

CHAPTER 6

COMMERCIAL DISTRICT

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SECTION 600. PURPOSE

A. General Purposes

1. Achieve the commercial objectives of the Comprehensive Plan.
2. Meet the needs for commercial services and goods for the City of Catoosa.
3. Promote the development of efficient commercial facilities and encourage a compatible relationship between commercial facilities and other land uses and thoroughfares by:
 - a. Differentiating the types and purposes of commercial activities;
 - b. Establishing Bulk and Area controls;
 - c. Requiring off-street loading and parking facilities;
 - d. Controlling the number, area, location, and types of signs; and
 - e. Protecting the character of Commercial Districts and their unique suitability for commercial uses.

B. Purpose of the CS Commercial Shopping District.

The CS District is designed to accommodate local, convenience, neighborhood, and sub-community shopping. This District designation provides areas for a wide range of retail and personal service uses which cater to frequently recurring needs while providing a degree of protection to adjacent lesser intense uses. The maximum permitted FAR is 0.50.

C. Purpose of the CG General Commercial District.

The CG District is designed to accommodate existing development of mixed commercial uses. This District designation will also accommodate the grouping of certain commercial and light industrial uses compatible with one another as well as adjacent uses. The maximum permitted FAR is 0.75.

D. Purpose of the CH High Intensity Commercial District.

The CH District is designed to accommodate high intensity commercial and related uses. Areas designated as CH would primarily be located along U.S. or State numbered highways or freeway access roads, or major arterial streets. The CH District does not have a maximum permitted FAR.

E. Purpose of the CBD Central Business District.

The CBD District is designed to achieve the objectives of the Comprehensive Plan relative to the Central Business Area. The maximum permitted FAR is 0.50.

SECTION 601. PRINCIPAL USES

The principal uses permitted in the Commercial Districts are designated by Use Units. The Use Units are groupings of individual uses and are fully described, including their respective off-street parking, loading and screening requirements and other use conditions in Chapter 12. The Use Units permitted in Commercial Districts are set forth below in Table 6-1.

Table 6-1: Use Units Permitted in Commercial Districts

Use Units		Districts			
No.	Name	CBD	CS	CG	CH
1.	Area-Wide Uses By Right	X	X	X	X
2.	Area-Wide Special Exception Uses	E*	E*	E*	E*
4.	Public Protection & Utility Facilities	E**	E**	E**	E**
10.	Off-Street Parking	X	X	X	X
11.	Offices, Studios & Support Services	X	X	X	X
12.	Eating Establishments Other than Drive-Ins	X****	X	X	X
13.	Adult Entertainment Establishments				E****
14.	Convenience Goods & Services	X***1	X***1	X***1	X***1
15.	Shopping Goods & Services	X	X	X	X
16.	Other Trades & Services	E	E	X	X
17.	Mini-Storage		E	X	X
18.	Automotive & Allied Activities		E	X	X
19.	Drive-In Restaurants		E	X	X
20.	Hotel, Motel and Recreational Facilities	E	E	X	X
22.	Reserved				
23.	Scientific Research & Development			E***2	X***2
24.	Warehousing & Wholesaling			E	X
26.	Light Manufacturing and Industry			E***3	E***3

X Use by Right

E Special Exception (See Section 603 and 604 Special Exception Uses in C Districts)

* Churches are permitted by Right in all C Districts.

** Antennas and Antenna Supporting Structures are not allowed by Special Exception in any C District.

**** For information relative to Adult Entertainment Uses, see Section 604.

***** Off-street Parking is required as stated in Use Unit 12.

***1 Subject to the conditions set forth in Section 1214.

***2 Subject to the conditions set forth in Section 1223.

***3 Subject to the conditions set forth in Section 1226.

SECTION 602. ACCESSORY USES

A. Accessory Uses Permitted

Accessory uses customarily incident to a principal use permitted in a Commercial District are permitted in such District.

B. Accessory Use Conditions

1. Accessory buildings:
 - a. Detached accessory buildings shall meet the minimum building setback lines of the applicable District; or
 - b. An accessory building constructed as an integral part of the principal building shall be made structurally a part of that building and shall comply with the requirements applicable to the principal building.
2. Signs in the Commercial Districts, whether accessory or principal uses, are subject to the use conditions established in Chapter 9, Signs.
3. Antennas and Antenna Supporting Structures
 - a. Antennas and Antenna Supporting Structures which are accessory to a commercial use are permitted to be mounted on a commercial building or a customary accessory building provided:
 - 1) That it does not exceed 65 feet in height measured from the average ground elevation at the commercial building to the highest horizontal point of the Antenna and Antenna Supporting Structure.
 - 2) The surface area of all such mounted Antennas shall not exceed ten (10) square feet. Only one (1) side, that which has the largest surface area is to be calculated.
 - 3) These provisions do not apply the principal use Antennas or to Antennas which are accessory to uses requiring Board of Adjustment approval.
 - a. Structures other than a commercial building or customary accessory buildings which are used to support Accessory Antennas (including guy lines) shall:
 - 1) Be located in the rear yard only;
 - 2) Be limited to one (1) such structure;
 - 3) Not exceed 65 feet in height measured from the average ground elevation at the commercial building to the highest point of the Antenna and Antenna Supporting Structure;
 - 4) Shall not encroach upon the land or air space of any abutting property; and
 - 5) Shall not exceed 24 inches in width above 25 feet in height, exclusive of guy lines.

SECTION 603. REQUIREMENTS For SPECIAL EXCEPTION USE

The Special Exception uses permitted in Commercial Districts, as designated in Table 6-1, are subject to the minimum requirements set out below and such additional safeguards and conditions as may be imposed by the Board of Adjustment.

- A. Bulk and Area Requirements for Special Exceptions
 - 1. The Use Unit requirements, if more restrictive, shall prevail; or
 - 2. All Special Exception uses shall comply with the Bulk and Area requirements of the Zoning District in which located.
- B. Drive-in restaurants where permitted by Special Exception are subject to the following requirements and conditions:
 - 1. Eating establishments which encourage or permit substantial in-car on-premise consumption of food may be permitted within CS Districts only in such locations as will not interfere with or detrimentally affect any adjoining or nearby residential properties.
 - 2. All lighting shall be directed toward the proposed drive-in facility and away from any neighboring Residential Districts and street rights-of-way. Outside loudspeakers or paging systems will not be allowed.
 - 3. Traffic circulation shall be reviewed and approved by the City Engineer including the location of ingress and egress points.
 - 4. The subject tract of land shall have a minimum of 150 feet of frontage on a designated arterial street.
- C. Uses included within Use Unit 16, Other Trades and Services and Use Unit 21, Commercial Recreation, Intensive, where permitted by Special Exception, are subject to the following requirements:
 - 1. The permitted uses shall not interfere with or detrimentally affect any adjoining or nearby residential properties.
 - 2. Traffic circulation shall be reviewed and approved by the City Engineer, including the location of ingress and egress points.
 - 3. The subject tract of land shall have a minimum of 150 feet of frontage on a designated arterial street.
- D. Use Unit 17, Mini-storage facilities when allowed by Special Exception to locate in the CS District shall comply with the following requirements:
 - 1. The building height shall not exceed 12 feet. However, if the facilities contain an accessory dwelling to be used for management and security purposes, said facilities shall be constructed as an integral part of the development. The total height of this structure shall not exceed 35 feet.
 - 2. Setbacks
 - a. The minimum building setback from an adjacent arterial street or freeway service road is 50 feet, plus one-half (1/2) the right-of-way designated on the Major Street Plan.
 - b. The minimum building setback from an adjacent nonarterial street is 35 feet.

- c. The minimum building setback from all other boundaries is 10 feet. However, the Board of Adjustment may allow less building setback if the wall of the building is also to be used to meet the screening requirement.
 - d. In no event may such setback be less than 5 feet.
3. Building walls on the exterior of the development shall consist of masonry construction using brick, stone, stucco or concrete tilt-up panels. Metal or standard, smooth, concrete block exterior walls are not permitted on the exterior of the development.
 4. The Floor Area Ratio (FAR) shall not exceed 0.5.
 5. Access doors to storage units shall not be visible at ground level from an abutting O or R District and shall not be visible from an abutting public street.
 6. No hazardous, toxic or explosive materials are permitted to be stored in such facilities.
 7. Open air storage is prohibited on the perimeter of the lot, but is permitted on the interior of the lot if the storage is not visible at ground level from an abutting AG or R District or any public street.
 8. The development site shall have frontage on and access to an arterial street.
 9. Only one ground sign is permitted. The sign shall not exceed 20 feet in height and 32 square feet of Display Surface Area. Illumination of the sign, if any, shall be by constant light.
 10. A screening fence or masonry wall (as determined by the Board of Adjustment) a minimum of 8 feet in height is required along the lot line or lot lines in common within an R District. The wall of the buildings may be used to comply with this screening requirement with the Board of Adjustment approval. Open spaces between perimeter buildings shall be screened with an eight (8) foot masonry wall.

SECTION 604. LOCATION OF SEXUALLY-ORIENTED BUSINESSES

A. Purpose and Intent

1. Whereas the City of Catoosa has identified locations available within the corporate limits of the City of Catoosa where Sexually-Oriented Businesses may be located upon the enactment of this ordinance and the City Council by passage of this ordinance finds that that the number of locations available would provide a reasonable opportunity for Sexually-Oriented Businesses to open and operate;
2. Whereas, based on findings incorporated in the cases of *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 106 S.Ct. 925, 89 L.Ed.2d 29 (1986); *Young v. American Mini Theaters*, 427, U.S. 50, 71, 96 S.Ct 2440, 49 L.Ed.2d 310 (1976); *Barnes v. Glen Theater, Inc.*, 501 U.S. 560, 111 S.Ct. 2456, 115 L.Ed.2d 504 (1991), and *Heideman v. South Salt Lake City*, 348, F.3d 1182 (10th Cir.[Utah], November 4, 2003) the adverse secondary effects of Sexually-Oriented Business uses on a surrounding community have been established; and
3. Whereas, based upon evidence concerning the adverse secondary effects of Sexually-Oriented Businesses uses on the community presented on the community presented in the following reports and studies in other communities as follows: North Ogden, Utah; Elko,

Nevada; Frisco, Colorado; Salt Lake City, Utah; Garden Grove, California; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; Las Vegas, Nevada; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Cleburne; Texas; Dallas, Texas; and El Paso Texas, the spacing retirements and related requirements established in this ordinance further a substantial interest of the City in protecting the surrounding community from the adverse secondary effects of such Sexually-Oriented Business.

B. Definitions

1. As used in this Section, the terms sexual conduct and specified anatomical areas have the following meanings:
 - a. Sexual Conduct includes the following:
 - 1) The fondling or other touching of human genitals, pubic region, buttocks, or female breasts.
 - 2) Ultimate sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, and sodomy.
 - 3) Masturbation.
 - 4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.
 - b. Specified Anatomical Areas includes the following:
 - 1) Human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.
 - 2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
2. For the purpose of this Code the establishment of a Sexually-Oriented Business refers to:
 - a. The opening of such business as a new business;
 - b. The relocation of such business;
 - c. The enlargement of such business in either scope or area; or
 - d. The conversion of an existing business location of any of the uses described in Section 604.A.
3. For purposes of this Code, Sexually-Oriented Businesses are defined as follows:
 - a. Adult Amusement or Entertainment: Amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing or relating to Sexual Conduct or Specified Anatomical Areas, as defined herein, including but not limited to topless or bottomless dancers, exotic dancers, strippers, male or female impersonators or similar entertainment.

- b. Adult Bookstore or Adult Novelty Shop: An establishment wherein 10% or more of its display area consists of books, films, videos, magazines, periodicals, games, novelties or other materials which are distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas (subsequently referred to as "Sexually Oriented Materials"). "Sexually Oriented Display Area" as used within this Code will be measured as follows:
- 1) For bookshelves, magazine racks and similar display devices, display area shall be calculated by multiplying the length times the width of such devices. If Sexually Oriented Materials are mixed with non-sexually oriented materials in or on such devices, the entire device will be considered as consisting of sexually oriented materials.
 - 2) For table tops, counters, display cases and similar display devices, display area shall be calculated by multiplying the length times the width of each surface on which merchandise is displayed. If Sexually Oriented Materials are mixed with non-sexually oriented materials on such surfaces, the entire surface will be considered as consisting of Sexually Oriented Materials.
 - 3) For walls, display area shall be the area of the wall enclosed by the smallest imaginary rectangle which contains each item.
 - 4) The display area of merchandise hanging or suspended from the ceiling shall be calculated by multiplying the item's length or width, whichever is longer, times the item's height.
- c. Adult Mini-Motion Picture Theater: An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
- d. Adult Motel: A motel wherein material is presented, as part of the motel services, via closed circuit TV or otherwise, which is distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
- e. Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled, still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
- f. Adult Motion Picture Theater: An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on depicting or describing Sexual Conduct or Specified Anatomical Areas.
- g. Massage Parlor: Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with Sexual Conduct or where any person providing such treatment, manipulation or service related thereto exposes Specified Anatomical Areas.

- h. Model Studio: Any place other than university or college art classes where, for any form of consideration or gratuity, figure models who display Specified Anatomical Areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity.
- i. Sexual Encounter Center: Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to engage in personal contact with or to allow personal contact by employees, devices or equipment or by personnel provided by the establishment which appeals to the prurient interest of the patron to include, but not to be limited to, bath houses, massage parlors, and related or similar activities.

C. Prohibition

- 1. No person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the Sexually-Oriented Businesses, as defined in Section 604, in an area zoned other than a CH, IL, IM or IH District and approved as required by the Board of Adjustment for a Special Exception.
- 2. All Sexually-Oriented Businesses, as defined in Section 604.B, shall submit an application for and receive a Special Exception from the Board of Adjustment prior to locating or operating within the municipal limits of the City of Catoosa, subject to the distance limitations established in Section 604.
- 3. In addition, no person shall exercise supervisory control, manage, operate, cause the establishment or permit the establishment of any of the Sexually-Oriented Businesses, as defined in Section 604, within:
 - a. 1,000 feet from any other Sexually-Oriented Business
The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted, to the nearest point of the wall of the portion of the building in which another Sexually-Oriented Business is conducted.
 - b. 1,000 feet from a Church.
 - 1) Church as used herein shall mean all contiguous property owned or leased by a Church upon which is located the principal Church building or structure, irrespective of any interior lot lines.
 - 2) The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted to the nearest point of the Church.
 - 3) Provided, however, for a Church use located in a building principally used for commercial or office purposes (as in a shopping center), the 1,000 feet shall be measured to the nearest building wall of the portion of the building used for Church purposes.
 - c. 1,000 feet from a School of the type which offers a compulsory education curriculum.
 - 1) School as used herein shall mean all contiguous property owned or leased by a School upon which is located the principal school building(s) irrespective of any interior lot lines.

- 2) The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted to the nearest point of the School.
- d. 1,000 feet from a Public Park or Private Park.
The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted to the nearest point on the property of the Park.
- e. 1,000 feet from areas zoned Residential or from a habitable dwelling in an area zoned Agriculture.
The 1,000 feet to be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted, to the nearest point on a Residential Zoning District boundary line or to the nearest wall of a habitable dwelling in an area zoned Agriculture (not including residentially zoned expressway right-of-ways).
- f. 1,000 feet from a Day Care Center.
The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted to the nearest point on the property of the Day Care Center.
- g. 1,000 feet from Use Unit 2 Area-Wide Special Exception Uses and Community Services and Similar Uses caring for or often frequented by persons less than 18 years of age. These uses include, but are not limited to, childrens preschools, childrens group homes, childrens day care centers, libraries, museums, planetariums, and aquariums; such uses are referred to herein as “protected uses.” The 1,000 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which a Sexually-Oriented Business is conducted to the nearest point on the property containing the use primarily caring for or frequented by persons under 18 years of age.
- h. Provided that the Board of Adjustment may permit by Special Exception Sexually-Oriented Businesses, as defined herein, only in a CH, IL, IM, or IH District, subject to the spacing limitations established in this section. Further, the Board of Adjustment shall, during the review and required public hearing process, confirm on the record that the spacing requirements from such other Sexually-Oriented Businesses and uses specified above are met.
- i. The establishment of a Sexually-Oriented Business shall include the opening of such a business as a new business, the relocation of such a business in either scope or area, or the conversion of an existing business to any of the uses described as a Sexually-Oriented Business above.
- j. A new Church, School, Park or protected Use Unit 2 or Community Services and Similar Uses other similar use as described above in Sections 604.C.3.a–g less than 1,000 feet from an existing Sexually-Oriented Business is prohibited.

D. Nonconforming Uses: Sexually-Oriented Businesses

1. Any business lawfully existing as of the effective date of this Code that is in violation hereof shall be deemed a Nonconforming Use.
2. Such a Nonconforming Use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason whatsoever or voluntarily discontinued for a period of 30 days or more.
3. Such Nonconforming Use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.
4. In the event that two (2) or more Sexually-Oriented Businesses are within 1,000 feet of one another and otherwise in a permissible zone, the first such Sexually-Oriented Business licensed and continually operating at a particular location shall be the conforming use and the later established business(es) shall be nonconforming.

E. Nothing in this Code is intended to make legal any business or activity that is expressly declared illegal under the provision of this Code or under any state or federal laws.

F. Periodic Review

Beginning August 16, 2004 and every two (2) years thereafter, at a minimum, the administration shall cause a review to be conducted of the adequacy of the spacing requirements and related provisions for the regulation of Sexually-Oriented Businesses and propose any amendments to this or any other related codes and regulations as necessary to protect the public safety and welfare.

SECTION 605: BULK AND AREA REQUIREMENTS

Table 6- 2: Bulk and Area Requirements in the Commercial Districts

	DISTRICTS			
	CS	CG	CH	CBD
FRONTAGE (Minimum Feet)				
Arterial or Freeway Service Road	150	100	100	NA*
Not an Arterial or Freeway Service Road	50	50	50	50*
FLOOR AREA RATIO (Maximum)	0.50	0.75	NA	0.75
SETBACK FROM CENTERLINE OF ABUTTING STREET (Minimum SF)				
MEASURED FROM CENTERLINE of abutting street; add, to the distance designated in the column to the right, ½ the right-of-way designated on the Major Street Plan or 25 feet if the street is not designated on the Major Street Plan.				
Arterial or Freeway Service Road	50	50	50	25
Not an Arterial or Freeway Service Road	25	25	25	10
SETBACK FROM ABUTTING AG OR R DISTRICT BOUNDARY LINES (Minimum Feet)	10**	10**	10**	10**
BUILDING HEIGHT (Maximum Feet)	NA***	NA***	NA***	NA**

* All CBD frontages shall be on Cherokee Street only.

** Two feet (2') of additional setback for each one foot (1') of building height exceeding 15 feet, if the abutting property is within any R or AG District.

*** One foot (1') of additional setback for each two feet (2') of building height exceeding 35 feet.

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