

**APPROVED BY CITY COUNCIL**

**DATE** January 18, 1994

CITY CD

Petition No. 93-52  
James Alan and Terry Beaty

ORDINANCE NO. 3777-Z

AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.

WHEREAS, a petition was presented to the City Council of the City of Charlotte requesting the rezoning of approximately 3.589 acres located off the northeasterly side of Brookshire Boulevard east of Caldwell Williams Road.; and

WHEREAS, the petition for rezoning for a parallel conditional use district as permitted by Section 6.201 was submitted to the Charlotte-Mecklenburg Planning Commission, was accompanied by a schematic plan, complied with all application requirements as specified in Section 6.202 and 6.204, and was recommended for approval by the Charlotte-Mecklenburg Planning Commission; and

WHEREAS, the City Council has authority to amend the Zoning Ordinance by Chapter 6: Part 1 and a public hearing was held on September 22, 1993; and

WHEREAS, in the passage of this ordinance the City Council of the City of Charlotte has considered the promotion of the health, safety, general welfare, and public interest of the community, and the requirements in Section 6.204.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing from I-1 to I-2(CD) on the Official Zoning Map, City of Charlotte, North Carolina the following described property:

SEE ATTACHED

Section 2. That all subsequent development and use of the property shall be in accordance with the approved plan.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:

Henry W. Underhill Jr.  
City Attorney

Page 2 of 2

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 1994, the reference having been made in Minute Book 103, and is recorded in full in Ordinance Book 45 at page 135-137.

Brenda R. Freeze  
City Clerk

## METES AND BOUNDS AMENDMENT TO CONDITIONAL REZONING ALAN AND TERRY BEATY

6410 Brookshire Boulevard  
Charlotte, North Carolina 28216

### METES AND BOUNDS DESCRIPTION OF PROPERTY:

BEGINNING at an existing iron post in the northernmost corner of Duke Power Company, Deed Book 3144, Page 149, where it adjoins the land of James Alan Beaty and wife, then N. 34-27-03 W. 77.47 feet to an existing iron post, then N. 41-24-03 W. 50.0 feet to an existing iron post, then N. 28-26-07 W. 244.25 feet to an existing iron post in the corner of the joint line of Beaty and W.L. Byrum, then N. 27-13-38 E. 57.76 feet, the S. 83-38-36 E. 233.59 feet to an existing iron post, then S. 68-37-0 E. 35.58 feet to an existing iron post, then S. 55-24-30 E. 72.6 feet to an existing iron post, then S. 42-24-50 E. 171.54 feet to an existing iron post, then S. 41-35-0 E. 113.5 feet to an existing iron post, said post being in the corner of Beaty and the adjoining property owned by W.C. Birmingham; then S. 42-59-9 W. 499.87 feet to a new iron post in the northerly margin of Brookshire Boulevard, then N. 46-56-0 W. 60.0 feet to an existing iron post in the said margin, the corner of Beaty, the margin of Brookshire Boulevard and the Duke Power Company, then N. 43-3-16 E. 205.87 feet to an existing iron post, a back corner of Duke Power Company and Beaty; then N. 46-56-12 W. 144.01 feet to an existing iron post, the northernmost corner of Duke Power Company and the Beaty properties, which is the point and place of beginning. Said property includes portions of that described in Deeds to James Alan Beaty and wife, Terry M. Beaty, recorded in the Mecklenburg County Registry at Book 5237, Page 230, and Book 6735, Page 80.

This metes and bounds description has been taken from a survey prepared by R.B. Pharr & Associates, P.A., of Charlotte and dated December 31, 1991.

DATE January 10, 1994

CITY CC

Petition No. 93-114  
Quail Corners Associates Ltd./The  
Crosland Group, Inc.

ORDINANCE NO. 3778-Z

AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.

WHEREAS, a petition was presented to the City Council of the City of Charlotte requesting the rezoning of approximately 14.7 acres located at the southwest corner of the intersection of Sharon Road West and Park Road; and

WHEREAS, the petition for rezoning for a conditional use district as permitted by Section 6.201 was submitted to the Charlotte-Mecklenburg Planning Commission, was accompanied by a schematic plan, complied with all application requirements as specified in Section 11, part 4, and was recommended for approval by the Charlotte-Mecklenburg Planning Commission; and

WHEREAS, the City Council has authority to amend the Zoning Ordinance by Chapter 6: Part 1 and a public hearing was held on December 20, 1993; and

WHEREAS, in the passage of this ordinance the City Council of the City of Charlotte has considered the promotion of the health, safety, general welfare, and public interest of the community, and the requirements in Section 6.204.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing from B-1SCD to CC on the Official Zoning Map, City of Charlotte, North Carolina the following described property:

SEE ATTACHED

Section 2. That all subsequent development and use of the property shall be in accordance with the approved plan.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:

Henry W. Underhill, Jr.  
City Attorney

**Page 2 of 2**

**Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 1994, the reference having been made in Minute Book 103, and is recorded in full in Ordinance Book 45 at page 138-140.**

Brenda R. Freeze

\_\_\_\_\_  
**City Clerk**

93-114

## DESCRIPTION

**BEGINNING** at a point in the westerly right-of-way of Park Road, said point being the intersection of the westerly right-of-way of Park Road with the southerly right-of-way line of Sharon Road West; 1) thence following the westerly right-of-way line of Park Road S.15-28-40W. 876.50 feet; 2) thence S. 15-28-40W 199.7 feet; 3) thence N. 74-31-20W. 398.53 feet 4) thence an arc distance with R = 694.84 for a distance of 181.90 feet; 4) thence following the westerly right-of-way of the proposed street for the following call: an arc line distance with R = 330.85 for a distance of 154.72 feet, thence an arc line distance with R = 745.0 for a distance of 284.37 feet, thence N.10-49-03W. 182.8 feet, thence an arc line distance with R = 20 for a distance of 31.42 feet to a point on the southerly right-of-way line of Sharon Road West; 5) thence following the southerly right-of-way line of Sharon Road West for the following call: N.79-10-35E. 252.47 feet, thence an arc line distance with R = 2637.57 for a distance of 264.87 feet, thence N.77-38-17E. 249.08 feet, thence an arc line distance with R = 1084.5 for a distance of 210.78 to a point where the rights-of-way of Sharon Road West and Park Road intersect; 6) thence S. 35-36-14E. 52.45 feet to the point of **BEGINNING**.

APPROVED  
DATE January 18, 1994

CITY CD

Petition No. 93-115  
Crosland/Piper Glen Limited  
Partnership

ORDINANCE NO. 3779-Z

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

WHEREAS, a petition was presented to the City Council of the City of Charlotte requesting the rezoning of approximately 22.75 acres located on the southerly side of Links Drive at Piper Glen Drive; and

WHEREAS, the petition for rezoning for a parallel conditional use district as permitted by Section 6.201 was submitted to the Charlotte-Mecklenburg Planning Commission, was accompanied by a schematic plan, complied with all application requirements as specified in Section 6.202 and 6.204, and was recommended for approval by the Charlotte-Mecklenburg Planning Commission; and

WHEREAS, the City Council has authority to amend the Zoning Ordinance by Chapter 6: Part 1 and a public hearing was held on December 20, 1993; and

WHEREAS, in the passage of this ordinance the City Council of the City of Charlotte has considered the promotion of the health, safety, general welfare, and public interest of the community, and the requirements in Section 6.204.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing from R-15MF(CD) and R-3 to R-3(CD) on the Official Zoning Map, City of Charlotte, North Carolina the following described property:

SEE ATTACHED

Section 2. That all subsequent development and use of the property shall be in accordance with the approved plan.

Section 3. That this ordinance shall become effective upon its adoption.

Page 2 of 2

APPROVED AS TO FORM:

Harry W. Underhill Jr.  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 1994, the reference having been made in Minute Book 103, and is recorded in full in Ordinance Book 45 at page 141-143.

Brenda R. Freeze  
City Clerk



EXHIBIT A

PARCEL 29:

BEGINNING at a set iron located in the southerly margin of the seventy five (75) foot public right of way of Piper Glen Drive and constituting a common corner with the northeasterly corner of Piper Glen Common Area (now or formerly) as shown in Map Book 22 at Page 765 (the "Common Area"); thence with the southerly margin of Piper Glen Drive in an easterly direction with the arc of a circular curve to the left having a radius of 287.50 feet, an arc distance of 55.04 feet to a point (chord bearing S 67-24-53 E, chord distance 54.95 feet); thence with the arc of a circular curve to the right having a radius of 30.00 feet, an arc distance of 36.87 feet to a point (chord bearing S 37-41-13 E, chord distance 34.60 feet), located in the southerly margin of the sixty (60) foot public right of way of Links Drive; thence with the southerly margin of Links Drive the following four (4) courses and distances: (1) in a southeasterly direction with the arc of a circular curve to the left having a radius of 260.00 feet, an arc distance of 224.00 feet to a point (chord bearing S 27-09-20 E, chord distance 217.13 feet), (2) S 51-50-11 E 217.23 feet to a point, (3) in a northeasterly direction with the arc of a circular curve to the left having a radius of 320 feet, an arc distance of 387.84 feet to a point (chord bearing S 86-33-26 E, chord distance 364.53 feet), (4) N 58-43-19 E 185.95 feet to an iron pin, which is a common corner with the Tournament Players Club at Piper Glen, Inc. Property (now or formerly) as shown in Map Book 23 at Page 346 (the "TPC Property") thence with the westerly boundary of the TPC Property the following five (5) courses and distances: (1) S 41-22-17 E 51.33 feet to an iron pin, (2) S 36-32-05 W 46.67 feet to an iron pin, (3) S 23-07-17 E 336.77 feet to an iron pin, (4) S 28-18-43 E 397.54 feet to an iron pin, and (5) S 26-51-11 E 299.57 feet to an iron pin located in the northerly margin of the North Carolina Department of Transportation Property (now or formerly) as shown in Deed Book 7151 at Page 385, Map Book 22 at Page 92, and Deed Book 6421 at Page 142 [collectively the "DOT Property"]); thence with the northerly margin of the DOT Property the following five (5) courses and distances: (1) with the arc of a circular curve to the right having a radius of 23093.31 feet, an arc distance of 338.61 feet to a concrete monument, (chord bearing N 84-04-29 W, chord distance 338.61 feet), (2) N 13-37-23 W 10.62 feet to a concrete monument, (3) with the arc of a circular curve to the right having a radius 23103.31 feet, an arc distance of 512.13 feet to a concrete monument (chord bearing N 85-03-36 W, chord distance 512.11 feet), (4) N 81-42-09 W 378.14 feet to a point, and (5) N 82-14-17 W 188.18 feet to a point, which point is located in the easterly boundary of the Piper Glen Estates Subdivision, as shown in Map Book 23 at Page 357 (the "Piper Glen Estates Subdivision"), and continuing thence with the easterly margin of the Piper Glen Estates Subdivision the following four (4) courses and distances: (1) N 19-39-29 E 205.63 feet to an iron pin, (2) N 06-33-25 W 374.33 feet to an iron pin, (3) N 07-57-16 E 355.00 feet to an iron pin, and (4) N 02-02-36 E 217.91 feet to an iron pin, constituting the point and place of BEGINNING, and comprising 22.755 acres as more particularly shown on the survey of Piper Glen Parcel 29, dated December 4, 1992 by Yarborough-Williams & Associates, Inc.

Together with appurtenant easement across golf course for road and utility recorded in Book 6499, Page 831 and amended in Book 6677, Page 432, both in the Mecklenburg County

Public Registry and appurtenant easements across Beltway Property (reserved) recorded in Book 6421, Page 135 in the Mecklenburg County Public Registry

Further, together with appurtenant easements across Beltway Property (reserved) recorded in Book 7151 at Page 379 in the Mecklenburg County Public Registry and reversionary rights reserved by Piper Glen Limited Partnership in deed for Beltway Property recorded in Book 7151 at Page 385 in the Mecklenburg County Public Registry.

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Petitioner: University Research Park, Inc.

APPROVED BY CITY COUNCIL

ORDINANCE NO. 3780

DATE January 18, 1994

AN ORDINANCE AMENDING THE CITY CODE  
WITH RESPECT TO THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A., "Zoning" of the City of Charlotte is hereby amended as follows:

- 1 - Amend Chapter 9, Part 6 Research, Section 9.602 (Uses permitted by right) by adding the following new use:

"(5A) Financial Institutions"

Section 2. That this ordinance shall become effective upon adoption.

Approved as to Form:

Henry W. Underhill Jr.  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 19 94, the reference having been made in Minute Book 103, and recorded in full in Ordinance Book 45, at page 144.

Brenda R. Freeze  
Brenda Freeze, City Clerk

DATE January 18, 1994

Petition No. 93-118  
Lowe's Companies, Inc.

CITY CC

ORDINANCE NO. 3781-Z

**AN ORDINANCE AMENDING THE CITY CODE WITH RESPECT TO THE ZONING ORDINANCE.**

WHEREAS, a petition was presented to the City Council of the City of Charlotte requesting the rezoning of approximately 15.64 acres located on the westerly side of East W.T. Harris Boulevard south of University City Drive; and

WHEREAS, the petition for rezoning for a conditional use district as permitted by Section 6.201 was submitted to the Charlotte-Mecklenburg Planning Commission, was accompanied by a schematic plan, complied with all application requirements as specified in Section 11, part 4, and was recommended for approval by the Charlotte-Mecklenburg Planning Commission; and

WHEREAS, the City Council has authority to amend the Zoning Ordinance by Chapter 6: Part 1 and a public hearing was held on December 20, 1993; and

WHEREAS, in the passage of this ordinance the City Council of the City of Charlotte has considered the promotion of the health, safety, general welfare, and public interest of the community, and the requirements in Section 6.204.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. That Section 1.104 of the City of Charlotte Zoning Ordinance is hereby amended by changing from B-1SCD and O-15(CD) to CC on the Official Zoning Map, City of Charlotte, North Carolina the following described property:

SEE ATTACHED

Section 2. That all subsequent development and use of the property shall be in accordance with the approved plan.

Section 3. That this ordinance shall become effective upon its adoption.

APPROVED AS TO FORM:

Henry W. Underhill Jr.  
City Attorney

**Page 2 of 2**

**Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 1994, the reference having been made in Minute Book 103, and is recorded in full in Ordinance Book 45 at page 145-147.**

Brenda R. Freeze

**City Clerk**

**LEGAL DESCRIPTION**

**TAX PARCEL 049-281-01, 05**

Beginning at an existing iron pin at the intersection of the southern right-of-way of East W. T. Harris Boulevard (right-of-way varies) and the southern right-of-way of Chancellor Park Drive (right-of-way varies), thence continuing with the right-of-way of East W. T. Harris Boulevard with the arc of a circular curve to the left having a radius of 5528.24 feet an arc distance of 406.30 feet (subtended by a chord bearing S50-32-36E 415.69 feet) to a point; thence S47-51-28E 85.30 feet to an existing iron pin the northwestern corner of property owned by Paces Ridge Joint Venture as recorded in the deed book 5926 at Page 353 of the Mecklenburg County Public Registry; thence with the western line of Paces Ridge Joint Venture N39-46-38E 659.45 feet to a point; thence N39-46-38E 151.36 feet to an existing iron pin, the northeastern corner of property owned by Harold Covington Austin and wife Meredith as recorded in Deed Book 4567 of Page 105 of the Mecklenburg County Public Registry; thence with Austin's northern line S74-54-20E 456.13 feet to an existing iron pin; thence S83-27-20E 102.85 feet to an existing iron pin the southeastern corner of property conveyed to Mecklenburg County Parks and Recreation Department as recorded in Map Book 23 Page 357 of the Mecklenburg County Public Registry; thence with Mecklenburg County's eastern line N03-49-43W 569.06 feet to an existing iron pin on the eastern line of property owned by Mecklenburg County; thence N04-42-36W 168.17 feet to a point on the southern Right-of-Way of Chancellor Park Drive; thence with said Right-of-Way of Chancellor Park Drive six (6) calls as follows: (1) with the arc of a circular curve to the left having a radius of 603.00 feet an arc distance of 439.41 feet (subtended by a chord bearing S82-13-38E 429.75 feet to a point) (2) N76-53-48E 67.70 feet to a point (3) with the arc of a circular curve to the left having a radius of 409.53 feet an arc distance of 89.57 feet (subtended by a chord bearing N70-37-55E 89.40 feet to a point (4) N63-56-35W 48.42 feet to a point; (5) with the arc of a circular curve to the left having a radius of 617.00 feet an arc distance of 112.17 feet (subtended by a chord bearing N52-24-23E 112.01 feet to a point (6) N48-24-36E 9.54 feet to the point and place of beginning and containing 672,889 square feet or 15.447 plus or minus acres.

APPROVED BY CITY COUNCIL

Petition No. 93-119

DATE January 18, 1994

Petitioner: Charlotte City Council

Ordinance No. 3782

AN ORDINANCE AMENDING APPENDIX A  
OF THE CITY CODE - ZONING ORDINANCE

AN ORDINANCE AMENDING THE CITY CODE  
WITH RESPECT TO THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE:

Section 1. Appendix A, "Zoning" of the Code of the City of Charlotte is hereby amended as follows:

1. Amend Chapter 2 by adding the following term to Part 2 (Definitions) Section 2.201 in the proper alphabetical order.

Adult establishment. Any structure or use of land which meets the definition of adult establishment as outlined in North Carolina General Statute Sec. 14-202.10. (Health massage/body work therapists licensed under Act V11, Chapter 6 of the City Code shall not be considered to be a massage business.) (Note to Editor: Incorporate G.S. 14-202.10 as an appendix to the Zoning Ordinance).

2. Amend Chapter 9 by:

(A) Adding the following as Part 8, Business Districts, Section 9.803(37):

(37) Adult establishments, B-2 only, subject to the regulations of Section 12.518.

(B) Adding the following as Part 9, Uptown Mixed Use District, Section 9.903(10):

(10) Adult establishments, subject to the regulations of Section 12.518.

(C) Adding the following as Part 11, Industrial Districts, Section 9.1103(26):

(26) Adult establishments, subject to the regulations of Section 12.518.

2. Amend Chapter 12 by adding a new Section 12.518 as follows:

**Section 12.518. Adult establishments.**

Studies have shown that lowered property values and increased crime rates tend to accompany and are brought about by the concentration of adult establishments as defined herein. Regulation of these uses is necessary to insure that these effects do not contribute to the blighting of surrounding neighborhoods and to protect the integrity of the City's schools, churches, child care centers, parks and playgrounds which are typically areas in which juveniles congregate. It is the intent of this provision to establish reasonable regulations to prevent a concentration of adult establishments within the City of Charlotte and to separate adult establishments from those sensitive uses listed below.


Adult establishments are permitted in the B-2, UMUD, I-1, and I-2 districts subject to the following requirements:

- (a) Any structure in which an adult bookstore or adult mini motion picture theatre establishment is the principal or accessory use shall be separated by a distance of at least 1500 feet from any residential district, school, church, child care center, park or playground. The Charlotte Zoning Board of Adjustment shall have no authority to grant a variance from the 1500 foot separation standard. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential district, school, church, child care center, park or playground within the 1500 foot separation distance.
- (b) Any structure in which an adult establishment, other than an adult bookstore or adult mini motion picture theatre, is the principal or accessory use shall be separated by a distance of at least 1000 feet from any residential district, school, church, child care center, park or playground. The Charlotte Zoning Board of Adjustment shall have no authority to grant a variance from the 1000 foot separation standard. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential district, school, church, child care center, park or playground within the 1000 foot separation distance.
- (c) Any structure in which an adult bookstore or adult mini motion picture theatre establishment principal or accessory use shall be separated by a distance of at least 1000 feet from any other adult establishment.
- (d) Any structure in which an adult establishment, other than an adult bookstore or adult mini motion picture theatre, is the principal or accessory use shall be separated by a distance of at least 500 feet from any other adult establishment.
- (e) The distance for the separation from residential zoning and protected uses shall be measured from the closest edge of the building occupied by an adult use to the nearest residential zoning district or to the property line of a protected use. The distance for the separation between adult uses shall be measured from the closest edges of the buildings occupied by adult uses.
- (f) No more than one adult establishment may be located within the same structure.



3. This ordinance shall become effective upon adoption. All existing adult establishments that are nonconforming with respect to Section 12.518(a) or (b) must comply with the provisions of this amendment within eight years of the effective date.

Approved as to form:

  
City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 18th day of January, 1994, the reference having been made in Minute Book 103, and recorded in full in Ordinance Book 45, at page 148-150B

Brenda R. Freeze  
City Clerk

ARTICLE 26A.  
*Adult Establishments.*

§ 14-202.10. Definitions.

As used in this Article:

- (1) "Adult bookstore" means a bookstore:
  - a. Which receives a majority of its gross income during any calendar month from the sale of publications (including 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, as defined in this section; or
  - b. Having as a preponderance of its publications 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, as defined in this section.
- (2) "Adult establishment" means an adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or massage business as defined in this section.
- (3) "Adult live entertainment" means any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.
- (4) "Adult live entertainment business" means any establishment or business wherein adult live entertainment is shown for observation by patrons.
- (5) "Adult motion picture theatre" means an enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre as defined in this section.
- (6) "Adult mini motion picture theatre" means an enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.
- (7) "Massage" means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.
- (8) "Massage business" means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

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- (9) "Sexually oriented devices" means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.
- (10) "Specified anatomical areas" means:
  - a. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (11) "Specified sexual activities" means:
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy; or
  - c. Fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts. (1977, c. 987, s. 1; 1985, c. 731, s. 1.)

Editor's Note. — Session Laws 1985, c. 731, s. 4 is a severability clause.

Effect of Amendments. — The 1985 amendment, effective Oct. 1, 1985, rewrote this section.

Legal Periodicals. — For article, "Regulating Obscenity Through the Power to Define and Abate Nuisances," see 14 Wake Forest L. Rev. 1 (1978).

CASE NOTES

**Purpose of Article.** — This Article is aimed at prohibiting a "supermarket" marketing technique that offers for sale or exhibition at one business location a variety of sexual wares in addition to printed materials. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

The essential regulation implemented by this Article is of location. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

**Constitutionality. — No Equal Protection Violation.** — This Article does not violate equal protection since the unequal treatment of commercial establishments involved in this Article is based most essentially on the different effects they are considered to have on their surroundings. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

**Same — First Amendment Not Violated.** — Under this Article the incidental restriction on First Amendment in-

terests is no greater than is essential to furtherance of the state's interest. The means chosen by North Carolina in its effort to eliminate the undesired secondary effects of adult establishments is one of the least burdensome means the state could have chosen. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

On its face this Article is a permissible regulation of the external costs of adult establishments that is unrelated to the overall suppression of any protected materials offered by them for public consumption. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

This Article is merely a regulation of the place and manner of expression, without proscription of that expression, of the type not forbidden by the First Amendment. *Hart Book Stores, Inc. v. Edmisten*, 612 F.2d 821 (4th Cir. 1979), cert. denied, 447 U.S. 929, 100 S. Ct. 3028, 65 L. Ed. 2d 1124 (1980).

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