

AN ORDINANCE CREATING THE ADULT ENTERTAINMENT AREA UNDER THE ZONING ORDINANCE OF THE CITY OF CHESTERFIELD (P.Z. 1-2005 CITY OF CHESTERFIELD/ADULT ENTERTAINMENT REGULATION)

WHEREAS, the City having reviewed studies containing information regarding the adverse effect adult business establishments have on residential property values, and based upon those studies and other documented evidence, the City finds that areas within walking distance of residential areas should be free of adult business establishments in order to prevent the deterioration of property values and to protect such areas from the crime, noise, and traffic generated by adult business establishments, which also negatively effect property values; and

WHEREAS, the City also finds that areas where children could be expected to walk, patronize, or frequent should be free of adult business establishments and as such, adult business establishments should not be located in close proximity to residential areas, churches, schools, daycare centers, and parks; and

WHEREAS, the City finds that it is in the public interest and promotes at clarity and certainty in the law to establish fixed percentage standards for defining and regulating adult business establishments that offer tangible inventory of sexually oriented materials for the sale or rental for any form of consideration; and

WHEREAS, it is not the intent of the City in adopting this Ordinance to suppress any activities protected by the First Amendment to the United States Constitution, but rather to enact a content neutral ordinance which addresses the secondary effects that adult business establishments may have on the City and provide for reasonable zoning regulations of adult businesses.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

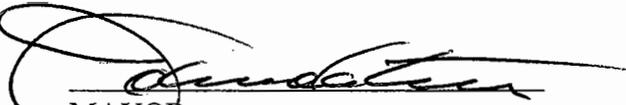
Section 1. The City of Chesterfield Zoning Ordinance is hereby amended and agrees to make necessary changes thereto, as set out in Attachment "A" which is attached hereto and made a part hereof.

Section 2. The City Council, pursuant to the petition filed by the City of Chesterfield in P.Z. 1-2005, requesting the amendment embodied in this ordinance, and pursuant to the recommendations of the City of Chesterfield Planning Commission that said petition be granted and after public hearing, held by the Planning Commission on February 14, 2005, does hereby adopt this ordinance pursuant to the power granted to the City of Chesterfield under Chapter 89 of the Revised Statutes of the State of Missouri authorizing the City Council to exercise legislative power pertaining to planning and zoning.

Section 3. This ordinance shall be codified within the Municipal Code of the City of Chesterfield.

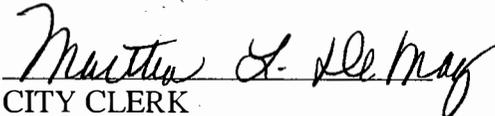
Section 4. This ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 20th day of JUNE, 2005


MAYOR


PRESIDING OFFICER

ATTEST:


CITY CLERK

where the patrons either: (1) engage in personal contact with, or allow personal contact by employees, devices or equipment, or by personnel provided by the establishment which appeals to the prurient interest of the patrons; or (2) observe any live presentation, video tape, DVD or film presentation of persons wholly or partially nude, unless otherwise prohibited by ordinance, with their genitals or pubic region exposed or covered only with transparent or opaque covering, or in the case of female persons with the areola and nipple of the breast exposed or covered only with transparent or opaque covering or to observe specified sexual activities.

It is not intended to identify as an Adult Entertainment Facility those buildings, structures or facilities in which part of any play, drama, ballet, or motion picture in any theater, concert hall, museum of fine arts, school, institution of higher education, or other similar establishment which include nudity as a form of expression or opinion or communication of ideas or information, which is to be differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of the commercial or business enterprise.

- c. *ADULT MOTION PICTURE THEATER*: An enclosed building used for presenting or showing, for money consideration, movie or video films or pictures or other material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" for observation by customers therein.
- d. *BATHHOUSE* An establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, unless operated or supervised by a medical or chiropractic practitioner or Professional physical therapist licensed by the state.
- e. *MASSAGE PARLOR*: An establishment which has a fixed place of business having a source of income or compensation which is derived from the practice of any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulation of external parts of the human body with the hands or with the aid of any mechanical electric apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotion, ointment or other similar preparations commonly used in the practice of massage under such circumstances that is reasonably expected that the person to whom the treatment is provided or some person on his or her behalf will pay money or give any other consideration or gratuity; provided that this term shall not include any establishment operated or supervised by a medical or chiropractic practitioner, professional physical therapist or professional massage therapist licensed by the State of Missouri; operation of barber shops, beauty salons, health clubs, or similar places of business in which massages are administered to the patron fully clothed involving only the scalp, the face, the neck, or the

shoulders or services performed by a licensed therapist or other persons who are not engaged in prohibited specific sexual activities as defined herein.

f. *MODELING STUDIO:* An establishment or business which provides for a fee or compensation the services of modeling on premises for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. This does not apply to public or private schools or other not-for-profit organizations in which persons are enrolled in a class or individual artist or sculptor not engaged in prohibited specific sexual activity as defined herein.

g. *ADULT ENTERTAINMENT BUSINESS OR ESTABLISHMENT:* Any of the establishments, businesses, buildings, structures or facilities which fit within the definition of adult bookstore, adult entertainment facility, adult motion picture theater, bathhouse, massage parlor and/or modeling studio.

h. *SPECIFIED SEXUAL ACTIVITIES:* Sexual conduct, being acted or simulated, acts of human masturbation; sexual intercourse; a physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitalia, pubic area, buttocks, or the breast of a female, or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

4. *Procedure.* An Adult Entertainment Area is a use in the "PC" Planned Commercial and "PI" Planned Industrial Districts. In addition, to obtain approval of a site development plan to utilize an established district, the procedure shall be the same as any other planned district.

5. *Location.* An Adult Entertainment Area may only be designated in "PC" Planned Commercial or "PI" Planned Industrial Districts.

6. *Permitted Uses.* The uses permitted in an Adult Entertainment Area shall be those established in the underlying zoning district.

7. *Performance standards.* All uses established in an Adult Entertainment Area shall operate in accord with standards contained in Section 1003.163, "Zoning Performance Standards Regulations." These performance standards are minimum requirements and may be made more restrictive in the conditions of the ordinance governing the particular Adult Entertainment Area.

8. *Height limitations for structures.* Unless otherwise restricted by application of regulations in Section 1003.161, "Air Navigation Space Regulations," the total height of, any structure shall not exceed one story or twenty-five (25) feet (exclusive of mechanical equipment) from floor elevation at grade.

9. *Illumination requirements.* Illumination for Adult and Entertainment Areas shall meet the standards established in the City of Chesterfield Lighting Ordinance.

10. *Lot area/yard frontage.*

(1) *Minimum lot area/yard frontage.* No minimum lot area shall be required for this district. However, the property on which such use is located shall have a minimum of 100 feet of frontage on a public right-of-way.

11. *Minimum general yard requirements and setbacks*

(a) Setbacks for parking areas and the structures shall be as follows:

- (1) Front yard: Thirty (30) feet from any right-of-way line
- (2) Side yard: Six (6) feet from any property line.
- (3) Rear yard: Ten (10) feet from any property line.

(b) Setbacks from other structures shall be as follows:

(1) No adult bookstore, adult entertainment facility or establishment, bathhouse, massage parlor or modeling studio shall be permitted within 1,200 feet of any religious institution, school, child care facility, public park or any property zoned for residential use, or any city boundary. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment establishment to the closest point on any property line of the religious institution, school, or public park, or the property zoned for residential use, or to the closest point of the city boundary.

(2) No adult entertainment establishment shall be allowed to locate or expand within 1,000 feet of any other adult entertainment establishment or of any business licensed to sell or serve alcoholic beverages whether or not such business is also an adult entertainment establishment as defined in this section. The distance between any two (2) adult entertainment establishments or between an adult entertainment establishment and a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.

(3) No adult business establishment shall be permitted to locate or expand within one thousand (1,000) feet of any business license to sell or serve alcoholic or cereal malt beverages.

12. Additional Site Development Plan Requirements. The applicant for an Adult Entertainment Area shall provide a Site Plan in accordance with the established "PC" Planned Commercial District or "PI" Planned Industrial District, plus the following information:

- (1) Identify on plan abutting property owners, names, addresses, zip codes, and St. Louis County locator numbers.
- (2.) Any Board of Adjustment or City Planning Commission approvals (variances,

rezonings, Special Land Use Permits) with date and conditions, if applicable.

Building and Design

- (3) Architectural elevations of all sides of all buildings and structures.
- (4) Architectural renderings.
- (5) The facility in which the use is located shall be designed in such a fashion that all openings, entries and windows prevent view into such facilities from any pedestrian, sidewalk, walkway, street or other public area. No adult entertainment activity shall take place partially or totally outside the adult entertainment establishment.

Parking and Roadways

- (6) A traffic study prepared by a registered traffic engineer as required by the Director of Planning.
- (7) All access to and from the adult entertainment establishment shall be provided from a street classified as a public right-of-way.

13. *Off-street parking and loading requirements.* The minimum off-street parking and loading requirements for any use or building in a designated "AEA" shall not be as set forth in Section 1003.165, "Off-Street Parking and Loading Requirements."

14. *Sign regulations* The facility in which such a use is located shall be limited to one (1) wall-mounted sign in accordance with §1003.168; said sign shall not flash, blink or move by mechanical means and shall not extend above the roof line of the building. Said sign shall not exceed eight (8) feet in height from ground level. Further, no merchandise, symbol, or pictures of products or entertainment on the premises shall be displayed in window areas or on any sign or any area where such merchandise or pictures can be viewed from the exterior of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted. No temporary signs shall be allowed.

15. *Procedure--Establishment of area.* In order to establish any Adult Entertainment Area or to obtain approval of a site development plan in order to utilize an established district, the procedure shall be similar to other planned districts.

16. Minimum landscaping and screening requirements otherwise required by the Chesterfield Code shall be observed.