

OFFICIAL TOWNSHIP OF WINFIELD

ORDINANCE NO. 186-A OF 1988

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF WINFIELD TOWNSHIP, BUTLER COUNTY, PENNSYLVANIA, TO PERMIT ADULT ENTERTAINMENT ESTABLISHMENTS IN THE "C-1" ZONE; DEFINING CERTAIN TERMS RELATIVE TO ADULT ENTERTAINMENT ESTABLISHMENTS; ESTABLISHING CERTAIN MINIMUM SPACING AND PROXIMITY REQUIREMENTS RELATIVE TO ADULT ENTERTAINMENT ESTABLISHMENTS; and AMENDING THE "C-1" ZONE TO ALLOW ADULT ENTERTAINMENT ESTABLISHMENTS AND REPEALING INCONSISTENT PROVISIONS.

WHEREAS, the Board of Supervisors of Winfield Township have determined that adult entertainment establishments are a commercial use that have an undesirable effect on health, safety, welfare and moral fiber of the community, as well as contribute to a general decline in the quality of life and value of property in the community.

NOW, THEREFORE, be and it is hereby resolved by the Board of Supervisors of Winfield Township, Butler County, Pennsylvania, as follows:

SECTION 1: The following permitted use is added to Section 5.021-C-10, Subsection 5.02-C-10.1 Adult Entertainment Establishments.

SECTION 2: The following section is added as Section 5.02-C-10.2 of the Winfield Township Zoning Ordinance:

5.02-C-10.2 Adult Entertainment Establishment Regulations:

1. Purpose and Legislative Intent:

(A) The purpose of the Board of Supervisors is to control the placement of adult entertainment establishments, due to the adverse effects that said establishments have on the community at large and due to the dangers of exposure of minors to adult materials in situations where parents and authorities would have difficulty protecting them from said exposure.

(B) It is the intent of the Board of Supervisors in enacting these regulations relative to adult entertainment establishments to exercise only those powers granted to it. These regulations shall in no way be deemed to permit any adult entertainment establishment, as defined herein, which would otherwise be prohibited or in any way regulated by any other law, statute, ordinance rule or regulation.

(C) Further, these regulations are enacted to promote, protect and facilitate, the public health, safety, morals and general welfare of all residents of Winfield Township.

2. Definitions:

It is the purpose of this subsection, together with its subparagraphs, to provide clear and concise definitions of those words, terms, and phrases most commonly utilized in the provisions of these regulations in order to assist in the interpretation of said provisions and to insure uniformity of application. It is intended that the following words, terms and phrases, whenever used, shall be construed as defined in the following subsections and subparagraphs unless from the context a different meaning is clearly intended.

(A) For the purpose of this Article, "adult entertainment establishments" are defined as follows:

(1) "Adult Bookstore" means any establishment which has as a substantial or significant portion of its stock in trade:

(a) Books, films, magazines or other periodicals or other forms of audio or visual representation which are distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas;

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(2) "Adult Cabaret" means a nightclub, theater, bar or other establishment which feature live or media representations of performances by topless or bottomless dancers, gogo dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(3) "Adult mini motion picture theater" means an enclosed or unenclosed building with a capacity of more than five (5) but less than fifty (50) persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on annual basis is devoted to the showing of material which is distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(4) "Adult model Studio" means any place where, for any form of consideration or gratuity, figure models who display specified anatomical areas provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by

persons paying such consideration or gratuity, except this provision shall not apply to any "figure studio" or "school of art" or similar establishment which meets the requirements established in the Education Code of the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder, to issue and confer a diploma.

(5) "Adult motel" means a motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(6) "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically 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 an emphasis on depiction or description of specified sexual activities or specified anatomical areas.

(7) "Adult motion picture theater" means an enclosed or unenclosed building with a capacity of fifty (50) or more persons used for presenting any form of audio or visual material, and in which a substantial portion of the total presentation time measured on an annual basis is devoted to the showing material which is distinguished or characterized by an emphasis on depiction description of specified sexual activities or specified anatomical areas.

(8) "Adult newsrack" means any coinoperated machine or device which dispenses material substantially devoted to the depiction of specified sexual activities or specified anatomical areas.

(9) "Adult theater" means a theater, concert hall, auditorium or other similar establishment, either indoor or outdoor in nature which regular features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

(10) "Bath house" means an establishment or business which provide the services of baths of all kinds, including all forms and methods of hydrotherapy during which specified anatomical areas are displayed or specific sexual activity occurs. This section shall not apply to hydrotherapy treatment practiced by, or under the supervision of a medical practitioner.

a medical practitioner for the purpose of this Ordinance shall be a medical doctor, physician, chiropractor or similar professional licensed by the Commonwealth of Pennsylvania.

(11) "Body Painting studio" means any establishment or business provides the service of applying paint or other substance whether transparent or non transparent to or on the human body when specified anatomical areas are exposed.

(12) "Massage establishment" means any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the Commonwealth. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

(13) "Outcall service activity" means an establishment or business which consists of individuals leaving premises upon request or by appointment to visit other premises for a period of time for the purpose of providing any service during which time specified anatomical areas are displayed or specified sexual activity occurs.

(14) "Sexual encounter center" means any business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons, not all members of the same family may congregate, assemble or associate for the purpose of engaging in specified sexual activity or exposing specified anatomical areas, excluding psychosexual workshops, operated by a medical practitioner as defined in (2) (A) (10), licensed by the Commonwealth, to engage in sexual therapy.

(15) Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

(B) "Specified anatomical areas" as used herein shall mean and include any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the of the areolae; or

(2) Human male genitals in a disceribly turgid state, even if completely and opaquely covered.

(C) "Specified sexual activities" includes the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation or unclothed genitals, flagellation or torture in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piguerism, sapphism, zoerasty, or

(2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

(3) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or

(4) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or

(5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or

(6) Erotic or lewd touching, fondling or other contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

SECTION 3 - MINIMUM SPACING AND PROXIMITY REQUIREMENTS.

(A) No adult entertainment establishment shall be located within 1,000 feet of any other adult entertainment establishment.

(B) No adult entertainment establishment shall be located within specified distances of certain land uses as set forth below:

(1) No such establishment shall be located within 800 feet of a residential/agricultural district.

(2) No such establishment shall be located within 1,000 feet of any parcel of land which contains any one or more of the following specified land uses:

- (a) Amusement park;
- (b) Camp (for minors' activities);
- (c) Child care facility;
- (d) Church or other similar religious facility;
- (e) Community center;
- (f) Museum;
- (g) Park;
- (h) Playground;
- (i) School and school bus stops;
- (j) Other lands where minor congregate.

(C) The distance between any two adult entertainment establishments shall be measured in a straight line, without regard to intervening structures from the closest point on the exterior parcel line of each establishment. The distance between any adult entertainment establishment and any land use specified in subparagraph (B) above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of the adult entertainment establishment to the closest point on the property line of said land use.

SECTION 4 - VISIBILITY FROM THE STREET.

No person operating an adult entertainment establishment shall permit, or cause to be permitted, any stock in trade which depicts, describes or relate to specified sexual activities and/or specified anatomical areas as defined herein, to be viewed from the street, sidewalk or highway.

SECTION 5 - REPEALER

Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith andy any amendments thereof are hereby expressly repealed except as provided for in this Ordinance. However, it is expressly provided that the provisions of this Ordinance shall not affect the validity of and shall be construed consistently with the Revised Zoning Ordinance of Winfield Township as amended. If there is a conflict, the more restrictive provision shall control.

SECTION 6 - EFFECTIVE DATE

This Ordinance shall become effective immediately upon adoption by the Board of Supervisors of Winfield Township.

ENACTED AND ORDAINED this 23rd day of
November, 1988.

BOARD OF SUPERVISORS OF WINFIELD TOWNSHIP

Walter A. Magrunt
Joseph J. Schneider
Michael P. Buckley

ATTEST:

Margaret McCracken
 Secretary