

CITY OF CHARLOTTE

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE III OF THE CODE OF ORDINANCES OF THE CITY OF CHARLOTTE, IOWA, BY ADDING A NEW CHAPTER 14, ENTITLED “ADULT ENTERTAINMENT BUSINESSES”, WHICH CHAPTER DEFINES SUCH BUSINESSES, LIMITS THEIR LOCATION AND REGULATES THE ACTIVITIES PERMITTED THEREIN.

BE IT ENACTED by the City Council of the City of Charlotte, Iowa:

SECTION 1. SECTION MODIFIED. Title III, Community Protection, is hereby amended by adding a new Chapter 14, entitled “Adult Entertainment Business”, and the following adopted:

14.01 PURPOSE. The purpose of this chapter is to regulate adult entertainment businesses in order to limit their adverse impact and detrimental secondary effects in the community while at the same time permitting lawful businesses to conduct operations within the community. By the nature of their business, adult entertainment businesses create serious, objectionable operational characteristics, which are magnified when located in close proximity to residences, churches, schools, child care centers and parks. Special regulation of adult entertainment businesses is necessary to insure that no adverse secondary effects will contribute to the blighting or downgrading of surrounding neighborhoods and areas. These regulations are necessary to protect the minors of the community from these businesses by restricting their location and to protect the health, safety and general welfare of all the residents of the community, prevent crime, protect the City’s retail trade, maintain property values and protect and preserve the quality of neighborhoods and are not to suppress the expression of unpopular views.

14.02 LOCATION.

1. No person shall locate, establish, maintain or operate any adult entertainment business as herein defined on any lot or parcel that has a property line within one thousand (1,000) feet from the property line of any other lot or parcel on which another adult entertainment business is located, established or maintained; nor shall any other business be located, established, maintained or operated on any lot or parcel on which an adult entertainment business is located, established, maintained or operated.
2. No adult entertainment business shall be located, established, maintained or operated on any lot or parcel that has a property line within one thousand (1,000) feet of the property line of:
 - a. A public or private nursery school or pre-school, a public or private elementary, or secondary school;

- b. A child care facility licensed by the State of Iowa;
 - c. A church, synagogue, mosque, place of worship, or other religious facility or institution;
 - d. A public park or playground, including public recreational paths or trails;
 - e. A public or private cemetery;
 - f. A public housing facility;
 - g. A public plaza,
 - h. Any residentially zoned property; or
 - i. Any bus stop.
3. No adult entertainment business shall be located, established, maintained or operated on any lot or parcel that has a property line within one hundred (1,000) feet of the public right-of-way for any arterial (or through) street in the City.
 4. For purposes of this chapter, measurement shall be taken on a direct line from the property line of such uses protected in subsection A through H in this section; or the nearest point of the property line of the other adult entertainment business, as the case may be. It is the adult entertainment business' obligation to provide the City with a survey acceptable and satisfactory to the City that demonstrates the establishment meets the requirements of this section.

14.02 DEFINITIONS.

1. ***“Adult amusement arcade”*** means an establishment having as one of its principal uses one or more of the following: customer-operated motion picture devices, peep shows, viewing area, or similar devices either coin, token or slug operated, or which in consideration of an entrance fee, displays materials distinguished or characterized by an emphasis on depictions of specified sexual acts or specified anatomical areas.
2. ***“Adult bookstore”*** means an establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
3. ***“Adult booth”*** means any area of an adult entertainment establishment that is set off from the remainder of such establishment by one or more walls, partitions or other dividers and which is used to show, exhibit, play, display or otherwise demonstrate any adult materials or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction or description of any specified anatomical areas or the performance or simulation of any specified sexual activities.
4. ***“Adult cabaret”*** means any commercial establishment that as a substantial or significant portion of its business provides any of the following:
 - a. Persons who appear nude;

- b. Live performances that are distinguished or characterized by an emphasis on the exposure, depiction or description of a specified anatomical area or the performance or simulation of a specified sexual activity; or
 - c. Films, motion pictures, video or audio cassettes, slides, computer displays or other visual representations, recordings, imagery, illustration or depiction of any kind that are distinguished or characterized by an emphasis on the exposure, depiction or description of any specified sexual activity.
5. “**Adult establishment**”, “**Adult entertainment business**”, or “**adult entertainment establishment**” means an adult bookstore, adult cabaret, adult motel, adult theater, adult motion picture theater, nude model studio, sexual encounter center, adult amusement arcade, adult massage parlor, or escort agency.
6. “**Adult massage parlor**” means any massage parlor where services are administered by someone other than a licensed medical practitioner, chiropractor, acupuncturist, therapist or similar person licensed by the State of Iowa.
7. “**Adult material**” means any of the following, whether new or used:
- a. Books, magazines, periodicals, or other printed matter or digitally stored materials, films, motion pictures, video cassettes, audio cassettes, slides, computer displays or other visual or audio representations or recordings of any kind, DVD, CD, or similar item that is distinguished or characterized by an emphasis on the exposure, depiction, description, imagery or visual representation of any specified anatomical area or the performance or simulation of any specified sexual activity.
 - b. Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities or that depict, describe or portray specified anatomical areas; except that this definition shall not include those items used for birth control or for the prevention of sexually transmitted diseases.
8. “**Adult motel**” means a motel, hotel or similar business that (1) offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmission, telephones, motion pictures, video cassettes, slides or other material that is characterized by the depiction or description of any specified anatomical area or any specified sexual activity; and has a sign that is visible from the public right-of-way that advertises the availability of adult materials; or (2) offers a room or suite for consideration for a period of time that is less than ten (10) hours; or (3) allows a tenant, occupant or patron of a room or suite to sublet the room or suite for a period of less than ten (10) hours

9. ***“Adult motion picture arcade”*** means 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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
10. ***“Adult store”*** means any commercial establishment that (1) contains one or more adult booths, or (2) as a substantial or significant portion of its business offers for sale, rental, exchange or viewing any adult materials. Adult stores do not include commercial establishments that offer for sale, rental, exchange or viewing any adult materials as a sideline or adjunct to sales, rentals, exchanges or viewings material other than adult materials.
11. ***“Adult theater”*** or ***“Adult motion picture theater”*** means an enclosed building or commercial establishment that as a substantial or significant portion of its business features or provides films, motion pictures, video or audio cassettes, slides, or other visual representations, recordings, imagery, illustration or depiction of any kind that are distinguished or characterized by an emphasis on the exposure, depiction or description of any specified anatomical area or the performance or simulation of any specified sexual activity.
12. ***“Commercial establishment”*** means any place where admission, services, performances, or products are provided for or upon payment of any form of consideration.
13. ***“Escort”*** means a person who, for pecuniary 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 dance or otherwise perform or appear before another person while nude in or about any place of public or private quarter or business premises.
14. ***“Escort agency”*** means any person or business entity furnishing or offering to furnish, or advertising to furnish escorts as one of its business purposes, for a fee, tip or any other form of consideration.
15. ***“Fondle”*** shall mean to bring any part of the body into contact with the body of another, in a sportive or affectionate manner, for the purpose of producing or experiencing sexual arousal or excitement.
16. ***“Nude model studio”*** means any place where a person who appears nude is provided for the purpose of being sketched, drawn, painted, sculptured, photographed or similarly depicted by any other person who has paid money or any other form of consideration, barter, or exchange, or for whose benefit someone else has paid money or any other form of consideration, barter or exchange, for the purpose of being allowed to observe the person appearing nude being sketched, drawn, painted,

sculptured, photographed or similarly depicted. Nude model studio does not include public or private colleges or universities licensed by the State of Iowa that offer art, modeling or anatomical drawing classes.

17. ***“Nude or state of nudity”*** means a state of dress or undress that exposes to view (1) less than completely and opaquely covered human genitals, pubic region, anus, or female breast below a point immediately above the top of the areola, but not including any portion of the cleavage exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed; or (2) human male genitals in a discernibly turgid state even if completely and opaquely covered, or any device that when worn, simulates human male genitals in a discernibly turgid state.

18. ***“Sexual encounter center”*** means any business or commercial establishment that, for consideration or gratuity, offers (1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (2) activities between two or more persons regardless of gender when one or more of the persons is in a nude condition; or (3) where two or more persons may congregate, associate or consort in connection with specified sexual activities or specified anatomical areas; or (4) where two or more persons may congregate, associate, or consort, in a private room, suite, or similar enclosure, with one of the two persons modeling lingerie, dancing in a sexually suggestive manner, or some similar activity for the pleasure or entertainment of the other. Sexual encounter center does not include a gymnastic, acrobatic, athletic or similar demonstration or show.

19. ***“Specified anatomical area”*** means any of the following:
 - a. Less than completely and opaquely covered human genitals; pubic region; buttocks; anus; or female breast below a point immediately above the top of the areola but not including any portion of the cleavage exhibited by a dress, blouse, leotard, bathing suit, or other wearing apparel provided the areola is not exposes;

 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered or any device or covering that when worn, simulates human genitals in a discernibly turgid state.

20. ***“Specified sexual activity”*** means any of the following:
 - a. The fondling or touching of one person’s human genitals, public region, buttocks, anus or female breasts by another person;

 - b. Sex acts, normal or perverted, actual or simulated, including without limitation, cunnilingus, fellatio, anilingus, bestiality, intercourse, oral copulation or sodomy;

- c. Masturbation, actual or simulated;
- d. Excretory or urinary functions as part of or in connection with any of the activities set forth in section 18(1), (2) or (3) of this definition.

21. ***“Substantial or significant portion of its business”*** means that ten (10) percent or more of the establishment’s income is derived from the sale, rental, exchange or viewing of any adult material; or ten (10) percent or more of the establishment’s stock in trade or floor space is utilized for the display of any adult material; or that one or more persons appearing, performing or working in a state of nudity constitutes a fundamental or essential part of or attraction of the business. Regardless of the foregoing, any business establishment that advertises or holds itself out as “XXX” “adult” , or “sex in conjunction with adult material and/or nude appearances or performances is deemed to meet the substantial portion of its business standard.

14.03 OTHER LEGAL PROVISIONS. Adult establishments located, maintained or operated in the City shall comply, in addition to complying with all other applicable regulations set forth in this code, with all regulations in this chapter. In the event of a conflict between the provisions of any other such regulations and the regulations set forth in this chapter, the regulations set forth in this chapter shall control the location of the adult establishment. Nothing in this chapter is intended to authorize, legalize or permit the establishment, maintenance or operation of any business, building or use, which violates any provision or any statute, ordinance or regulation.

14.04 ADULT ESTABLISHMENT SIGN REGULATIONS. All signs for adult establishments shall be flat wall signs. The maximum allowable sign area shall be one square foot of sign area per foot of lot frontage on the street, but under no circumstances may a sign exceed thirty-two square feet. The maximum number of signs shall one per lot frontage. Signs otherwise permitted pursuant to this subsection shall contain only (1) the name of the adult establishment conducting business on the premises, and/or (2) the specific type of adult entertainment being conducted on the premises.

14.05 EXTERIOR DISPLAY No adult establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any public rights-of-way or private property other than the lot or parcel on which the adult establishment is located. No portion of the exterior of an adult establishment shall utilize or contain flashing lights, search lights, spotlights, or other similar lighting systems; or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent allowed pursuant to section 14.04 of this chapter with regard to signs. This section shall apply to any advertisement, display, promotional material, decoration, sign, performance, show, and to any window, door or other opening to the adult establishment.

14.06 PERSONS UNDER LEGAL AGE. No person under the age of eighteen (18) years shall enter an adult entertainment business and no person, corporation, partnership or other

entity shall permit or allow any person under age eighteen (18) to enter or remain in any adult entertainment business.

SECTION 2. PENALTY. Violation of any provision of this ordinance shall be a simple misdemeanor punishable by a minimum fine of \$100.00 and not more than \$500.00, which fine shall not be suspended, imprisonment in the county jail for not more than thirty (30) days, and may be adjudged to pay court costs. Each act of violation and every day a violation occurs or continues, constitutes a separate offense.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council of the City of Charlotte on the ___ day of _____, _____, and approved this ___ day of _____, _____.

Mayor Peggy Sellnau

ATTEST:

City Clerk

First Reading _____

Second Reading _____

Third Reading _____

I certify that the foregoing was published as Ordinance No. _____ on the ___ day of _____, 2017.

City Clerk