

AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATION OF ADULT ENTERTAINMENT BUSINESSES WITHIN THE CITY OF CHESTERFIELD; ESTABLISHING FEES; AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, based on testimony, case law and other information before it, the Chesterfield City Council has made the following legislative findings of fact:

WHEREAS, the regulation of adult businesses is necessary to establish reasonable uniform regulations that will reduce the adverse secondary effects that these establishments have upon the residents of the City; and

WHEREAS, that the City recognizes and relies upon the experience of other cities and counties in adopting adult business regulations; and

WHEREAS, after review of the materials provided there is convincing documented evidence that adult business establishments have deleterious effect on the surrounding areas, causing increased crime, decreased property values, and other adverse secondary effects; and

WHEREAS, 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, day care centers, and parks; and

WHEREAS, restricting of the hours of operation of any adult business establishment minimizes the impact on surrounding property; and

WHEREAS, businesses that provide adult entertainment are associated with and promote prostitution, illegal drug use and other criminal activity which constitute an immediate threat to the public peace, health, morals and safety; and

WHEREAS, regulation of adult entertainment businesses is necessary because in the absence of such regulation, significant criminal activity to include prostitution, illegal drug use and disruptive behavior has historically and regularly occurred; and

WHEREAS, it is necessary to regulate and license entertainers and servers in the adult entertainment industry to prevent the exploitation of minors; and

WHEREAS, it is necessary to have a licensee manager on the premises of establishments offering adult entertainment to insure that at all times a person responsible for the overall operation of the business, including the actions of customers, entertainers and other employees, is present; and

WHEREAS, evidence indicates that enclosed booths in non-visible areas in adult business establishments, the exchange of money between performers or patrons, and the non-licensing of owners and employees makes it difficult to monitor and ensure that only duly authorized adults are employed by such business and that such persons do not have histories of regulatory violations or sexual misconduct; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure the compliance by owners and employees with reasonable regulations so that if owners do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, that the license fees imposed by the regulation herein are reasonable fees imposed as necessary regulatory measures designed to help defray expenses incurred by the City in regulating adult entertainment businesses; and

WHEREAS, the City finds that it is in the public interest and promotes 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 sale or rental for any form of consideration; and

WHEREAS, it is not the intent of the City in adopting this Ordinance to suppress activities protected by the First Amendment to the United States Constitution, but rather to enact a content neutral ordinance, which addresses secondary effects that adult business establishments have on the City and provides for reasonable objective licensing and permitting standards for all expressive uses and as such not to suppress or infringe upon the expressive activities protected by the First Amendment to the United States or the Missouri Constitution, but instead it is the City's desire to enact reasonable time, place and manner regulations that address the adverse secondary effects associated with adult businesses.

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

SECTION 1. NEW CHAPTER ENACTED.

The Chesterfield City Code is hereby amended by the addition of a new chapter entitled "Adult Entertainment Business" is hereby enacted. and shall read as follows:

SECTION 2. INTENT AND PURPOSE.

A. It is the purpose of this chapter to regulate sexually oriented businesses to promote the health, safety and general welfare of the residents of the City; to protect and preserve the quality, property values and character of the City; to prevent the concentration of

sexually oriented businesses within the City; and to minimize the potential negative impacts of sexually oriented businesses on residential areas, churches, schools and public areas.

B. It is expressly not the intent or effect of this chapter to impose a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Nor is it the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

C. **Adult Entertainment Facilities.** It is the intent of the City that the location regulations of this chapter related to massage parlors, nude studios, modeling studios, and other similar commercial enterprises whose major business is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer, are promulgated pursuant to the findings of the City in Resolution _____.

SECTION 3. LOCATION OF SEXUALLY ORIENTED BUSINESSES

The location of sexually oriented businesses is identified in the Zoning Ordinance of the City of Chesterfield and allowed in areas described as "Adult Entertainment Areas" in the Planned Commercial ("PC") and Planned Industrial ("PI"), subject to the distance and licensing requirements of this Chapter and other applicable Zoning Ordinance regulations as established by the Zoning Ordinance of the City of Chesterfield.

SECTION 4. EXCEPTIONS.

The regulations contained in this chapter do not apply to the following:

A. Any business operated by or employing psychologists, physical therapists, athletic trainers, masseuses, licensed massage therapists, cosmetologists or barbers licensed by the State of Missouri and performing functions authorized under the licenses, or those persons or businesses not engaged in prohibited specific sexual activities as defined herein.

B. Any business operated by or employing physicians, osteopaths, nurses or chiropractors, licensed by the State of Missouri, engaged in practicing the healing arts;

C. Any retail business whose major business is the offering of wearing apparel for sale to customers; and

D. 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 as a form of expression or opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of the commercial or business enterprise.

SECTION 5. DEFINITIONS.

For the purposes of this section and unless the context plainly requires otherwise, the following definitions are adopted

A. "Adult entertainment" means any live exhibition, performance, display or dance of any type, including but not limited to, talking singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

B. "Adult entertainment business" means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member.

C. "Adult Entertainment Facility" means any building, structure or facility which contains or is used entirely or partially for commercial entertainment, including theaters used for presenting live presentations, video tapes, DVDs, sexual paraphernalia or films predominantly distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to sexual activities, and exotic erotic dance facilities (regardless of whether the theater or facility provides a live presentation, video tape, DVD, or film presentation), 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; (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; or (3) where a regular and substantial portion of the businesses providing entertainment which features materials of live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas. The definition of "adult entertainment facility" also includes, but is not limited to, an establishment having ten percent (10%) or more of its stock in trade, in books, photographs, magazines, films for sale or viewing on or off the premises by use of motion picture devices, video players, DVD players, computers or coin operated means, or other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to sex or sexual activity or the principal purpose of which is to sexually stimulate or sexually arouse the patron viewer or reader or instruments, devices, or paraphernalia that are designed or marketed for use in connection with specified sexual activities.

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D. "Adult Arcade" means any business establishment or concern to which the public is permitted or invited and where coin or slug operated or electronically, electrically, or mechanically controlled amusement devices, still or motion picture machines, projectors, videos or other image-producing devices, are maintained to show images on a regular or substantial basis, where the images so displayed relate to specified sexual activities or exhibition of specified anatomical areas.

E. "Adult Encounter Parlor" means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees, performers, and/or other customers or private contractors who display specified anatomical areas in the presence of such customers, with the intent of providing sexual arousal or excitement to such customers.

F. "Adult Entertainment Cabaret" means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female, impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or customer.

G. "Adult Entertainment Studio" (includes the terms "rap studio," "exotic dance studio," "sensitivity studio," or "encounter studio") means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials of live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.

H. "Adult Motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, videotapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six hours at a time.

I. "Adult Media" means magazines, books, videotapes, movies, slides, paraphernalia or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or "specified anatomical areas" (separately defined).

J. "Adult Media Outlet" means an establishment that rents, sells or offers for viewing or other use any adult media and which meets at least one of the following tests:

For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of such items if any one or more of the following criteria are satisfied:

1. More than ten percent (10%) of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public; or
2. More than ten percent (10%) of the gross sales (including rentals) result from the sale or rental of adult media.
3. Ten percent (10%) or more of the dollar value of all merchandise displayed at any time is attributable to adult media;
4. Ten percent (10%) or more of all inventory consists of adult media at any time;
5. Ten percent (10%) or more of the merchandise displayed for sale consists of adult media;
6. Ten percent (10%) or more of the stock in trade consists of such items at any time.

K. "Adult Newsrack" means any coin or card operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

L. "Adult Retail Establishment" means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the material sold or rented in an "adult media outlet" as defined below, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." For purposes of this subsection, the presumptions relative to what constitutes a "substantial or significant" portion of business set forth in the definition of "adult media outlet" shall apply here. In determining whether an item is "designed or marketed for use" in connection with specified sexual activities, the following guidelines may be considered:

1. Expert testimony as to the principle use of the item;
2. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;

3. National and local advertising concerning the use of the item;
4. Evidence of advertising concerning the nature of the business establishment;
5. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
6. The physical or structural characteristics of the item;
7. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Any person may request an interpretive ruling from the Chief of Police, or his designee, as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the Public Health and Safety Committee of Council within fifteen (15) days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

M. "Adult Theater" means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by customers.

N. "Bath House" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.

O. "Body Painting Studio" means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique, or process when the subject's body displays for the customer view specified anatomical areas.

P. "Escort Bureau" means any person, business or agency which, for a fee, commission, hire, reward or profit, furnishes or offers to furnish escorts or persons who, for hire or reward, accompany others to or about social affairs, entertainment or places of amusement or who consort with others, for hire or reward, about any place of public resort or within any private quarters.

Q. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult entertainment business.

R. "Entertainer" means any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.

S. "Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.

T. "Operator" means any person operating, conducting or maintaining an adult entertainment business.

U. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.

V. "Public place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

W. "Server" means any person who serves food or drink at an adult entertainment business.

X. "Specified anatomical areas" mean (1) uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola or nipple, or any combination of the foregoing; or (2) human male genitals in a discernible erect state, even if completely and opaquely covered.

Y. "Specified sexual activities" mean sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act or apparent sexual stimulation or gratification.

SECTION 6. LICENSE REQUIRED FOR ADULT ENTERTAINMENT BUSINESS.

A. It shall be unlawful for any person to operate or maintain an adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City.

B. It is unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.

C. It shall be prima facie evidence that any adult entertainment business that fails to have posted, in the manner required by this section, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

SECTION 7. LICENSE REQUIRED FOR MANAGERS, SERVERS & ENTERTAINERS.

It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended.

SECTION 8. LICENSE AND CLASSIFICATION.

A. The license year for all fees required under this chapter shall be from each July 1 through June 30. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.

B. All licenses shall be issued for a specific location and shall be nontransferable.

SECTION 9. LICENSE APPLICATION.

A. Adult Entertainment Business License.

All persons desiring to secure a license to operate an adult entertainment business under the provisions of this chapter shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.

2. The name of the adult entertainment business, a description of the adult entertainment to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.

3. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10% or greater interest in the corporation.

4. The addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application.

5. A description of the adult entertainment or similar business history of the applicant, or of all partners, or of all corporate officers and director; whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;

6. A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.

7. A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

a. a felony criminal act within five years immediately preceding the application or

b. a misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography of related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant, each partner of each corporate officer and director has not been convicted or a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indccent exposure, prostitution or sale of contro3led substances or illegal drugs or narcotics.

8. A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.

9. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.

10. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult entertainment businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

B. Adult Entertainment Manager, Server or Entertainers License.

All persons desiring to secure a license under the provisions of this chapter to be an adult entertainment manager, server or entertainer shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.

2. The name and address of each adult entertainment business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult entertainment business intends to hire the applicant to manage, serve or entertain on the premises.

3. A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

a. a felony criminal act within five years immediately preceding the application, or

b. a misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

4. A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.

5. The applicant shall present to the City Clerk who shall copy documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

- a. A motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth;
- b. A state-issued identification card bearing the applicant's photograph and date of birth;
- c. An official and valid passport issued by the United States of America;
- d. An immigration card issued by the United States of America;
- e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
- f. Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

C. Application Processing.

Upon receipt of a complete application for an adult entertainment or an adult entertainment manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Chesterfield Police Department for investigation of the application. It shall be the duty of the Police Chief or his designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Police Chief shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk. It shall be the duty of the Director of Public Works, to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Director of Public Works shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Police Chief and the City Clerk shall schedule the application for consideration by the governing body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult entertainment business and for an adult entertainment business manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the City

Clerk's office. The applicant shall be notified in writing of the date when the governing body will consider the application.

SECTION 10. EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL.

A. If the application for an adult entertainment business or an adult entertainment business manager, server or entertainer is in proper forms and accompanied by the appropriate license fee (if applicable), the governing body shall examine the application, and after such examination, the governing body shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible to Section 8 or Section 11.

B. The record of the governing body shall show the action taken on the application, and if the license is granted, the governing body shall direct the City clerk to issue the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

C. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

SECTION 11. LICENSE INELIGIBILITY & DISQUALIFICATION.

No person is eligible nor shall a license be issued to:

A. An adult entertainment business applicant if one or more of the following conditions exist:

1. The applicant's premises is located within 1,200 feet of any school, religious institution, church, public park, licensed child care facility or any property zoned for residential use or city boundary. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, religious institution, church, public park, day care facility, or any property zoned for residential use or city boundary.

2. The applicant's premises is located within 1,000 feet of any other adult entertainment business or 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 herein. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult

entertainment business or 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 herein.

3. The applicant failed to supply all of the information request on the application;

4. The applicant gave false, fraudulent or untruthful information on the application;

5. The applicants proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the governing body.

6. The applicant or applicant's spouse has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 9A, 7(b) during the time period set forth in said section.

7. The applicant or applicant's spouse has had an adult entertainment license revoked or suspended in this or any other City during the past five years.

B. An applicant for an adult entertainment manager, server or entertainer if one or more of the following conditions exist:

1. The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (A) above;

2. The applicant or applicant's spouse has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 9A, 7(b) during the time period set forth in said section, the fact a conviction is being appealed shall have no effect on the disqualification of applicant or applicant's spouse.

3. The applicant failed to provide all of the information required on the application;

4. The applicant gave false, fraudulent or untruthful information on the application;

5. The applicant has had an adult entertainment manager, server or entertainer license revoked or suspended in this or any other city during the past five years.

SECTION 12. STANDARDS OF CONDUCT.

The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business:

A. Age restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.

B. Exterior Observation. The premises of all adult entertainment businesses will be so constructed as to include an anteroom, foyer, partition or other physical barrier on all customer entrances, that will insure observation of the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with a anteroom of foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

C. Exterior Display. No adult entertainment business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

D. Nudity prohibited, Exceptions.

No employee, server or entertainer in an adult entertainment business shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.;

E. Certain Acts prohibited.

1. No employee, server or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

2. No employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

3. No employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.

4. No adult entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:

a. While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage, or

b. While such entertainer is not on the stage or platform and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.

5. No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall:

a. knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises;

b. knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

c. knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;

d. knowingly allow or permit any act of prostitution or patronizing prostitution on the premises; or

e. knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.

F. Signs Required.

All adult entertainment business shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, or which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

**THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED
AND LICENSED BY THE CITY OF CHESTERFIELD**

ENTERTAINERS ARE:

- * Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- * Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and or genitals, unless upon a stage at least two feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.
- * Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or
 - While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

- * Not permitted to be upon the stage at any time.
- * Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

G. Lighting Required.

The premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

H. Closed Booths or Room Prohibited.

The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

I. Ventilation and Sanitation Requirements.

The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

J. Hours of Operation.

No adult entertainment business may be open or in use between the hours of 1:00 a.m. and 12:00 p.m. on any day other than a Sunday when the business may not be open.

SECTION 13. LICENSE - POSTING OR DISPLAY.

A. Every person, corporation, partnership, or association licensed under this chapter as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.

B. Every person holding an adult entertainment server, manager or entertainer license shall post his or her license in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by City authorities responsible for enforcement of this chapter.

SECTION 14. MANAGER ON PREMISES.

A. An adult entertainment manager shall be on duty at any adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainers license or an adult entertainment servers license and that such licenses are prominently posted.

SECTION 15. INSPECTOR AND INSPECTIONS.

All adult entertainment businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

SECTION 16. SUSPENSION, REVOCATION, OR NON-RENEWAL - LICENSE.

Whenever the City Administrator or his designee has information that:

A. The owner or operator of an adult entertainment business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this chapter; or

B. There have been recurrent violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed; or

C. The adult entertainment business license or the adult entertainment manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or

D. The adult entertainment business licensee or the adult entertainment manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

E. The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in Section 9.A, 7(b).; or

F. The holder of an adult entertainment manager, server or entertainer license has become disqualified from having a license by a conviction as provided in Section 9.A, 7(b), then the City Administrator shall make this information known to the City Administrator who shall notify the Public Health and Safety Committee of Council (PH&S Committee), which upon five days written notice to the person holding the license conduct a public hearing to determine whether the license should be suspended or revoked. The PH&S Committee may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the governing body may take any of the following actions:

1. Suspend the license for up to ninety days.
2. Revoke the license for the remainder of the license year.
3. Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the chapter occur during the period.

of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

SECTION 17. RENEWAL.

A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on June 30 of each calendar year, and renewal applications for such licenses shall be submitted between June 15 and June 30.

B. Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter.

C. If the application for renewal of a license is not made during the time provided in subsection (A) of this section, the expiration of such license shall not be affected, and a new application shall be required.

SECTION 18. JUDICIAL REVIEW - STAY OF ENFORCEMENT OF ORDERS.

Following the entry of an order by the City Administrator, suspending or revoking a license issued pursuant to this chapter, or disapproving the renewal application for a license, such licensee or applicant may seek Judicial review in a manner provided by law. The City Administrator may stay enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for Judicial review.

SECTION 19. PENALTY.

It shall be unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be punished by a fine not exceeding \$500.00, or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of individual prohibited act, or failure, refusal or neglect to comply with , any provision of this chapter shall constitute a separate and distinct offense.

SECTION 20. REGULATIONS.

The City Clerk shall have the power to promulgate regulations, as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this chapter.

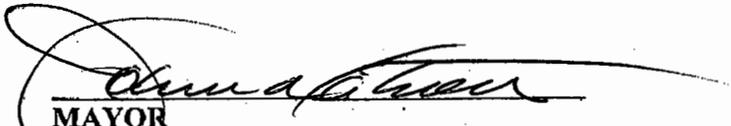
SECTION 21. SEVERABILITY.

Should any section, sentence, or clause of the ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

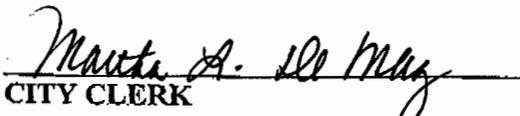
SECTION 22. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 18th day of July, 2005.


MAYOR

ATTEST:


CITY CLERK