

ARTICLE XIII

SEXUALLY ORIENTED BUSINESSES

13.1 POWER AND AUTHORITY

The City of Foley has the power and authority to adopt and enforce the terms, conditions and regulations established in this Ordinance pursuant to its police powers to protect the public health, safety, morals and general public welfare, to address, mitigate and if possible eliminate the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such sexually oriented business activities are located.

13.2 DEFINITIONS

Unless the context clearly indicates otherwise, for the purposes of this Ordinance, the following words, combinations of words, terms and phrases shall have the following meanings:

City:. The City of Foley, Alabama.

Mixed-Use District: A zoning district which permits a combination of residential and commercial uses within a single development, such as a Planned Unit Development (PUD) or a Planned Development District (PDD).

Park: A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, wilderness area, or other similar public land within the City which is under the control, operation, or management of either the City, Baldwin County, the State of Alabama, or the United States Government.

School: A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. This term includes all of the school grounds and connected or related facilities.

Sexually Oriented Business: Any adult arcade, adult bookstore, adult motion picture theater, adult motion picture rental, adult mini-motion picture theater, adult steam room/bathhouse/sauna facility, adult companionship establishment, adult rap/conversation parlor, adult massage parlors, adult health/sport club, adult cabaret, adult novelty store, adult motion picture arcade, adult modeling studio, adult hotel/motel, adult body painting studio, escort, escort agency, sexual encounter establishment, nude studio, or any other commercial or business enterprise which has as a primary focus of its

business the offering for sale, rent, or exhibit, or the exhibit of, items or services intended to provide sexual stimulation or sexual gratification to the customer, or which places an emphasis on the presentation, display, depiction or description of sexual activities or of nude persons. The term Sexually Oriented Business, however, shall not be construed to include:

- A. professional offices or schools of licensed physicians, chiropractors, psychologists, physical therapists, teachers or similar licensed professionals performing functions authorized under the license(s) held; or
- B. establishments or businesses operated by or employing licensed cosmetologists or barbers, performing functions authorized under licenses held.

13.3 PROHIBITED IN CERTAIN AREAS:

Sexually Oriented Businesses are prohibited in the corporate limits of the City of Foley in the following areas, locations, and zones:

- A. within any zoning district other than those where Sexually Oriented Businesses are expressly permitted in Section 13.4 below;
- B. within 1,000 linear feet of a residential zoning district or a residential area of a mixed-Use District;
- C. within 500 linear feet of any pre-existing residence located in a non-residential zone;
- D. within 100 linear feet of any non-residential zoning district or non-residential area of any Mixed-Use District which does not expressly permit Sexually Oriented Businesses;
- E. within 1,000 linear feet of a pre-existing place of worship, School, Park, museum, library, cemetery, or funeral home;
- F. within 2,000 linear feet of any other Sexually Oriented Businesses;
- G. within the same building, structure, or portion thereof, as any other Sexually Oriented Business;
- H. within 2,000 linear feet of the Foley Beach Express Overlay District;
- I. within 1,000 linear feet of County Road 20, County Road 26, or County Road 65; or
- J. within 2,000 linear feet of Alabama Highway 59, U.S. Highway 98, or the Foley Beach Express.

For purposes of this section, all measurements shall be made in a straight line without

regard to the intervening structures or objects and shall be made from the property line of the premises on which the Sexually Oriented Business operates or wishes to operate to the nearest property line of the subject district, area, use or premises.

13.4 PERMITTED IN CERTAIN AREAS

Subject to the spacing and minimum distance prohibitions contained in this Ordinance, a Sexually Oriented Business is a permitted use only within those areas of the City zoned B-1A Extended Business District or M-1 Light Industrial District.