

ORDINANCE NO. 3254  
(ZOA-15-500000 – Amend Henderson Municipal Code Section 19.5.5.HH  
Sexually Oriented Business)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON,  
NEVADA, TO AMEND SECTION 19.5.5.HH - SEXUALLY ORIENTED  
BUSINESS - OF THE HENDERSON MUNICIPAL CODE, AND MATTERS  
PROPERLY RELATED THERETO.

WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and

WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and

WHEREAS, a zoning ordinance is considered a "living document" and will invariably need amending to make minor corrections, revisions, and updates as necessary; and

WHEREAS, the City of Henderson recently adopted new regulations for sexually oriented business within Title 4 of the Henderson Municipal Code; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

SECTION 1. Henderson Municipal Code, Section 19.5.5.HH, is hereby amended as depicted in Exhibit A, attached hereto, consisting of four (4) pages.

SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.

SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.

SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on February 20, 2015, in the Review Journal.

# Exhibit A

## 19.5.5.HH – Sexually Oriented Business

### HH. SEXUALLY ORIENTED BUSINESS

RESIDENTIAL										PUBLIC		
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
COMMERCIAL					INDUSTRIAL			MIXED-USE				
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
						C	C	C				

**1. Definition**

“Sexually oriented business” means, [~~but is not limited to,~~] adult bookstores, adult novelty businesses, adult video stores, adult motion picture theaters, adult video arcades, adult clubs, commercial adult establishments, escort services, nude modeling agencies, nude modeling studios [~~studio, nude modeling agency, nude shows, adult bookstores, adult motion picture theaters, adult video centers, sexual encounter businesses, adult novelty businesses, sexual encounter centers, escort services, adult clubs not serving alcoholic liquors as described in HMC Chapter 4.36, and~~] outcall promoters and [outcall entertainer] sex clubs. The terms within this definition are defined in HMC Title 4.

**2. Standards**

(a) All Districts

Separation Requirements

(1) The applicant shall provide evidence certified by a professional land surveyor licensed in the State of Nevada that the proposed sexually oriented business will be separated a minimum of 1,000 feet from the following, except iii, which requires a minimum 1,500 foot separation:

- i. A child care facility;
- ii. A religious assembly use;
- iii. A property with a residential land use category as designated by the Comprehensive Plan;
- iv. A property designated with a mixed-use zoning designation;
- v. A hospital;
- vi. A school (public or private);
- vii. A governmental office;
- viii. A public park;
- ix. A Teenage Dancehall;
- x. A Teenage Nightclub;
- xi. Another sexually oriented business.

(2) All Districts

## Exhibit A

### 19.5.5.HH – Sexually Oriented Business

Measurement of the required 1,000 foot separation:

- i. The separation requirement is measured by the shortest line, without regard to intervening obstacles, between the space to be occupied by the proposed sexually oriented business establishment and the property line of the above-listed items (except for another sexually oriented business).
- ii. The separation requirement for another sexually oriented business is to be measured by the shortest line, without regard to intervening obstacles, between the space to be occupied by the proposed sexually oriented business establishment and the occupied space of the nearest established or approved sexually oriented business establishment.
- iii. The foregoing distance requirements may be waived, except for 2(a)(1)iii – A property with a residential land use category as designated by the Comprehensive Plan, through the conditional use permit only if it can be shown by clear and convincing evidence by the applicant that a waiver of such distance requirements will not compromise the purpose and the general intent of the HMC to protect the public health, safety, and general welfare of the citizens of the City. Demonstration of existing adequate physical barriers may be considered as such evidence. Adequate barriers include, but are not limited to, such things as an improved drainage facility, freeway, other major roadway with a minimum width of 150 feet, or a topographical feature that prevents vehicular and pedestrian access.

(3) IP and IG Districts

Only adult bookstores ~~[and]~~, adult novelty businesses, and adult video stores as defined in HMC 4.110.010 may be considered within these zoning districts with approval of a Conditional Use Permit.

(b) Other Requirements

All Districts

- (1) The use must comply with all approval criteria for a conditional use permit as listed in Section 19.6.6.A.
- (2) Additional conditions may be required as part of the conditional use permit process.
- (3) The use shall conform to the requirements of HMC 4.110 for Sexually Oriented Businesses.
- (4) Businesses known as "outcall promoter and outcall entertainer" and "escort and escort service" shall also be subject to the requirements and regulations imposed by the provisions of HMC Chapter ~~[4.101]~~ 4.110.
- (5) Nothing in this Title pertaining to sexually oriented businesses is intended to make legal any business or activity that is expressly declared illegal under any other provisions of the Municipal Code or under any state or federal laws.

## Exhibit A

### 19.5.5.HH – Sexually Oriented Business

#### (c) Exemptions

The provisions of this section do not apply to those businesses that:

- (1) Operate a manufacturing or wholesale business, licensed in accordance with HMC Chapter 4.04, Section 4.05.010;
- (2) Are prohibited from conducting retail sales;
- (3) Prohibit public access to the premises; and
- (4) Meet all zoning requirements pursuant to HMC Title 19; or
- (5) Personal introduction businesses.

#### 3. **Off-Street Parking Requirement**

- (a) Adult clubs: 1 space per 100 square feet.
- (b) All other adult uses: 1 space per 250 square feet.

#### 4. **Off-Street Loading Group**

None.