

**TORRANCE COUNTY****Interim****Standards for Applications for Special Use District Approvals to Operate Adult Amusement Establishments, Adult Bookstores and Adult Photo Studios**

WHEREAS, adult land uses, as defined below, fall within the catch-all provision of the Special Use District, Section 16, of the Torrance County Zoning Ordinance;

WHEREAS, the Board of County Commissioners believes that definitions and more precise standards are necessary for the review of and decision regarding applications for special use approval to commence adult land uses;

WHEREAS, the Board of County Commissioners intends in the near future to consider zone ordinance amendments;

THEREFORE, BE IT RESOLVED, that the following Interim Standards shall apply until such time as zone ordinance amendments governing adult land uses are adopted:

**I. DEFINITIONS:**Adult Amusement Establishment.

A. An establishment which provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas;

1. Specified Anatomical Areas, means:

a. Less than completely and opaquely covered by clothing:

(1) Human genitals or pubic region;

(2) Buttock; and

(3) Female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. Specified Sexual Activities, including the following:

a. Human genitals in a state of sexual stimulation or arousal;

b. Acts of human masturbation, sexual intercourse, or sodomy; and

- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- B. An establishment which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment; or
- C. An establishment which, upon payment of a fee provides an escort or a partner to its patrons.
- D. An establishment which upon payment of a fee provides its patrons with a male or female model fully or partially clothed or nude for the purposes of demonstrating body oils, body lotions or devices.

Adult Bookstore. An establishment having a substantial or significant portion of its stock in film, video tapes, trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

Adult Photo Studio. An establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.

Adult Theater. A theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

## II PROCEDURES FOR OBTAINING SPECIAL USE APPROVAL

- A. Application. In addition to the requirements described in Section 16.B. of the Zoning Ordinance, an applicant seeking approval for an adult land use defined above must show that the proposed land use satisfies the the Approval Requirements stated below.
- B. Time Limits. As a zone change amendment, the time limits in Section 24 of the Zoning Ordinance shall apply to the County's decision on an Application, either to issue or deny a Special Use application. The County shall render its decision according to following time limits:
  1. An Application submitted 15 or more days prior to the next regularly scheduled Planning and Zoning Board monthly meeting shall be heard at that meeting;
  2. Unless Applicant requests or consents to a deferral, the Planning and Zoning Board shall render its oral recommendation at the time of its

- meeting and, within 7 days following the meeting, the Board shall submit a written Recommendation to the Board of County Commissioners;
3. Directly following the Planning and Zoning Board meeting, the Board of County Commissioners shall call for a public meeting by notification of the time and place of the public hearing published in the next available newspaper of general circulation in the County at least 15 days prior to the hearing; and,
  4. The hearing of the Application shall take place at the next regularly scheduled semi-monthly meeting of the Board of County Commissioners following the expiration of the 15-day notice period. Upon conducting its public hearing, the Board of County Commissioners shall render either an oral or written decision, either to approve or deny a Special Use Application, at the conclusion of the hearing. If the Commissioners make only an oral decision, they may adopt a written decision at their next regularly scheduled semi-monthly meeting.

From the date of submission of a completed application, a decision of the Board of County Commissioners must be made within 60 days. If a decision is not rendered, either approving or denying the Special Use Application, within the 60-day period, the Application will be approved and issued as a matter of law. Any time that lapses during a deferral requested by or consented to by the Applicant shall be excluded from the calculation of the 60-day period.

### III APPROVAL REQUIREMENTS

The approval standards of Section 16.A of the Zoning Ordinance shall be satisfied if the Application meets the following Approval Requirements:

- A. The proposed land use would not violate any civil or criminal law otherwise applicable.
- B. The use is located at least 2,000 feet from another adult amusement establishment, adult bookstore, adult photo studio or adult theater; and
- C. The nearest property line of land proposed for the Special Use is located: (1) at least 500 feet from the nearest residential zone district line; (2) at least 2000 feet from the nearest conforming residential use; and, (3) at least 2000 feet from any church or school.

### IV RENEWAL

The Special Use approval shall terminate unless renewed. An application to renew a Special Use described hereing is required once a year before the one-year anniversary date of the previous approval. Any application for renewal must comply with the rules and regulations in effect at the time of application for renewal is submitted.

V APPEALS

An appeal to the District Court for the County of Torrance may be made anytime within 30 days after a denial.

PASSED AND APPROVED the 6<sup>th</sup> day of December, 2000, by the Board of County Commissioners of Torrance County, New Mexico.

These Interim Standards go into effect immediately.

State of New Mexico  
County of Torrance

I, hereby certify that this instrument was filed for record on the 16 day of January A.D., 2001 at 8:49 o'clock A M and duly recorded in book 289 at page 589-592

Bill R. Webb  
Chairman

Rodger Kainum  
Member

Archie R. Relyea  
Member

Witness my hand and Seal of Office  
Marina Arly  
County Clerk, Torrance Co., N.M.  
Deputy

ATTEST:

Marina Arly  
County Clerk

