

ORDINANCE 2003-6

AN ORDINANCE TO AMEND SECTION 21-3 OF CHAPTER 21, ZONING OF THE CODE OF THE TOWN OF ASHLAND TO READ:

BE IT ORDAINED by the Council of the Town of Ashland, Virginia that Section 21-3 Definitions of Chapter 21, Zoning of the Code of the Town of Ashland be amended to include:

Adult Use: Any adult book store, adult motion picture theater, or massage parlor/health club as defined below:

Adult Book Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, and other media (such as films, video tapes, video cassettes or video discs) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" (as defined below) or "specified anatomical areas" (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.

Adult Cabaret: A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by patrons therein.

Adult motion picture theater: An enclosed building or outdoor facility used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" (as defined below) or "specified anatomical areas" (as defined below), for observation by patrons therein, and including any so called "peep show" or individual motion picture machines or similar viewing devices.

Specified anatomical areas is defined as:

- 1) Less than completely and opaquely covered:
 - a) Human genitals, pubic region
 - b) Buttock and
 - c) Female breast below a point immediately above the top of the areola, and
- 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Massage parlor/health parlor: Any place, establishment or institution, which is operated for the purpose of providing one or more of the following services at such establishment or on a house-call basis: Physical massage of the body of another; steam bath; hot box; electrical, mechanical or chemical magnetic bath and stimulation exercises. Excluded are the following: Hospitals, nursing homes, medical clinics, offices or quarters of duly ~~licensed~~ certified massage therapists, physicians, chiropractors, osteopaths, or facilities operated by federal, state or county agencies, or barbershops and beauty parlors. Also excluded are health and fitness clubs with steam baths and hot boxes ~~The provisions of this ordinance dealing with steam baths and hot boxes shall not apply to a health or fitness club~~ provided that no more than ten percent of the club's gross floor area consists of steam baths and hot boxes.

BE IT FURTHER ORDAINED by the Council of the Town of Ashland, Virginia that Section 21-101 of Article XI. Highway Commercial District, B-2 of Chapter 21, Zoning of the Code of the Town of Ashland be amended by adding a new subsection to read:

- (54) Adult uses, subject to the specific requirements of Section 21-267 of Article XXV, Supplemental regulations.

BE IT ORDAINED by the Council of the Town of Ashland, Virginia that Article XXV, Supplemental Regulations be amended by adding:

Section 21-267 Adult Uses

1. Intent: It is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics particularly when several of them are concentrated under certain circumstances or located indirect proximity to residential neighborhoods, thereby having a deleterious affect upon the adjacent areas. Special regulations of these uses is necessary to ensure that these adverse affects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing the concentration or location of these uses in a manner that would create such adverse affects.
2. Location and extent:
No more than one adult use shall be permitted in any building subject to:
 - a) Except as in (d) below, ~~no such permit shall authorize such adult use or structure shall be located~~ less than five hundred (500) feet from any residential district boundary or from

any existing church, park, recreational facility, school or day care center.

- b) Except as in (d) below, all off-street parking spaces serving ~~such~~ adult uses shall be located at least three hundred (300) feet from the nearest residential district boundary.
- c) Except as in (d) below, such use shall not be located within 1,000 feet of another such use.
- d) The Town Council may waive the locational provisions in (a) (b) and (c) above under certain circumstances if the following findings are made:
 - 1) That the proposed uses will not be contrary to the public interest or be injurious to nearby properties, and that the spirit and intent of this ordinance will be observed.
 - 2) That the establishment of an adult use in the area would not be possible without such waiver.
 - 3) That the establishment of an adult use will not be contrary or detrimental to any program of neighborhood conservation or renewal in adjacent residential areas; and
 - 4) That all applicable regulations of the ordinance and special conditions attached to the use permit will be observed.

BE IT FURTHER ORDAINED by the Town Council that the revision to Chapter 21 of the Code of the Town of Ashland shall be effective as of June 10, 2003.

Introduced: February 2003

Advertised:

Planning Commission: Herald Progress: March 3 and 10, 2003

Town Council: Herald Progress: April 28 and May 5, 2003

Public Hearing:

Planning Commission: March 19, 2003

Town Council: May 13, 2003

Adopted: June 10, 2003

Effective: June 10, 2003