

Regulating Contentious Commercial Uses

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American Planning Association

Making Great Communities Happen

Foreword

Certain commercial uses have long been the source of headaches for local planners. This packet focuses on some of the most common ones: tattoo and body piercing businesses, gun shops, alternative financial services, pawnshops, alcohol sales, massage parlors, and sexually oriented businesses. These uses tend to generate controversy within communities due to negative perceptions and potential secondary effects. However, completely banning these uses is most likely not legally justifiable and deprives those residents who do use them. This packet offers a variety of sample zoning and licensing ordinances from communities who place restrictions on these controversial uses but still allow an opportunity for them to locate within their jurisdiction.

It is important to note that some communities have little issue with these uses. Many local governments make no distinction between these uses and other businesses operating in a commercial zoning district. They are either listed as a permitted use or more commonly as a conditional use subject to universal conditional use standards. This is particularly true for tattoo parlors, massage parlors, liquor stores, and pawnshops. Sexually oriented businesses, however, tend to receive special regulatory attention in most communities.

The most common regulation for contentious commercial uses is a distancing requirement between the use and residences, churches, parks, schools, daycares, and other sensitive uses. Additionally, distancing requirements between individual facilities are often used to prevent clustering of these uses. Distancing requirements may appear in either zoning or licensing regulations.

Some of these uses have specific requirements that address particular issues with the use:

- **Tattoo and Body Piercing:** Due to the puncturing of skin, tattoo parlors and body piercing studios tend to have heavy licensing regulations that focus on health and sanitation. These regulations may cover facilities, personnel, and operational practices to protect public health.
- **Gun Shops:** Communities may require gun shops to install security enhancements and maintain certain recordkeeping standards to ensure that guns do not get into the hands of criminals.
- **Pawnshops:** To limit the trafficking of stolen items, pawnshops are usually required to keep records of transactions and to share this information with police. Additionally, regulations may limit finance charges as a protection for patrons that have pledged items.
- **Massage Parlors:** Communities typically require massage therapists to be licensed by the state or local government or to have graduated from an accredited massage school. Additionally, certain operational practices and recordkeeping must be followed. These regulations are used to prevent illegal sexual activity.
- **Sexually Oriented Businesses:** Several specific regulations exist as there are a wide range of business types in this category, from adult bookstores to adult cabarets.

Again, some communities have not found it necessary to place strong restrictions on the uses represented in this packet. But for those planners who are seeking information on how to more carefully regulate these uses while allowing them an opportunity to establish in their communities, we hope you find these resources useful.

Tattoo and Body Piercing Shops (Body Altering / Body Art Businesses)

Burke, Chris. 1998. "Zoning Gets Under Your Skin." *Zoning News*, April.

Antioch (Illinois), Village of. 2009. *Village Code*. Title 10, Zoning. Chapter 6, Business Districts. Article A, Section 10-6A-1. B-1 Limited Retail Business District – Permitted Uses. Coeur d'Alene, ID: Sterling Codifiers.

Currituck (North Carolina), County of. 2009. *Unified Development Ordinance*. Chapter 3, Special Requirements. Section 3.5.8, Tattoo and Body Piercing Studios.

(Includes 12 additional publications and zoning and licensing ordinances.)

Gun Shops

Davidson, Michael. 2000. "On the Firing Line: Zoning for Gun-Related Uses." *Zoning News*, February.

New Haven (Connecticut), City of. 2009. *Zoning Ordinance*. Article V, Business and Industrial Districts. Section 42.4. Regulation of Gun Shops and Associated Goods Sales. Tallahassee, FL: Municipal Code Corporation.

Bellingham (Washington), City of. 2009. *Municipal Code*. Title 6, Business Taxes, Licenses, and Regulations. Chapter 34, Firearms Retail Establishments.

(Includes 7 additional publications and zoning and licensing ordinances.)

Alternative Financial Services

Blank, Rebecca M. 2008. *Public Policies to Alter the Use of Alternative Financial Services among Low-Income households*. Brookings Institution.

Pima (Arizona), County of. 2009. *Pima County Code*. Title 18, Zoning. Chapter 18.03, General Definitions. Section 18.03.020(N)(1). Definitions – Non-chartered Financial Institutions. Chapter 18.45, CB-2 General Business Zone. Section 18.45.040(E). Conditional Uses - Non-chartered Financial Institutions. Tallahassee, FL: Municipal Code Corporation.

Wauwatosa (Wisconsin), City of. 2009. *Wauwatosa Municipal Code*. Title 24, Zoning and Land Use Control. Chapter 24.46, General Regulations. Section 24.46.100. Convenient Cash Businesses and Similar Establishments. Tallahassee, FL: Municipal Code Corporation.

(Includes 7 additional publications and zoning and licensing ordinances.)

Pawnshops

Fort Worth (Texas), City of. 2009. *Zoning Ordinance*. Chapter 5, Supplemental Use Standards. Article 1, Standards for Selected Uses. Section 5.125, Pawnshop.

Northfield (Minnesota), City of. 2009. *Northfield Code*. Chapter 34, Land Development Regulations. Article VIII, Zoning. Division 5, Design Standards, Performance Standards, and Specific Use Standards. Section 34-1046. Pawnshop. Tallahassee, FL: Municipal Code Corporation.

(Includes 7 additional publications and zoning and licensing ordinances.)

Alcohol Sales

Pasadena (California), City of. 2008. *Zoning Code*. Article 2, Zoning Districts, Allowable Land Uses, and Zone-Specific Standards. Chapter 17.28, Overlay Zoning Districts. Section 17.28.030. AD Alcohol Overlay District.

Polk (Florida), County of. 2009. *Land Development Code*. Chapter 2, Land Use Districts and Regulations. Section 224. Alcohol Sales.

(Includes 9 additional publications and zoning and licensing ordinances.)

Massage Parlors

Brierton, Janet. 2004. "Regulation of Massage Parlors." *OLR Research Report 2004-R-0443*. Connecticut General Assembly, Office of Legislative Research.

Inkster (Michigan), City of. 2006. *Zoning Code*. Article 10, Regulated Uses. Section 155.205. Massage Establishments.

Sumter (Florida), County of. 2009. *County Code*. Chapter 13, Land Development Code. Article V, Specific Use Standards. Division 3, Sales and Services. Section 13-729. Massage Therapy. Tallahassee, FL: Municipal Code Corporation.

(Includes 7 additional publications and zoning and licensing ordinances.)

Sexually Oriented Businesses

Kelly, Eric Damian and Connie Cooper. 2000. *Everything You Always Wanted to Know... About Regulating Sex Businesses*. Planning Advisory Service Report no. 495/496. Chicago: American Planning Association.

Douglas (Massachusetts), Town of. 2004. *Zoning By-Law*. Section 8.0, Overlay Districts. Section 8.2. Adult Entertainment Overlay Districts (AEOD).

Mandan (North Dakota), City of. 2009. *Code of Ordinances*. Title 21, Planning and Zoning. Chapter 21-11. Adult Establishment Regulations.

(Includes 11 additional publications and zoning and licensing ordinances.)