



Legislation Details (With Text)

**File #:** 04197      **Version:** 1      **Name:** 11/6? adult book store  
**Type:** Ordinance      **Status:** Filed  
**File created:** 7/20/2006      **In control:** PLAN COMMISSION  
**On agenda:** 10/6/2009      **Final action:** 10/6/2009  
**Enactment date:**      **Enactment #:**  
**Title:** Amending Sections 9.05(1) and 28.03(2) of the Madison General Ordinances to modify the definitions of "adult book or video store" to include reference to sexual paraphernalia and devices.  
**Sponsors:** Tim Bruer  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. 04197 public hearing mailing.pdf

Date	Ver.	Action By	Action	Result
10/6/2009	1	COMMON COUNCIL	Place On File Without Prejudice	Pass
9/14/2009	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO PLACE ON FILE WITHOUT PREJUDICE - RECESSED PUBLIC HEARING	Pass
9/5/2006	1	COMMON COUNCIL	Re-refer for Recessed Public Hearing	Pass
8/21/2006	1	PLAN COMMISSION	RECOMMEND TO COUNCIL TO RE-REFER - PUBLIC HEARING	Pass
7/24/2006	1	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office (AFTER CC INTRO)	
7/20/2006	1	Attorney's Office/Approval Group	Approved As To Form	
7/20/2006	1	Attorney's Office	Fiscal Note Required / Approval	
7/18/2006	1	COMMON COUNCIL	Refer For Public Hearing	Pass

**Fiscal Note**

Establishments operating as Adult Entertainment stores must obtain a \$600 permit from the City Clerk. There are currently three permitted establishments; this Ordinance may result in an increase in the number of establishments for which a permit is required, therefore resulting in a modest increase in General Fund revenues.

**Title**

Amending Sections 9.05(1) and 28.03(2) of the Madison General Ordinances to modify the definitions of "adult book or video store" to include reference to sexual paraphernalia and devices.

**Body**

DRAFTER'S ANALYSIS: Under current ordinances, an establishment must devote ten percent (10%) or more of its floor space to the sale of adult materials before it is required to obtain an adult entertainment establishment license, or be subject to the zoning rules for an adult entertainment establishment. Adult materials under current law are limited to books, films, magazines, and other visual matters. This amendment adds physical devices and paraphernalia to the definition of adult materials. Thus, in calculating whether the ten percent (10%) threshold is met under this amendment, additional adult materials would be covered in the calculation, meaning more stores may qualify as adult entertainment establishments.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (1) entitled "Definitions" of Section 9.05 entitled "Adult Entertainment Establishments and Adult Entertainment Taverns" of the Madison General Ordinances is amended by amending therein the following:

" Adult Book or Video Store. An adult book store is an establishment which is used for selling, renting or loaning, for monetary consideration, the following materials, when such activity constitutes a substantial or significant part of the business conducted therein:

1. Any pictures, photographs, drawings, motion picture films or similar visual representations or images of a person or portions of a human body, or physical devices or paraphernalia, which are distinguished or characterized by their emphasis on matters depicting, or describing, for use in connection with, or relating to specified sexual activities or specified anatomical areas as defined herein or
2. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in Paragraph 1. above.
3. Significant part of the business means dedication or use of more than ten percent of the available floor, wall and display space to the sale, rental or loan of the subject matter referenced in Paragraphs 1. and 2. above, including space devoted to the viewing of videotapes or films, or display and advertisement of subject matter referenced herein in excess of ten percent of the total merchandise for sale, rental or loan.
4. Material, however distributed, which is published by a medical products manufacturer, a medical or health association, an insurance company, or by a consumer education organization shall not be considered part of the business of operating an adult book or video store."

2. Subsection (2) entitled "Definitions" of Section 28.03 entitled "Rules and Definitions" of the Madison General Ordinances is amended by amending therein the following:

" Adult Book or Video Store. An adult book store is an establishment which is used for selling, renting or loaning, for monetary consideration, the following materials, when such activity constitutes a substantial or significant part of the business conducted therein:

1. Any pictures, photographs, drawings, motion picture films or similar visual representations or images of a person or portions of a human body, or physical devices or paraphernalia, which are distinguished or characterized by their emphasis on matters depicting, or describing, for use in connection with, or relating to specified sexual activities or specified anatomical areas as defined herein or
2. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains any matter enumerated in Paragraph 1. above.
3. Significant part of the business means dedication or use of more than ten percent of the available floor, wall and display space to the sale, rental or loan of the subject matter referenced in Paragraphs 1. and 2. above, including space devoted to the viewing of videotapes or films, or display and advertisement of subject matter referenced herein in excess of ten percent of the total merchandise for sale, rental or loan.
4. Material, however distributed, which is published by a medical products manufacturer, a medical or health association, an insurance company, or by a consumer education organization shall not be considered part of the business of operating an adult book or video store.

Words used in this definition shall be defined as provided by Section 26.05(1)."