park Lighting Project budget in October 2013. Partial funding was budgeted and Phases 1 and 2 were completed. Phase 3 would install a light pole in the Vicinity of Stout Mountain Railway; the estimated cost in 2013 was \$2,850.

There is currently no video camera at Stout Park. The Police Department has investigated the installation of a video surveillance system. Three light poles would be needed and the Police Department estimates the cost as follows:

- DVR, Cameras and connectivity ~ \$1,000
- Poles X 3 - for mounting of cameras and lights ~ \$6,000
- Trenching, conduit and cabling to each camera location ~ \$3,000

Total for lights, cameras and poles: \$10,000.

Attachment(s):

- a. Stout Park Lighting Project budget

City of Brookings Stout Park Lighting Project

October 7 2013

Description	Quantity	Unit	Unit Cost	Item Cost
<u>Phase 1 - Pine Street Path</u>				
decorative light poles	3		\$1,700.00	\$5,100
concrete pole base	3	LS	\$150.00	\$450
conduit & wire (from meter & along path)	300	LF	\$6.00	\$1,800
electrician - labor	12	HR	\$100.00	\$1,200
Total phase 1				\$8,550
<u>Phase 2 - Pathway Lighting Through Park</u>				
decorative light poles	6		\$1,700.00	\$10,200
concrete pole base	6	LS	\$150.00	\$900
conduit & wire (extended from phase 1)	500	LF	\$6.00	\$3,000
electrician - labor	18	HR	\$100.00	\$1,800
Total phase 2				\$15,900
<u>Phase 3 - Light pole at Stout Mountain Railway</u>				
decorative light poles	1		\$1,700.00	\$1,700
concrete pole base	1	LS	\$150.00	\$150
conduit & wire (extended from phase 2)	100	LF	\$6.00	\$600
electrician - labor	4	HR	\$100.00	\$400
Total phase 3				\$2,850
Combined Total				\$27,300

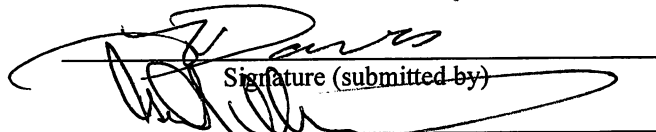
Note: Light poles will have electrical receptacles in base for vendors

CITY OF BROOKINGS

Council WORKSHOP Report

Workshop Date: December 4, 2017

Originating Dept: City Recorder


Signature (submitted by)

City Manager Approval

Subject: Public Art Committee

Recommendation:

Direction to Staff regarding Public Art Committee

Background/Discussion:

At the November 13, 2017 City Council meeting, Mayor Pieper requested Staff bring to Council Workshop a discussion of whether to continue with or to dissolve the Public Art Committee.

City Council created the Public Art Committee by Resolution 08-R-905 and tasked the committee with specific duties and responsibilities related to the review of mural applications.

Looking at committee documentation back to 2010, there has historically been difficulty keeping this committee at full membership. Currently, there is only one member whose term is up-to-date.

The Public Art Committee last met on March 8, 2017 with three members present. Following that meeting, one of those members submitted their resignation, rendering the committee at a membership of only two and without a quorum until at least one vacancy could be filled. Since that time, the vacancy has been publicized three times in press releases. No one has come forward to volunteer for a seat on the committee.

If the committee is dissolved, the business of the committee, i.e. reviewing mural applications, could be tasked in one of two ways:

- 1.) Allow it to be handled at the staff level, in site-plan meeting, in the same manner in which other sign applications are handled
- (or)
- 2.) Task a sub-committee of the Planning Commission to conduct the review.

The most recent mural application was submitted in September of 2016. Since 2008, the committee has approved seven mural applications.

Attachment(s):

- a. Resolution 08-R-905
- b. 2017 Vacancy Press Releases

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

IN THE MATTER OF A RESOLUTION
CREATING A PUBLIC ART COMMITTEE
TO SERVE THE CITY OF BROOKINGS.

RESOLUTION 08-R-905

WHEREAS, the City of Brookings adopted Ordinance 08-O-608, amending Chapter 17.88, Sign Regulations, of the Brookings Municipal Code, which became effective May 27, 2008; and

WHEREAS, Chapter 17.88 now requires murals to conform to general guidelines;

WHEREAS, Resolution 08-R-903 adopted the general guidelines;

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Brookings, Curry County, Oregon, that the Public Art Committee is created as described in Exhibit A to review mural applications.

Adopted by City Council and made effective on the 8th of September, 2008.
Dated and signed this 9th day of September, 2008.



Mayor Larry Anderson

Attest:


City Recorder Joyce Heffington

City of Brookings

Public Art Committee

A. General duties and responsibilities:

1. The Public Art Committee reviews applications to create a mural, defined as a painting, mosaic, fresco, or other permanent artwork attached or applied directly to the outside of a structure. The Committee shall use the Mural Guidelines, adopted by the City Council in Resolution 08-R-903, to review applications to create a mural.
2. Committee members shall serve at the pleasure of the City Council.
3. Committee membership is honorary and without compensation.
4. All Committee meetings shall be open to the public and held in a place that is handicapped accessible.
5. This committee may be assigned other duties related to review of other types of public art by the City Council.

B. Membership.

1. The committee shall consist of five voting members to be appointed by the City Council, and a non-voting Staff member to consist of the Planning Director or his/ her designee.
2. Three members must reside within the City of Brookings, while the remaining two may reside within the Brookings Urban Growth Area. These members shall not be officials or employees of the city.
3. Three members must have an art background (i.e. teacher, artist, collector, gallery owner).
4. The Chair of the Committee shall designate a Committee member whose responsibility it shall be to record the minutes of the meetings.

C. Terms of Appointment/Removal/Vacancies.

1. Terms shall be initially staggered so that three members serve a term of three years and two members serve a term of two years. Thereafter, all terms shall be for three years.
2. Vacancies created by a mid-term resignation or termination shall be filled by appointment of the City Council.
3. Members may be removed by a consensus of the City Council for any reason and at any time during the member's term of appointment. Failure of a member to attend less than 50% of the meetings shall result in automatic termination, unless the absences have been excused by the Committee's Chair.

D. Election of Officers.

1. At the first meeting of each calendar year, a Chair and Vice-Chair shall be elected from the voting members of the Committee for a one year term.
2. The newly elected officers shall take their seats at the first meeting of the next calendar year.
3. No member shall serve more than two consecutive years in any one office.

E. Quorum/Rules/Meetings.

1. Three voting members of the Committee shall constitute a quorum.
2. The Committee shall meet on an as-needed basis when an application has been submitted. All meetings shall be open to the public and noticed in accordance with State Public Meeting Law (Chapter 192 ORS).
3. Voting by the Committee on all matters shall be consistent with the process adopted by the City Council under Chapter 2.05.160 of the Brookings Municipal code, with the exception that the Committee member designated by the Chair to take the minutes shall call the names of each member and record the votes.
4. Applications which are denied may be appealed by a written request from the Applicant to the City Council.

CITY OF BROOKINGS
Press Release: For immediate release
May 25, 2017



**City Seeks Applicants
to Fill Various Committee Positions**

The City of Brookings is seeking applicants for various committee positions.

One volunteer position is open on the Planning Commission. Planning Commission meets on the first Tuesday of each month at 7:00 p.m. at City Hall.

One volunteer position is open on the Tourism Promotion Advisory Committee (TPAC). TPAC meets on the third Thursday of each month at 4:00 p.m. at City Hall.

Three volunteer positions are open on the Public Art Committee (PAC). PAC meets every other month on the third Wednesday at 4:00 p.m. at City Hall.

Positions are filled by City Council vote upon recommendation by the Mayor.

Interested applicants may pick up a Volunteer Application at the City Hall payment counter, 898 Elk Drive, Brookings, from 9:00 a.m. to noon and 1:00 p.m.- 4:30 p.m., Monday through Friday, and online at <http://www.brookings.or.us>, under "Forms & Guidelines."

For more information, call (541) 469-1103. To learn more about this (and other) City volunteer opportunity, visit the Volunteer Opportunities page on the City's website at www.brookings.or.us/index.aspx?nid=99.

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NEWS MEDIA CONTACT INFO:

For further information contact (541) 469-1102.

CITY OF BROOKINGS
Press Release: For immediate release
July 13, 2017



**City Seeks Applicants
to Fill Public Art Committee Positions**

The City of Brookings is seeking applicants for three Public Art Committee (PAC) positions.

PAC meets every other month on the third Wednesday at 4:00 p.m. at City Hall.

Positions are filled by City Council vote upon recommendation by the Mayor.

Interested applicants may pick up a Volunteer Application at the City Hall payment counter, 898 Elk Drive, Brookings, from 9:00 a.m. to noon and 1:00 p.m.- 4:30 p.m., Monday through Friday, and online at <http://www.brookings.or.us>, under "Forms & Guidelines."

For more information, call (541) 469-1103. To learn more about this (and other) City volunteer opportunity, visit the Volunteer Opportunities page on the City's website at www.brookings.or.us/index.aspx?nid=99.

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NEWS MEDIA CONTACT INFO:

For further information contact (541) 469-1102.

CITY OF BROOKINGS
Press Release: For immediate release
September 13, 2017



**City Seeks Applicants
to Fill Committee Positions**

The City of Brookings is seeking applicants for positions on two committees.

One volunteer position is open on the Parks and Recreation Commission. Parks and Rec Commission meets on the fourth Thursday every other month at 7:00 p.m. at City Hall.

Three volunteer positions are open on the Public Art Committee (PAC). PAC meets every other month on the third Wednesday at 4:00 p.m. at City Hall.

Positions are filled by City Council vote upon recommendation by the Mayor.

Interested applicants may pick up a Volunteer Application at the City Hall payment counter, 898 Elk Drive, Brookings, from 9:00 a.m. to noon and 1:00 p.m.- 4:30 p.m., Monday through Friday, and online at <http://www.brookings.or.us>, under "Forms & Guidelines."

For more information, call (541) 469-1103. To learn more about this (and other) City volunteer opportunity, visit the Volunteer Opportunities page on the City's website at www.brookings.or.us/index.aspx?nid=99.

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NEWS MEDIA CONTACT INFO:

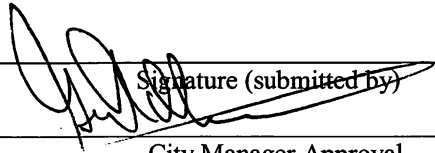
For further information contact (541) 469-1102.

CITY OF BROOKINGS

Council WORKSHOP Report

Meeting Date: December 4, 2017

Originating Dept: City Manager


Signature (submitted by)

City Manager Approval

Subject: Adult Business Regulation

Financial Impact:

Reviewed by Finance & Human Resources Director: _____

Background/Discussion:

Gina Early appeared at the City Council meeting of October 27 to request the City Council to enact regulations regarding businesses where sex trafficking often occurs. Staff has attempted to contact Ms. Early to request clarification regarding her concerns; specifically, what types of businesses is she asking the City to regulate? As of this writing (November 17) efforts to contact Ms. Early have been unsuccessful.

Through his experience in other cities in which he has served over a period of years, and specifically during his service with the City of South Gate, the City Manager has dealt with an array of businesses that have offered or facilitated illicit sexual services. There is no single approach to address all of these types of activities, none of which appear to be present in the City of Brookings. The City Manager is familiar with a number of techniques used to quell these types of activities. The Police Department reports that they have not received any information concerning prostitution or other activities in the community.

The City Attorney has advised that the City Council needs to be aware of federal and state freedom of expression provisions and the manner in which these protections have been broadly interpreted.

Absent specific information which prompted Ms. Early's concerns, staff is providing the attached basic information on this topic.

Attachment(s):

- a. "The Regulation of Adult Businesses" a publication by the League of Oregon Cities.
- b. Chapter 5.24 of the Central Point Municipal Code.

THE REGULATION OF ADULT BUSINESSES

**DECEMBER 1996
UPDATED DECEMBER 2010**



THE REGULATION OF ADULT BUSINESSES

City officials are faced with questions and concerns regarding the regulation of sexually explicit adult businesses.¹ A city may exercise its powers to regulate adult businesses² subject to constitutional limitations. This includes Article 1, section 8 of the Oregon Constitution which provides:

No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

The effect of this section is broad because the Oregon Supreme Court basically construes it to grant the same amount of protection to every kind of speech, with some exceptions.³ Thus, city officials will benefit in knowing how Oregon courts respond to city attempts to counter the proliferation of adult businesses.⁴

In part, the urge by city officials to regulate adult businesses stems from the effects that are sometimes associated with such businesses. These effects include criminal activities such as prostitution, solicitation for prostitution, assault, sexual abuse, criminal trespass, criminal mischief, and illegal drug transactions. Possible civil infractions include public drinking, excessive noise, public indecency, disorderly conduct, harassment, certain effects on minors, and public urination and defecation.⁵ Another side effect includes the possible depreciation of real estate values. The cause of all of these effects allegedly stems from the proliferation of adult businesses. Consequently, city officials may wish to minimize the effects by regulating these types of businesses.⁶

Seeking to minimize these effects, city officials may try to censor the content or expression of the adult business, and if unable to censor the content, city officials may wish to control the adult business through zoning and other regulations. Oregon courts will respond in the negative to any content-based regulation of adult businesses by pointing to the explicit prohibition against such regulations in Article 1, section 8.⁷ Adult businesses may be zoned and regulated, however, but only the same as other commercial enterprises.⁸

A possible exception to this includes showing by the city, as evidence in court, or demonstrable harmful effects stemming from the particular adult business in question which would warrant a prohibition of the adult business.⁹ Another option exists through a city's adoption of a nuisance abatement code which would allow cities to potentially close an adult business after an adult business exhibits a "pattern of behavior" of violating the ordinance.¹⁰

The Regulation of Adult Businesses and Oregon Courts

Oregon courts consistently have applied a three-part test in the judicial review of regulations challenged on free speech grounds.¹¹ First the court asks if the regulation is aimed at the content of the expression.¹² If so, the court then asks the second question, as to whether it falls within a historical exception to protected speech. In other words, the court asks whether this kind of speech was prohibited prior to the adoption of the Oregon Constitution¹³. The Supreme Court in Oregon has already determined that sexually explicit expression, in addition to obscenity, are not within any historical exceptions.¹⁴ Third, the court then asks whether the ordinance is aimed at the effects of the speech.¹⁵ This means the court will consider whether the ordinance is not focused on “speech” but on some problems caused by the speech.¹⁶

In application, this test is rigorous because it allows for a broad definition of speech or expression. In other words, nude dancing and many other activities in an adult business can be considered expression.¹⁷ Usually, if an ordinance is directed at regulating the content of such expression or speech, it is struck down unless it is within the narrow field of historical exceptions.¹⁸ Some exceptions to this do exist. For example, an ordinance may still be upheld even if it appears to be aimed at the content of the speech, if its enforcement is aimed at the effects.¹⁹ However, if an ordinance looks content-based and has the effect of ‘chilling’ expression before it occurs, the ordinance may be deemed as invalid prior restraint on free speech.²⁰ A recent and pertinent exception consists in the Oregon Supreme Court’s recognition that expression involving children in a sexually explicit manner, i.e., child pornography, enjoys no protection under Oregon law.²¹

What Can a City Official Do and Not Do to Regulate Adult Businesses in Oregon?

I. Zoning

Oregon cities cannot zone adult businesses differently than other businesses.²² If an adult business files suit against a city for attempting to zone out the business, Oregon courts may first look at whether the zoning provision is based on the content, or ‘sexual’ expression, of the business.²³ If the court finds that the adult business is legally within a zone designated for businesses, and yet the city seeks to deny the continuation of or establishment of the adult business, the zoning ordinance probably will be struck down as content-based.²⁴ Likewise, prohibiting the establishment of an adult business within a residential zone will be upheld so long as no other businesses are allowed in the residential zone.²⁵ Even if the city is able to show a court that its decision to prohibit the adult business is based on research that demonstrates the harmful effects of adult businesses, let alone hypothetical harms, the court may still strike the ordinance down as content-based.²⁶

How then may a city zone an adult business so as to minimize its harmful effects? The answer to this is that Oregon courts have not ruled out all time-manner-and-place zoning of adult businesses if an actual threat of harm can be shown to result from the particular adult business in question.²⁷ One way in which cities could do this would be to enact a nuisance abatement code,²⁸ from which repeated violations of, could result in a closing down of the adult business. Another way cities could demonstrate an actual threat of harmful effects from an adult business could take the form of research undertaken by the city that would study and document select and comparable areas within the city, those with adult businesses in a commercial zone and those without such businesses.

This research would document activity within the area such as calls to the police, police response, arrests, convictions, and the tracking of criminal incidents to specific adult businesses. Other topics to include within the research might involve the compilation of statistics in the two types of areas such as the rise and fall of real estate values and transactions, opinion surveys on livability, street harassment, sex-related activities, litter, sex or drug paraphernalia, attempted sex related contacts with children, i.e., involuntary exposure to, and any impact on neighboring schools. If a city is able to objectively compile all of this data in a neutral and organized fashion it may assist in establishing a record to present in court of actual harmful effects of an adult business. Any subsequent ordinance seeking to prohibit an adult business would find more plausible judicial support as a legitimate ‘effects-based’ regulation or prohibition of adult businesses.

II. Licensing and Fees

Licensing, license fee requirements and other regulations remain methods by which adult businesses may be regulated.²⁹ However, as with zoning, licensing regulations must not discriminate between adult businesses and other businesses.

For example, a city cannot refuse to license an adult business on the grounds that it is an adult business because this would be a distraction based on the content of the expression of the business.³⁰ Likewise, a city cannot revoke a license on the one hand, and then refuse to grant the business adequate notice and hearing on the other hand, because the courts may interpret this as pretextual prohibition of the expressive content of the business.³¹ Additionally, since obscene expression is not protected any less than any other form of expression in Oregon, city attempts to revoke a license on grounds that the adult business is 'obscene' will be invalidated by the courts.³²

Cities are similarly restrained in their imposition of license fees on adult businesses.³³ The fee charge must be demonstrably related to the actual costs to administering the license and not an attempt to suppress or discourage the perpetuation of the business.³⁴ In sum, licensing regulations must not be enforced discriminatorily, arbitrarily, burdensome, and used to ban adult businesses for no other reason than the fact that they are adult businesses.³⁵ Likewise, license fees should not be excessive, disproportionate, and used to indirectly discourage adult businesses. In short, licensing regulations must not discriminate between different types of businesses based on their expressive content.³⁶

III. Other Examples of Regulations of Businesses and Free Speech Issues

The broad definition of protectable speech or expression by the Oregon Supreme Court has resulted in numerous invalidations of regulations aimed at other commercial activities. For example, Oregon courts have invalidated as content-based statutes that prohibited commercial telemarketing,³⁷ commercial use of Oregon Department of Transportation accident reports,³⁸ and an ordinance prohibiting commercial door-to-door solicitation.³⁹ Similarly, an ordinance denying a license to a street vendor seeking to sell books was invalidated as content based when the same city granted licenses to street vendors selling "food, beverages, flowers, or balloons."⁴⁰

Regulations have been upheld when clearly aimed at the harmful effects of the expression. The state has an effective statute against "menacing," which was upheld by the court despite its applications to speech.⁴¹ Similarly, the courts have upheld anti-harassment laws.⁴² In both cases the fear or alarm caused in the menaced or harassed victim was a sufficient effect in which to regulate the expression that caused the alarm.⁴³ Consequently, regulations aimed at speech are legitimate so long as they are administered in response to the effects of the speech.⁴⁴ However, note should be taken that regulations that look content-based, are administered to the effects, but are quite broad may be invalidated in themselves as prior restraints on free speech.⁴⁵

The Nuisance Abatement Alternative

A number of Oregon cities have enacted ordinances that focus on the effects of an adult business in the form of a “nuisance property,” “chronic nuisance,” or “nuisance abatement” provision.⁴⁶ Such an ordinance does not single out adult businesses or even obscene expression. Rather, a nuisance property provision can list all of the illegal effects thought to proliferate from adult businesses. If these effects amount to a “pattern of behavior” at or within a certain specified proximity to the property, the property may be closed as a public nuisance. A pattern of behavior may be three citations for the listed offenses within a six-month period within close proximity to the adult business.⁴⁷

For example, an adult business may be legally operating within a city and within a three week period two arrests for prostitution are made and one arrest for an illegal drug transaction within one block of the business. While the city may not be able to close the business immediately, the city may be able to instigate a nuisance claim against the business to build a record of complaints and citation against the business. After a certain number of such incidences, the city will be able to change the operation of the business or close it as a chronic nuisance.

A nuisance abatement ordinance may withstand judicial review, for several reasons. First it does not single out adult businesses because of the content of their expression or material. Second, the ordinance is in fact content neutral, aimed entirely at the effects and actual occurrences of criminal and civil violations. Such an ordinance is appealing to cities because it can be directed at concerns over the anticipated effects of sexually oriented adult businesses.

Attached to this publication are two examples of nuisance property ordinances. They are offered as alternatives for city officials seeking to eliminate the perceived effects caused by adult businesses while not directing the enforcement of a regulation against the free speech rights of an adult business.

ENDNOTES

¹ For the sake of brevity, from this point onward ‘adult business’ will indicate ‘sexually explicit adult business’ unless otherwise specified.

² Most city charters should include some section regarding the regulation of businesses. Statutory authority comes from ORS 227.215 (2)(4), and ORS 227.090(1)(C).

³ See Portland v. Tidyman, 306 Or. 174, 179, 759 P. 2d 242 (1988). See also Portland v. Gatewood, 76 Or. App. 74, 79, 708, P. 2d 615 (1985), rev. den. 300 Or. 477, 713 P. 2d 1058 (1986) “...appearing nude or exposing one’s genitals in public, can constitute symbolic conduct and be a form of expression under Article 1, section 8.” See also State v. Stoneman 323 Or. 536 (1996), particularly 543-550 for the list of some of the limited exceptions to protectable speech in Oregon. See also note 11 and note 18.

⁴ See State v. Henry, 302 Or. 510, 732 P. 2d 9 (1987). A point should be made that while not all adult businesses can be considered ‘obscene,’ even if it was Oregon courts would still protect it. See Henry at 525. (This case has negative history from other jurisdictions).

⁵ See attached list within Article 7.15.050 of the Gresham City Code.

⁶ See Tidyman, 306 Or. At 193-194, for an analysis of how such ‘effects’ may be countered.

⁷ Henry at 515.

⁸ Tidyman, at 181.

⁹ Ibid., at 181.

¹⁰ See end of document for description and attached sample ordinances.

¹¹ State v. Robertson, 293 Or. 402, 647 P. 2d 569 (1982). Involving adult businesses, see State v. Henry, 302 Or. 510, 512-513, 732 P. 2d 9 (1987). Oregon adopted into statute the Miller test at ORS 167.087, however Henry at 514-525 cites Roberston, at 412 on why the statute is inapplicable to Oregon for historical and other reasons. See also Portland v. Tidyman, 306 Or. 174, 179, 759 P. 2d 242 (1988), and State v Stoneman, 323 Or. 536 (1996), particularly 543-550 for summary of test and a list of some exceptions.

¹² Henry, 302 Or. at 515.

¹³ Ibid., at 514-525.

¹⁴ Ibid. Henry goes in depth to point out the absence of “obscenity” from historical exceptions. Additionally, according to the Henry court, what was meant by “obscene” had more religious connotations to sacrilege, and were less related to sexual explicitness.

¹⁵ Ibid., but see Stoneman, 323 Or. at 550, for subtle distinction between whether an ordinance or statute seems written in a way that seems content-based or enforced in a way that seems content-based.

¹⁶ Tidyman, 306 Or. at 186-191.

¹⁷ City of Salem v. Lawrow, 233 Or. App. 32, 225 P.3d 51 (2009) at 54-55: “An act that is intended to arouse an audience is expression.” See also State v. Ciancanelli, 339 Or. 282 at 320-321, 121 P. 3d 613 (2005) (Reaffirming

and elaborating on Robertson framework for analyzing validity of laws under free speech provision of state Constitution; finding that a statute that criminalizes sex acts occurring in context of live public shows restrains free expression; and finding that a statute prohibiting promotion of prostitution was not unconstitutional).

¹⁸ See Henry, 302 Or. at 514-524 for enlightening historical analysis. At one time, in State v. Tusek, 52 Or. App. 997, 1000, 630 P. 2d 892 (1981), Oregon courts seemed to recognize these historical exceptions as 1) speech creating a clear and present danger, 2) speech as ‘fighting words’, and 3) obscenity. The effect of Henry was to find an anomalous definition between the present ‘sexual explicit’ laden definition of obscenity which historically was never prohibited, as opposed to the ‘sacrilegious’ laden definition of obscenity which was historically prohibited.

¹⁹ Stoneman, 323 Or. at 550, or see note 34.

²⁰ See, Rosen v. City of Portland, 641 F. 2d 1243 (1981), and Grossman v. City of Portland, 33 F. 3d 1200 (1994).

²¹ Stoneman, 323 Or. at 550. In the Supreme Court’s own words, “We hold that Article 1, section 8 of the Oregon Constitution, does not prohibit the legislature from protecting children from sexual exploitation, even when that exploitation ultimately is shared with others through some expressive device.” This was in response to prior invalidations for want of precise explicitness in the anti-child pornography statute ORS 163.680. See State v. Stoneman, 132 Or. App. 137, 148-149, 888 P. 2d 137 (1994).

²² Tidyman, 306 Or. at 179. In general, as well as Ackerley v. Multnomah County, 72 Or. App. 617, 624, 696 P. 2d 1140 (1985). Also, regarding a police power analysis of such zoning see Dionne v. Multnomah County, 9 Or. LUBA 101 (1983).

²³ Ackerley, 72 Or. App. at 624.

²⁴ Ibid., at 623-624, and Tidyman, 306 Or. at 191.

²⁵ Tidyman, 306 Or. at 191.

²⁶ Ibid., at 188, n. 12.

²⁷ Ibid., at 188, n. 12.

²⁸ See end of document.

²⁹ Young v. American Mini-Theaters, Inc., 427 U.S. 50, 96 S. Ct. 2040, 49 L.Ed.2d 310 (1976). Note that some of the following cases are federal standard cases which recognize different levels of protection for different forms of speech unlike Oregon cases which recognize the same amount of protection for all forms of speech. The result is that if a federal standard court invalidates an ordinance on grounds that it infringes upon free speech rights, it is even more likely to be invalidated by Oregon courts for free speech violations.

³⁰ Oregon Bookmark v. Schunk, 321 F. Supp. 639 (D. Or. 1970).

³¹ Wendling v. City of Duluth, 495 F. Supp. 1380, 1384-1385 (D. Minn, 1980) and Bayside Enterprises v. Carson, 450 F. Supp. 696 (1978), and 470 F. Supp. 1140 (M.D.Fla. 1979)

³² Wendling, 495 F. Supp. 1380

³³ Bayside Enterprises v. Carson, 450 F. Supp. At 705, Wendling, 495 F. Supp. At 1384-1385, and Murdock v. Pennsylvania, 319 U.S. 105 (1943).

³⁴ Wendling, 495 F. Supp. 1380.

³⁵ Entertainment Concepts, Inc. v. Maciejewski, 631 F. 2d 497 (1980).

³⁶ Wendling, all of case, and Murdock, 319 U.S. 105.

³⁷ Moser v. Frohnmayer, 315 Or. 372, 379, 845 P2d 1284 (1993).

³⁸ Zackheim v. Forbes, 134 Or. App. 548, 553-555, 895 P. 2d 793 (1995).

³⁹ Hillsboro v. Purcell, 306 Or. 547, 761 P.2d 510 (1988).

⁴⁰ Eugene v. Miller, 318 Or. 480, 491, 871, P. 2d 454 (1994).

⁴¹ State v. Garcias, 296 Or. 688, 679 P. 2d 1354 (1984).

⁴² State v. Moyle, 299 Or. 691, 705 P. 2d 740 (1985).

⁴³ See Garcias, 296 Or. at 697-698, and Moyle 299 Or. at 297-300.

⁴⁴ State v. Stoneman, 323 Or. at 543-544 (1996).

⁴⁵ Ibid., at 543-544.

⁴⁶ Notably, Gresham and Portland.

⁴⁷ Gresham City Code, Article 7.15.050.

Gresham City Code 7.15.050

Chronic Nuisance Property - Unlawful Activities.

(1) A Chronic Nuisance Property is any of the following activities, behaviors, or conduct:

(a) public drinking, GRC 7.10.120,

(b) loitering to solicit prostitution, GRC 7.10.050,

(c) unlawful prostitution procurement activities, GRC 7.10.060 or prostitution or related offenses, ORS 167.007 through 167.017,

(d) noise, GRC 7.20.040,

(e) assault or menacing, ORS 163.160 through 163.190,

(f) sexual abuse, contributing to the delinquency of a minor, or sexual misconduct, ORS 163.415 through 163.445, **GRESHAM REVISED CODE (7) 21 Feb-10**

(g) indecent exposure, GRC 7.10.070, or public indecency, ORS 163.465,

(h) criminal trespass, ORS 164.243 through 164.265,

(i) criminal mischief, ORS 164.345 through 164.365,

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- (j) disorderly conduct, ORS 166.025,
 - (k) harassment, ORS 166.065,
 - (l) alcoholic liquor violations, ORS 471.105 through 471.482,
 - (m) unlawful manufacture, delivery, or possession of a controlled substance or related offenses, ORS 167.203, ORS 475.005 through 475.285, and/or ORS 475.940 through 475.995,
 - (n) public urination/defecation, GRC 7.10.075,
 - (o) intimidation, ORS 166.155 through 166.165,
 - (p) unlawful discharge of a firearm, GRC 7.10.040,
 - (q) offensive littering, ORS 164.805,
 - (r) theft, ORS 164.015 through 164.140,
 - (s) arson or related offenses, ORS 164.315 through 164.335,
 - (t) illegal gambling, ORS 167.117, and/or ORS 167.122 through 167.127,
 - (u) animal abuse or neglect, ORS 167.315 through 167.330; animal abandonment, ORS 167.340; animal fighting, ORS 167.355; or dogfighting, ORS 167.365; or
 - (v) any attempt to commit (as defined in ORS 161.405) and/or conspiracy to commit (as defined in ORS 161.450 and 161.455) any of the above activities, behaviors, or conduct.

(2) A Chronic Nuisance Property is any of the following:

- (a) Property on which three or more nuisance activities listed in section (1), above, have occurred during any sixty (60) day period. A chronic nuisance property activity will be deemed to have occurred on the property for purposes of this section if engaged in within 300 feet of the property by any person associated with the property; or
- (b) Property which, upon request for execution of a search warrant, has been the subject of a probable cause determination by a court that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or 475.940 through 475.995 has occurred within the previous sixty (60) days, and the manager, the chief of police, or their designee, has determined that the search warrant was based on evidence of continuous or repeated chronic nuisance activities on the property; or
- (c) Property on which continuous or repeated nuisance activities as defined in GRC 7.15.050(1)(m) or GRC 7.15.050(1)(b) or (c) exist or have occurred.

(3) Documents and other evidence gathered in connection with enforcement activities under GRC 7.15.040, General Nuisance, may be utilized to support a chronic nuisance property determination under subsection (2), above.

(4) It is unlawful for any property to be a Chronic Nuisance Property or to be used for chronic public nuisance activities as described in subsection (1), above. If any property is found to be a Chronic Nuisance Property or to be used for such activities, it shall be closed for a period of at least six months and up to one year. Any person in charge of public nuisance property may be subject to the civil penalties provided in GRC 7.50.620(6)(b).

(5) Public nuisance closure will be subject to enforcement procedures provided in GRC 7.50.610 and GRC 7.50.620.

GRESHAM REVISED CODE Feb-10 (7) 22

(Ord. No. 1669, Amended, 04/16/2009; Ord. No. 1624, Amended, 04/20/2006; Ord. No. 1561, Amended, 12/03/2002; Ord. No. 1458, Amended, 11/05/1998; Ord. No. 1268, Amended, 12/17/1992)

City of Portland City Code

Chapter 14B.60 Chronic Nuisance Property

Table of Contents

[14B.60.010 Definitions.](#)

[14B.60.020 Violation.](#)

[14B.60.030 Procedure.](#)

[14B.60.040 Commencement of Actions; Remedies; Burden of Proof.](#)

[14B.60.050 Summary Closure.](#)

[14B.60.060 Enforcement.](#)

[14B.60.070 Attorney Fees.](#)

14B.60.010 Definitions.

A. Chronic Nuisance Property.

1. Property on which three or more Nuisance Activities exist or have occurred during any thirty (30) day period; or,
2. Property on which or within 200 feet of which any Person Associated With the Property has engaged in three or more Nuisance Activities during any thirty (30) day period; or,
3. Property which, upon request for execution of a search warrant, has been the subject of a determination by a court that probable cause that possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, 475.005 through 475.285 and/or 475.940 through 475.995 has occurred within the previous thirty (30) days, and the Chief of Police or a Precinct Commander has determined that the search warrant was based on evidence of continuous or repeated Nuisance Activities at the Property; or,
4. Property on which continuous or repeated Nuisance Activities as defined in Portland City Code 14B.60.010 D.7.,8.,13., and/or 14. exist or have occurred.

B. Commissioner in Charge. The Portland City Commissioner assigned responsibility for the Bureau of Police.

C. Control. The ability to regulate, restrain, dominate, counteract or govern Property, or conduct that occurs on a Property.

D. Nuisance Activities. Any of the following activities, behaviors or conduct:

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- 1.** Harassment as defined in ORS 166.065(1)(a).
 - 2.** Intimidation as defined in ORS 166.155 through 166.165.
 - 3.** Disorderly conduct as defined in ORS 166.025.
 - 4.** Assault or menacing as defined in ORS 163.160 through ORS 163.190.
 - 5.** Sexual abuse, contributing to the delinquency of a minor, or sexual misconduct as defined in ORS 163.415 through ORS 163.445.
 - 6.** Public indecency as defined in ORS 163.465.
 - 7.** Prostitution or related offenses as defined in ORS 167.007 through ORS 167.017.
 - 8.** Alcoholic liquor violations as defined in ORS Chapter 471.105 through 471.482.
 - 9.** Offensive littering as defined in ORS 164.805.
 - 10.** Criminal trespass as defined in ORS 164.243 through 164.265.
 - 11.** Theft as defined in ORS 164.015 through 164.140.
 - 12.** Arson or related offenses as defined in ORS 164.315 through 164.335.
 - 13.** Possession, manufacture, or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285, and/or 475.940 through 475.995.
 - 14.** Illegal gambling as defined in ORS 167.117, and/or ORS 167.122 through ORS 167.127.
 - 15.** Criminal mischief as defined in ORS 164.345 through 164.365.
 - 16.** Any attempt to commit (as defined in ORS 161.405), and/or conspiracy to commit (as defined in ORS 161.450), any of the above activities, behaviors or conduct.
 - 17.** Fire or discharge of a firearm as defined in Portland City Code 14A.60.020.
 - 18.** Unlawful operation of sound producing or reproducing equipment as defined in Portland City Code 14A.30.010 and/or excessive noise as defined in Portland City Code Chapters 18.04 and/or 18.14.
 - 19.** Unlawful drinking in public places as defined in Portland City Code 14A.50.010.
 - 20.** Curfew as defined in Portland City Code 14A.80.010.
 - 21.** Indecent exposure as defined in Portland City Code 14A.40.030.

E. Person. Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using Property in the City of Portland.

F. Person Associated With. Any Person who, on the occasion of a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a Property or Person present on a Property, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a Property, Person in Charge, or owner of a Property.

G. Person in Charge. Any Person, in actual or constructive possession of a Property, including but not limited to an owner or occupant of Property under his or her ownership or Control.

H. Precinct Commander. Any Commander of the Portland Police Bureau in charge of a Precinct.

I. Property. Any property, including land and that which is affixed, incidental or appurtenant to land, including but not limited to any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit or portion thereof, or any business equipment, whether or not permanent. For Property consisting of more than one unit, Property may be limited to the unit or the portion of the Property on which any Nuisance Activity has occurred or is occurring, but includes areas of the Property used in common by all units of Property including without limitation other structures erected on the Property and areas used for parking, loading and landscaping.

14B.60.020 Violation.

A. Any Property determined by the Chief of Police or a Precinct Commander to be Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.

B. Any Person in Charge of Property determined by the Chief of Police or a Precinct Commander to be a Chronic Nuisance Property is in violation of this Chapter and subject to its remedies.

14B.60.030 Procedure.

A. When the Chief of Police or a Precinct Commander receives two or more police reports documenting the occurrence of Nuisance Activities on or within 200 feet of a Property, the Chief of Police or Precinct Commander shall independently review such reports to determine whether they describe the activities, behaviors or conduct enumerated under Portland City Code 14B.60.010 D.1.-21. Upon such a finding, the Chief of Police or a Precinct Commander may notify the Person in Charge in writing that the Property is in danger of becoming Chronic Nuisance Property. The notice shall contain the following information:

1. The street address or a legal description sufficient for identification of the Property.
2. A statement that the Chief of Police or Precinct Commander has information that the Property may be Chronic Nuisance Property, with a concise description of the Nuisance Activities that exist, or that have occurred. The Chief of Police or the Precinct Commander shall offer the Person in Charge an opportunity to propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.

3. Demand that the Person in Charge respond to the Chief of Police or the Precinct Commander within ten (10) days to discuss the Nuisance Activities.

B. When the Chief of Police or Precinct Commander receives a police report documenting the occurrence of additional Nuisance Activity on or within 200 feet of a Property after notification as provided by Portland City Code 14B.60.030 A.1.; or, in the case of Chronic Nuisance Property as defined in Portland City Code 14B.60.010 A.3. or 4., for which notice under Portland City Code 14B.60.030A is not required, the Chief of Police or the Precinct Commander shall notify the Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property. The notice shall contain the following information:

- 1. The street address or a legal description sufficient for identification of the Property.**
- 2. A statement that the Chief of Police or the Precinct Commander has determined the Property to be Chronic Nuisance Property with a concise description of the Nuisance Activities leading to his/her determination.**
- 3. Demand that the Person in Charge respond within ten (10) days to the Chief of Police or the Precinct Commander and propose a course of action that the Chief of Police or the Precinct Commander agrees will abate the Nuisance Activities giving rise to the violation.**
- 4. Service shall be made either personally or by first class mail, postage prepaid, return receipt requested, addressed to the Person in Charge at the address of the Property determined to be a Chronic Nuisance Property, or such other place which is likely to give the Person in Charge notice of the determination by the Chief of Police or the Precinct Commander.**
- 5. A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the Property is located, and/or the occupant at the address of the Property, if these Persons are different than the Person in Charge, and shall be made either personally or by first class mail, postage prepaid.**

C. If the Person in Charge fails to respond as required by Portland City Code 14B.60.030 B.3., the Chief of Police or the Precinct Commander may refer the matter to the Commissioner in Charge and the City Attorney. Prior to referring the matter to the Commissioner in Charge and the City Attorney, the notice required by Portland City Code 14B.60.030 B. shall also be posted at the property.

D. If the Person in Charge responds as required by Portland City Code 14B.60.030 B.3. and agrees to abate Nuisance Activities giving rise to the violation, the Chief of Police or the Precinct Commander may postpone referring the matter to the Commissioner in Charge and the City Attorney. If an agreed course of action does not result in the abatement of the Nuisance Activities within sixty (60) days; or, if no agreement concerning abatement is reached within sixty (60) days, the Chief of Police or the Precinct Commander may refer the matter to the Commissioner in Charge and the City Attorney.

E. When a Person in Charge makes a response to the Chief of Police or the Precinct Commander as required by Portland City Code 14B.60.030 A.3. or B.3. any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any Nuisance Activities have

occurred or are occurring. This Subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

F. The failure of any Person to receive notice as provided by Portland City Code 14B.60.030 A. or B. shall not invalidate or otherwise affect the proceedings under this Chapter.

14B.60.040 Commencement of Actions; Remedies; Burden of Proof.

A. The Commissioner in Charge may authorize the City Attorney to commence legal proceedings in the Circuit Court to abate Chronic Nuisance Property and to seek closure, the imposition of civil penalties against any or all of the Persons in Charge thereof, and, any other relief deemed appropriate.

B. If the Court determines Property to be Chronic Nuisance Property, the Court shall order that the Property be closed and secured against all unauthorized access, use and occupancy for a period of not less than six (6) months, nor more than one (1) year. The order shall be entered as part of the final judgment. The Court shall retain jurisdiction during any period of closure.

C. If the Court determines a Property to be Chronic Nuisance Property, the Court may impose a civil penalty of up to \$100 per day for each day Nuisance Activities occurred on the Property, following notice pursuant to Portland City Code 14B.60.030 B.; or, the cost to the City to abate the Nuisance Activities at the Property whichever is greater. The amount of the civil penalty shall be assessed against the Person in Charge and/or the Property and may be included in the City's money judgment.

D. If satisfied of the good faith of the Person in Charge, the Court shall not award civil penalties if the Court finds that the Person in Charge at all material times could not, in the exercise of reasonable care or diligence, determine that the Property had become Chronic Nuisance Property.

E. In establishing the amount of any civil penalty, the Court may consider any of the following factors and shall cite those found applicable:

1. The actions taken by the Person in Charge to mitigate or correct the Nuisance Activities at the Property;
2. The financial condition of the Person in Charge;
3. Repeated or continuous nature of the problem;
4. The magnitude or gravity of the problem;
5. The cooperation of the Person in Charge with the City;
6. The cost to the City of investigating and correcting or attempting to correct the Nuisance Activities;
7. Any other factor deemed relevant by the Court.

F. The City shall have the initial burden of proof to show by a preponderance of the evidence that the Property is Chronic Nuisance Property.

G. Evidence of a Property's general reputation and/or the reputation of persons residing in or frequenting it shall be admissible.

14B.60.050 Summary Closure.

Any summary closure proceeding shall be based on evidence showing that Nuisance Activities exist or have occurred on the Property and that emergency action is necessary to avoid an immediate threat to public welfare and safety. Proceedings to obtain an order of summary closure shall be governed by the provisions of ORCP 79 for obtaining temporary restraining orders. In the event of summary closure, the City is not required to comply with the notification procedures set forth in Portland City Code 14B.60.030 A. and B.

14B.60.060 Enforcement.

A. The Court may authorize the City to physically secure the Property against all unauthorized access, use or occupancy in the event that the Person in Charge fails to do so within the time specified by the Court. In the event that the City is authorized to secure the Property, the City shall recover all costs reasonably incurred by the City to physically secure the Property as provided by this Section. The City Bureau(s) physically securing the Property shall prepare a statement of costs and the City shall thereafter submit that statement to the Court for its review as provided by ORCP 68.

B. The Person in Charge shall pay reasonable relocation costs of a tenant as defined by ORS 90.100(28), if, without actual notice, the tenant moved into the Property after either:

- 1.** A Person in Charge received notice of the determination of the Chief of Police or any Precinct Commander pursuant to Portland City Code 14B.60.030 B.; or
- 2.** A Person in Charge received notice of an action brought pursuant to Portland City Code 14B.60.050.

C. A lien shall be created against the Property for the amount of the City's money judgment. In addition, any Person who is assessed penalties under Portland City Code 14B.60.040 C. and/or costs under Portland City Code 14B.60.060 A. shall be personally liable for payment thereof to the City. Judgments imposed by this Chapter shall bear interest at the statutory rate.

14B.60.070 Attorney Fees.

The Court may, in its discretion, award attorneys' fees to the prevailing party.

Chapter 5.24 ADULT BUSINESSES

Sections:

- 5.24.010 Purpose.**
- 5.24.020 Definitions.**
- 5.24.030 Regulations for adult businesses.**
- 5.24.040 License--Required.**
- 5.24.050 License--Period.**
- 5.24.060 License--Fees.**

5.24.010 Purpose.

It is recognized that the presence of certain "adult businesses" within the community of Central Point may result in adverse social and economic impacts, increased crime incidents, and physical deterioration in the general areas of such businesses. It is evident that regulations applicable to adult businesses are necessary to preserve the integrity of existing commercial areas of the city, and to protect the character, safety and stability of residential areas that are in close proximity to such commercial areas. The purpose of this chapter is to establish regulations applicable to adult businesses, as defined in the Oregon Revised Statutes and in Section [5.24.020](#). (Ord. 1995 §1 (part), 2014; Ord. 1438 §2(part), 1981).

5.24.020 Definitions.

For purposes of this chapter, the following terms and business types are defined in this section:

A. "Adult business" includes any adult arcade, adult bookstore, adult cabaret, adult theater, sexual encounter center, or other businesses which are characterized by an emphasis on sexually explicit material dealing with "specified anatomical areas" and/or "specified sexual activities," as defined in this section.

B. "Specified anatomical areas" means:

1. Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttocks; and
 - c. One or both female breasts without a circular covering, centered on the nipple, that is at least three inches in diameter and does not simulate the organ covered; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

C. "Specified sexual activities" means:

1. Human genitals in a state of sexual stimulation or arousal; and/or
2. Acts of human masturbation, sexual intercourse, sodomy, sexual stimulation or arousal; and/or
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

D. "Adult bookstore" means any store having a significant portion of its stock in trade, books, magazines, newspapers, or other printed or written material or any pictures, drawings, photographs, motion pictures, or other pictorial representations which are distinguished by their emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," as defined in this section.

E. "Adult cabaret" is an establishment having as its primary attraction live exhibition (either for direct viewing, closed circuit viewing, or viewing through a transparent partition) for patrons either individually or in groups, where a substantial portion of the material presented is characterized by an emphasis on "specified anatomical areas" or "specified sexual activities" and excludes minors as a legal or prevailing business practice.

F. "Sexual encounter center" means any business, agency, or person who, for any form of consideration or gratuity, provides a place where persons may congregate, assemble or associate for the purpose of engaging in "specified sexual activities."

G. "Adult theater" means any theater or similar facility which is used primarily for presenting material with an emphasis on matter depicting, describing or relating to "specified anatomical areas" or "specified sexual activities," for observation by patrons therein.

H. "Significant or substantial portion" means more than twenty-five percent of the total cost of the inventory of merchandise for sale in the establishment, whether at wholesale or retail, or more than twenty-five percent of the establishment's gross sales per month, whether wholesale or retail. (Ord. 1995 §1(part), 2014; Ord. 1444, 1981; Ord. 1438 §2(part), 1981).

5.24.030 Regulations for adult businesses.

A. Adult businesses may be granted a conditional use permit by the planning commission in accordance with the requirements of the zoning district in which the business is proposed, and in accordance with the following regulations:

1. The proposed use complies with all requirements set forth for the issuance of a conditional use permit;
2. The lot on which the business is proposed to be located is classified C-5 (thoroughfare commercial);
3. The subject lot is not within two hundred feet of the nearest residential (R) zoning district;
4. The lot is not within five hundred feet of any lot upon which there is located a church, educational institution primarily attended by minors, a public park or recreational facility, a day

nursery or child care center, a mobile home park, or any other public facility which is customarily utilized by minors;

5. The lot is not within one thousand feet of any lot upon which there is located another adult business;

6. The exterior appearance of the structure shall be consistent with the appearance of existing commercial structures on abutting lots or within the immediate neighborhood, so as not to cause blight, deterioration, or avoidable depreciation in property values within the general vicinity;

7. The business shall be permitted an identification sign but shall not exhibit advertisements, displays, or any other promotional or advertising materials that may be visible to the public outside the structure;

8. All doorways, windows and other openings shall be located, covered or screened in such a manner to prevent a view into the interior from any exterior public or semipublic area;

9. No adult business, as defined in this chapter, shall be kept open for business between the hours of ten p.m. and ten a.m., except as specifically permitted by the terms of the conditional use permit.

B. Applicants for licenses under this chapter must file with the city recorder a sworn application in writing for the license which shall give the following information:

1. The name of the applicant;
2. Permanent home address and full local address of the applicant;
3. A brief description of the nature of the business and goods to be sold, if any;
4. Length of time for which the right to do business is desired;
5. The location of the proposed adult business.

C. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not to exceed two hundred dollars or by imprisonment not to exceed thirty days, or by both such fine or by imprisonment. (Ord. 1995 §1(part), 2014; Ord. 1438 §2(part), 1981).

5.24.040 License--Required.

No person, or his employee or agent, shall engage in or conduct within the city any adult business unless the license fee has been paid and a license issued as provided herein. (Ord. 1995 §1(part), 2014; Ord. 1438 §2(part), 1981).

5.24.050 License--Period.

License for adult businesses shall be for semi-annual periods commencing on July 1st and January 1st of each year. No license fee shall be for less than the full six-month quarter semi-annual period. (Ord. 1995 §1(part), 2014; Ord. 1822 §1(part), 2001; Ord. 1438 §2(part), 1981).

5.24.060 License--Fees.

The license fee to be charged by the city designee for an adult business license shall be as set forth in the City of Central Point Business License Fee Schedule. (Ord. 1995 §1(part), 2014; Ord. 1822 §1(part), 2001; Ord. 1438 §2(part), 1981).

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