

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)

ORDINANCE #276

**AN ORDINANCE AMENDING
THE LAND USE & DEVELOPMENT STANDARDS ORDINANCE
ARTICLE V, SECTION 5.10,
ADULT USES AND ESTABLISHMENTS**

WHEREAS, various studies done by other cities and counties generally conclude that there are numerous problems resulting from the uncontrolled spread of adult establishments, particularly when those businesses are concentrated in a small area and these problems include an increase in criminal activity, deterioration of property values, visual blight, and a general decline in the quality of life and commerce in those areas; and

WHEREAS, although adult establishments are not a problem in Lancaster County at this time, Lancaster County Council has expressed concerns that the rapid growth of neighboring counties will include an increase in the number of adult establishments in Lancaster County; and

WHEREAS, subsequent stricter regulations imposed on adult uses by the neighboring counties will eventually lead to an influx of adult uses in Lancaster County where present regulations are weaker; and

WHEREAS, the Lancaster County Council has a legitimate interest in preserving the quality of life, community esthetics, property values, and adherence to law and order; and

WHEREAS, the Lancaster County Council feels that the current adult use ordinance should be revised to prevent the future incompatible location and concentration of adult establishments within the County; and

WHEREAS, at the formal request of the Lancaster County Council, the Joint Planning Commission has studied and made a recommendation that Article V, Section 5.10, of the Lancaster County Land Use Ordinance be amended; and

WHEREAS, the amendments recommended by the Joint Planning Commission allow legitimate business opportunities for individuals to own and operate adult establishments within the County and do not restrict the right of an individual to free expression and at the same time addresses the concerns of County Council.

NOW, THEREFORE, BE IT ORDAINED BY THE LANCASTER COUNTY COUNCIL that Article V, Section 5.10, of the County's Land Use & Development Standards Ordinance be amended as follows:

Section 5.10 Adult Uses and Establishments

5.11 Purpose and Intent

It is the purpose of this ordinance to regulate adult establishments to promote the health, safety, morals, and general welfare of the citizens of the county. It is also the purpose of this ordinance to establish reasonable and uniform regulations to prevent the future incompatible location and concentration of adult establishments within the county. The provisions of this ordinance have neither the purpose nor effect of imposing any limitations or restrictions on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this ordinance to restrict access by adults to sexually oriented entertainment or materials protected by the First Amendment, or to deny the distributors and exhibitors of sexually oriented entertainment access to their intended market. Neither is it the intent or effect of this ordinance to condone or legitimize the observance of adult entertainment or the distribution of sexually oriented material.

5.12 Classifications

Adult uses and establishments include, but are not limited to, adult arcades, adult bookstores, adult cabarets, adult motels, adult motion picture theaters, adult theaters, adult video stores, escort motels, escort services, sexual encounter centers, as defined in section 5.13, and any other establishment which, as one of its principal business purposes, contains activities characterized by the performance, depiction, or description of specified anatomical areas or specified sexual activities.

5.13 Definitions

(1) *Adult arcade* means any establishment to which the public is permitted or invited wherein coin, slug, electrically, electronically, or mechanically operated, 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 the depicting or describing of specified anatomical areas or specified sexual activities.

(2) *Adult bookstore* or *adult video store* means a commercial establishment which, as one of its principal business purposes, offers for sale, rental, or consideration any one or more of the following:

- (a) Books, magazines, periodicals, or other printed material, photographs, films, motion pictures, video cassettes, video reproductions, slides or other visual representations which depict or describe specified anatomical areas or specified sexual activities; or

- (b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale, rental or consideration of material depicting or describing specified anatomical areas or specified sexual activities and still be classified as an adult establishment. Such other business purposes will not serve to exempt such commercial establishment from being classified as an adult establishment so long as one of its principal purposes is the offering for sale, rental, or consideration the specified materials which depict or describe specified anatomical areas or specified sexual activities.
- (3) *Adult cabaret* means a nightclub, bar, restaurant, or similar commercial establishment which features:
- (a) Persons who appear in a state of nudity; or
 - (b) Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities; or
 - (c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.
- (4) *Adult motel* means a hotel, motel, or similar commercial establishment which
- (a) Offers accommodations to the public for any forms of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities and has a sign visible from the public right of way which advertises the availability of this type of adult photographic reproductions; or
 - (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (5) *Adult motion picture theater* means a commercial establishment which, as one of its principal business purposes, offers for any form of consideration films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.
- (6) *Adult theater* means a theater, concert hall, auditorium, or similar commercial establishment which, as one of its principal business purposes, features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities.
- (7) *Escort* means a person, who for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) *Escort agency* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other forms of consideration.

(9) *Nude model studio* means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(10) *Nudity* or a *state of nudity* means the appearances of a human bare buttock, anus, male or female genitals, or entire female breast without a fully opaque cloth covering over the entire nipple and areola.

(11) *Semi-nude* means a state of dress in which clothing covers no more than the male or female genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

(12) *Sexual encounter center* means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.

(13) *Establishment* means and includes any of the following:

- (a) The opening or commencement of any sexually oriented business as a new business;
- (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (c) The additions of any sexually oriented business to any other existing sexually oriented business; or
- (d) The relocation of any sexually oriented business.

(14) *Person* means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(15) *Permittee* and/or *licensee* means a person in whose name a permit and/or license to operate an adult establishment has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(16) *Sexually oriented business* means an adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult theater, adult video store, escort service, escort motel, and sexual encounter center.

(17) *Specified anatomical areas* means the male genitals in a state of sexual arousal and/or more intimate parts of the female genitals.

- (18) *Specified sexual activities* means and includes any of the following:
- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (c) Masturbation, actual or simulated; or
 - (d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

5.14 Location

Adult establishments may be allowed as *Uses Permitted On Review* in the following County zoning district:

- (a) IND (industrial district).

Measurements of distance separation shall be in a straight line from structure to structure, with no consideration given to intervening structures, roads, or land forms.

- (1) Adult establishments shall not be located closer than:
 - a) 1,320 feet from any residential zoning district or structure used as a residential occupancy at time of application for a *Use Permitted On Review*;
 - b) 2,640 feet from any church, synagogue, temple, or other recognized house of worship;
 - c) 2,640 feet from any day-care center;
 - d) 2,640 feet from any public or private educational facility;
 - e) 2,640 feet from any public library, playground, park, recreation facility, or other public facility;
 - f) 2,640 feet from any other adult establishment that provides adult entertainment or engages in the sale or rental of adult material as one of their principal business purposes.
- (2) No more than one (1) adult establishment shall be located on a parcel or in the same building, structure or portion thereof.
- (3) No other principal or accessory use may occupy the same parcel, building, structure, or portion thereof with any adult establishment.
- (4) Adult establishments shall not be allowed a variance from the minimum distance separation requirements of this section.

BE IT FURTHER ORDAINED THAT in order to limit Adult Uses to the IND District, the following ***highlighted*** changes in Article III, Purpose of Districts and Use Regulations, will adopted:

3.02 Permitted Uses

Within the GD-M Development District, building or premise may be used for any purpose, ***except for those listed by Section 3.03, or*** otherwise prohibited by Article V; provided such use shall meet all applicable performance and development standards contained in this ordinance.

3.03 Uses Prohibited

1. Adult Uses and Establishments as defined in Section 5.10

3.13 Uses Prohibited

The following uses are prohibited from the GD-L District:

- (1) Mobile Home Parks or Courts
- (2) Multi-family and attached housing
- (3) Subdivisions with densities greater than three units per acre (gross), or lot frontage less than 150 feet
- (4) Non-residential buildings or structures with floor area to lot ratios greater than .20 to 1.00.
- (5) **Adult Uses and Establishments as defined in Section 5.10**

3.22 Permitted Uses

Within the IND, Industrial Development District, a building or premise may be used only for the following purposes unless otherwise prohibited by Article V, provided such uses shall meet all applicable performance and development standards contained in this ordinance.

- (1) Agricultural uses, including commercial greenhouses and nurseries, general farming operations, keeping and raising of animals and livestock, and structures for housing and processing products raised on the premises.
- (2) Industrial and manufacturing uses.
- (3) Wholesale, warehousing and distribution uses.
- (4) Office buildings, laboratories and research facilities.
- (5) Private clubs and lodges.
- (6) Armories.
- (7) Veterinary establishments; provided all animals shall be housed in sound proof buildings at night.
- (8) Business and Vocational schools.
- (9) Bulk and outdoor storage lots; except for scrap, salvage and junk yards.
- (10) Utilities, i.e. gas, electric and telephone; production and distribution facilities.
- (11) Residential, single-family on any existing lot-of-record and on any new lot 10 acres or greater in size, or any legally or court-ordered subdivision.
- (12) Water plants and sewerage treatment facilities, and substations.
- (13) Assembly and processing plants.
- (14) Uses accessory to the above.
- (15) Signs.
- (16) **Adult Uses and Establishments as defined in Section 5.10 as a special exception permit.**

Referring to RR, Rural Resource District

3.43 Uses Prohibited

1. Adult Uses and Establishments as defined in Section 5.10

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AND IT IS SO ORDAINED THIS 25th day of September, 1995.

LANCASTER COUNTY COUNCIL

Ray E. Gardner, Chairman

W. R. Crimminger, Secretary

APPROVED AS TO FORM AND CONTENT:

J. Kim Roberts, County Attorney

ATTEST:

Irene Plyler, Clerk to Council

1st reading: 08-28-95

2nd reading: 09-11-95

3rd reading: 09-25-95