

AN ORDINANCE EXTENDING THE MORATORIUM ON THE ESTABLISHMENT, OPERATION, PERMITTING OR APPROVAL OF ADULT ENTERTAINMENT BUSINESSES WITHIN THE VILLAGE OF RICHFIELD; AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Richfield may legitimately regulate the location of adult entertainment businesses by requiring that such businesses be concentrated in one area and/or be separated from other land uses that may suffer negative secondary effects from the operation of one or more adult entertainment businesses; and

WHEREAS, the Village of Richfield may legitimately regulate the operation and appearance of adult entertainment businesses; and

WHEREAS, the Village of Richfield does not presently have any business in operation that meets the definition of an adult entertainment business set forth below; and

WHEREAS, this Council has requested that the Planning Commission conduct a study to determine the appropriateness of adopting one or more ordinances that will regulate the location, operation and appearance of adult entertainment businesses in order to minimize or eliminate any negative secondary effects that may be found to result from the operation of one or more adult entertainment businesses; and

WHEREAS, additional time is needed to adequately study and perform the review of studies necessary to adopt a comprehensive regulatory ordinance on this subject matter.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, State of Ohio:

SECTION 1: That this Council hereby declares the above findings to be true and correct in all respects.

SECTION 2: For purposes of this Ordinance, "adult entertainment business" means a commercial enterprise which, as one of its principal purposes:

- (a) offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, video disks, CD-ROM disks, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," or instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

- (b) regularly features any one or more of the following: persons who appear in a state of total nudity or semi-nudity that is characterized by the exposure of "specified anatomical areas"; live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or films, motion pictures, video cassettes, slides, video disks, CD-ROM disks, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

SECTION 3: For purposes of this Ordinance, "specified anatomical areas" means:

- (a) the human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
- (b) less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

SECTION 4: For purposes of this Ordinance, "specified sexual activities" means any of the following:

- (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (b) sexual acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- (c) excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

SECTION 5: The moratorium established by Ordinance No. 12-1997 of this Council against the establishment, operation, permitting or approval of adult entertainment businesses within the Village of Richfield for a period of one hundred eighty (180) days shall be extended for a period of one hundred eighty (180) days from March 3, 1998 until September 4, 1998 and shall be automatically extended for a further period of sixty (60) days should the study to be conducted by the Planning Commission not be received by the Clerk of Council, and acted upon by the Council, within such time period.

SECTION 6: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7: This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and general welfare of the Village by reason of the immediate necessity of implementing this moratorium at the earliest possible date so as to enable the Planning Commission to commence its study, and therefore shall take effect and be in force immediately upon its passage and approval by the Mayor.

Passed: March 3, 1998

Michael Lyons  
President of Council

Donald W. Jensen  
Mayor

Dated: 3/4/98

ATTEST:

Carole Gibson  
Clerk of Council