

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING AND REPEALING EXISTING TITLE VI, CHAPTER 650 OF THE MUNICIPAL CODE OF THE CITY OF PARKVILLE AND ENACTING NEW PROVISIONS FOR THE LICENSING AND REGULATION OF ADULT BUSINESSES, ESTABLISHING FEES, AND PROVIDING PENALTIES FOR VIOLATIONS.

WHEREAS, based on secondary effects studies, case law, testimony previously received in connection with earlier adult business ordinances adopted by the City, information contained within the report from City Staff dated _____ and other information before it, the Board of Aldermen of the City of Parkville, Missouri, has made the following legislative findings of fact:

1. That the Board of Aldermen, as elected representatives of the citizens of the City, have a duty to investigate the feasibility of adopting reasonable regulations to protect the citizens of the City from activities that have adverse effects that are harmful to the health, safety and general welfare of the citizenry; and
2. That the Board of Aldermen and staff have conducted an extensive review of the available studies concerning the detrimental secondary effects associated with the location of adult businesses within a city. The secondary effects studies previously reviewed by the Board of Aldermen include studies conducted by _____;and
3. The "Adult Use Study" prepared for the City of Kansas City, Missouri by Eric Damian Kelly, Ph.D., AICP, and Connie B. Cooper, AICP, (the "Kelly & Cooper Study") is reasonably believed to be of particular relevance to the City both due to its geographical focus on adult businesses in the metropolitan area of which the City is a part and due to its particularized analysis of businesses it refers to as "sex shops" and "video viewing booths"; and
4. That based on all of the secondary effects studies listed in paragraph 2 above, case law, information from staff and other information, the Board of Aldermen has determined that businesses that provide adult businesses are historically and regularly associated with and promote personal and property crimes, prostitution, potential spread of disease, lewdness, public

indecenty, obscenity, illicit drug use and drug trafficking, undesirable and criminal behavior associated with alcohol consumption, litter, and other criminal activity that constitute an immediate threat to the public peace, health, morals and safety; and

5. That adult businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature. These sexual activities create a legitimate health concern of the City that this activity will spread sexually transmitted diseases and create other health related issues. These legitimate concerns demand reasonable regulation of adult businesses to protect the health, safety and welfare of the citizens; and
6. That adult businesses have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values. These deleterious effects create a legitimate concern of the City to protect property values, business interests and generally protect the City from urban blight associated with adult businesses; and
7. That it is recognized that adult businesses have negative secondary effects, particularly when they are located in the same building or in close proximity to each other, thereby contributing to increased crime, urban blight and deteriorating property values; and
8. That it is recognized that the live entertainment presented by some adult businesses involves bodily contact between patrons and performers, including physical contact while giving and receiving gratuities, including hugging, kissing and fondling of performers and patrons, and that activity is not restricted to those businesses where the entertainers appear nude but also occurs in businesses known as adult cabarets where the entertainers are not nude. It is further recognized that this contact titillation promotes prostitution and the spread of sexually transmitted diseases. It is further recognized that a reasonable and effective means of preventing this type of physical contact is achieved by requiring entertainers to dance or perform only on a stage with a buffer zone surrounding the stage from which patrons are prohibited from entering while entertainment is taking place, prohibiting customers from touching the performers on the stage and prohibiting customers from providing gratuities to the performers on stage, except for in a container placed on the stage; and

9. That police records establish that businesses allowing the sale and consumption of alcoholic liquor or cereal malt beverages on the premises frequently are the scene of disturbances, disorderly conduct and other criminal activity. Furthermore, case law and studies have established that the sale and consumption of alcoholic liquor or cereal malt beverages on the premises of an adult business will increase criminal behavior on the premises and create undesirable community conditions, including depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior and acceleration of community blight, thereby exacerbating the adverse secondary effects associated with these businesses; and
10. That the Kelly & Cooper Study found that the types of media viewed in adult media viewing booths are available for viewing or reading, purchase or rental in other types of adult businesses that are less harmful to the public health, safety and welfare of the community, and therefore adult media viewing booths should be prohibited in favor of other venues; and
11. That adult retail establishments (the businesses referred to in the Kelly & Cooper Study as "sex shops") have documented secondary effects within nearby residential neighborhoods notwithstanding the retail nature of the business and the fact that the goods sold are ultimately consumed off-premises; and
12. In an effort to minimize the adverse secondary effects of adult businesses, it is necessary to disqualify from obtaining licenses those persons that are most likely to engage in certain criminal behavior. Therefore, applicants should be required to make those disclosures necessary to facilitate police investigation into the applicant's criminal background to assure that the persons posing the greatest risks are not granted licenses; and

WHEREAS, the Board of Aldermen of the City of Parkville, Missouri, desires to minimize and control the adverse secondary effects associated with adult businesses and thereby protect the health, safety, and welfare of the neighborhoods and to deter the spread of urban blight; and

WHEREAS, it is not the intent of the this Ordinance or any previously enacted Ordinance to suppress or limit any speech activities protected by the First Amendment to the United States Constitution, but to enact a content neutral, reasonable time, place and manner regulation that effectively addresses the harmful secondary effects associated with adult businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PARKVILLE, MISSOURI, AS FOLLOWS:

Section 1. That Title VI, Chapter 650, Section 650.005 of the Parkville Municipal Code is hereby repealed and replaced as follows:

Section 650.005. DEFINITIONS

For the purposes of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

- A. "Adult Business" means any business:
1. that has as a substantial or significant purpose the sale or rental of merchandise that is intended for use in connection with "Specified Sexual Activities," or that emphasizes matters depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or
 2. that has as one of its regular and substantial business purposes:
 - a. the providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display "Specified Anatomical Areas" or "Specified Sexual Activities"; or
 - b. the providing of services that are intended to provide or facilitate sexual arousal or excitement or that allow observation of "Specified Sexual Activities" or "Specified Anatomical Areas" ancillary to other pursuits, or allow participation in "Specified Sexual Activities" ancillary to other pursuits.

3. The definition of "Adult Business" also includes but is not limited to any and all of the following specific Adult Businesses, as defined herein:
 - a. The following businesses that offer merchandise for exchange, rental or sale.
 - 1) "Adult Media Outlet" means a business engaging in the exchange, rental or sale of "Adult Media," if that business is not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of the retail sales business is devoted to the exchange, rental or sale of "Adult Media." For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the exchange, rental or sale of "Adult Media" if any one or more of the following criteria is satisfied:
 - a) thirty-three percent (33%) or more of the exchanges, rentals or sales, measured in dollars over any consecutive ninety-day period, is derived from these items;
 - b) thirty-three percent (33%) or more of the number of transactions, measured over any consecutive ninety-day period, relate to these items;
 - c) thirty-three percent (33%) or more of the wholesale value of all merchandise displayed at any time is attributable to these items;
 - d) thirty-three percent (33%) or more of the retail value (defines as the price charged to customers) of all merchandise displayed at any time is attributable to these items;

- e) thirty-three percent (33%) or more of all inventory consists of these items at any time;
- f) thirty-three percent (33%) or more of the merchandise displayed for sale at retail consists of these items at any time;
- g) thirty-three percent (33%) or more of the floor area of the retail sales business (not including storerooms, stock areas, restrooms, basements or any portion of the business not open to the public) is devoted to these items at any time;
- h) five hundred square feet (500 sq. ft.) or more of the floor area of the business for display, sale, and/or rental is devoted to these items at any time;
- i) two thousand (2,000) or more of these items are regularly offered for sale or rental.

This presumption shall be rebuttable.

- 2) "Adult Newsrack" means any coin- or card-operated device that offers for sale by dispensing printed material that is distinguished or characterized by its emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
- 3) "Adult Retail Establishment" means a business that displays or offers goods for sale, rental or exchange that meets any of the following tests:
 - a) It displays or offers for sale, rental or exchange items from any two (2) of the following categories: "Sexually-Oriented Toys or Novelties"; clothing that graphically depicts any

"Specified Anatomical Area"; or leather or other goods designed or marketed for use for sexual bondage or sadomasochistic practices; and the combination of these items constitutes:

- (1) ten percent (10%) or more of the sales, rentals or exchanges of merchandise, measured in dollars over any consecutive ninety-day period; or
 - (2) ten percent (10%) or more of the number of sale, rental or exchange transactions of merchandise, measured over any consecutive ninety-day period; or
 - (3) ten percent (10%) or more of the dollar value of all merchandise displayed at any time; or
 - (4) ten percent (10%) or more of all merchandise inventory at any time, measured by the number of items; or
 - (5) ten percent (10%) or more of the merchandise displayed at any time, measured by the number of items; or
 - (6) ten percent (10%) or more of the sales floor area of the business (not including storerooms, stock areas, restrooms, or any portion of the business not open to the public) at any time;
- b) Five percent (5%) or more of the sales, rentals or exchanges of merchandise, measured in dollars over any consecutive ninety-day period, is derived from "Sexually-Oriented Toys or Novelties";

- c) Five percent (5%) or more of the number of sale, rental or exchange transactions of merchandise, measured over any consecutive ninety-day period, involve "Sexually-Oriented Toys or Novelties";
 - d) Five percent (5%) or more of the dollar value of all merchandise displayed at any time is attributable to "Sexually-Oriented Toys or Novelties";
 - e) Five percent (5%) or more of all merchandise inventory, measured by the number of items, consists of "Sexually-Oriented Toys or Novelties" at any time;
 - f) Five percent (5%) or more of all merchandise displayed, measured by the number of items, consists of "Sexually-Oriented Toys or Novelties" at any time;
 - g) Five percent (5%) or more of the sales floor area of the business (not including storerooms, stock areas, restrooms, or any portion of the business not open to the public) is devoted to "Sexually-Oriented Toys or Novelties" at any time.
- 4) "Sexual Device Shop" means a commercial establishment that regularly features or provides sexual devices for their use on or off the premises. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not regularly advertise itself or hold itself out, by using "adult," "adults-only," "XXX," "sex," "erotic," "novelties," or substantially similar

language, as an establishment that primarily caters to adult sexual interests.

- b. The following businesses that provide entertainment.
 - 1) "Adult Entertainment Business" means any business to which the public, Patrons or members are invited or admitted, and where providing "Adult Entertainment" is a regular and substantial portion of its business.
 - 2) The definition of "Adult Entertainment Business" also includes, but is not limited to, any and all of the following specific Adult Entertainment Businesses, as defined herein:
 - a) "Adult Motion Picture Theater" means an establishment with a screen or projection areas, where a regular and substantial portion of its business is the exhibition to Patrons of films, video cassettes, slides, or similar photographic reproductions, videotapes or motion pictures that is intended to provide sexual stimulation or sexual gratification to the Patrons or that is distinguished by or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas."
 - b) "Adult Theater" means an establishment where a regular and substantial portion of its business is providing live performances that are distinguished by or characterized by an emphasis on the exposure, depiction or description of "Specified Anatomical Areas" or the conduct or simulation of "Specified Sexual Activities."

- c) "Adult Entertainment Cabaret" means (1) an establishment where a regular and substantial portion of its business is providing live entertainment that (i) is intended to provide sexual stimulation or sexual gratification to the Entertainer or the Patrons, and (ii) is distinguished by or characterized by an emphasis on matter depicting, simulating, describing or relating to "Specified Anatomical Areas" or the conduct or simulation of "Specified Sexual Activities"; or (2) an establishment which regularly features entertainment of an erotic nature including exotic dancers, strippers, moving or still photography of erotic dancers, strippers or similar Entertainers.

- d) "Adult Entertainment Studio" (includes the terms "rap studio," "exotic dance studio," "sensitivity studio," "body painting studio," or "encounter studio") means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment that features materials or live performances characterized by an emphasis on or features materials relating to "Specified Sexual Activities" or the exhibition of "Specified Anatomical Areas."

c. The following businesses that provide services.

- 1) "Bath House" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are "Nude" or displaying "Specified Anatomical Areas."

- 2) "Adult Motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, video tapes, slides or other photographic reproductions that are distinguished or characterized by an emphasis on the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" and that rents room accommodations for less than six hours at a time.
 - 3) "Sexual Encounter Establishment" means a business or commercial establishment, that as a substantial or significant business purpose, offers, for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "Specified Sexual Activities" or the exposure of "Specified Anatomical Areas" or offers for exchange, rental, sale or otherwise provides for use on the premises Sexually-Oriented Toys or Novelties.. For purposes of determining whether a business or commercial establishment is a Sexual Encounter Establishment, the fact that the business advertises the establishment as a place for persons to engage in Specified Sexual Activities may be considered. Adult Motel will not be classified as a sexual encounter establishment by virtue of the fact that it offers private rooms for rent.
4. The definition of "Adult Business" does not include, and this Chapter shall not apply to, a theater, concert hall, art center, museum, or similar establishment that is primarily devoted to arts exhibits or theatrical performances and in which any of the circumstances covered by the definition of "Adult Business" were permitted or allowed as part of art exhibits or performances.

5. For purposes of determining whether a business is an Adult Business, the fact that the business advertises as such may be considered.
- B. "Adult Entertainment" means any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where that exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the Entertainer, other Entertainers or Patrons, or if the entertainment is characterized by an emphasis on the exposure, depiction or description of "Specified Anatomical Areas" or the conduct or simulation of "Specified Sexual Activities."
- C. "Adult Media" means books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, DVDs, motion pictures, photographs, films, video cassettes, slides, CD-ROMs or other devices used to record computer images, or other similar media that are distinguished or characterized by an emphasis on matters depicting, describing or relating to "Specified Anatomical Areas" or "Specified Sexual Activities."
- D. "Adult Media Viewing Booth" means any booth, cubicle, stall or compartment that is designed, constructed or used to hold or seat Patrons and is used for viewing or reading "Adult Media." "Adult Media Viewing Booths" are sometimes also known as adult video viewing booths, peep shows, adult video arcades, panoramas and adult mini-motion picture theaters. For purposes of this definition, an "Adult Media Viewing Booth" shall refer to all these booths, cubicles, stalls or compartments containing less than one hundred fifty (150) square feet of gross floor area.
- E. "Contagious and Communicable Diseases" means those diseases which are set out in the Code of State Regulations established by the State of Missouri.
- F. "Employee" means any and all Persons, including Managers, Entertainers and independent contractors, who performs any service on the premises of an Adult Business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor,

agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

- G. "Entertainer" means any Person who provides "Adult Entertainment" within an "Adult Entertainment Business," whether or not a fee is charged or accepted for entertainment.
- H. "Manager" means any Person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any "Adult Business."
- I. "Minor" means any Person less than eighteen (18) years of age.
- J. "Nude" or "Nudity" means the appearance of a human bare buttock, anus, genitals, or female breast, or a state of dress that fails to completely and opaquely cover a human buttock, anus, genitals, or any part of the female breast or breasts that is situated below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not exposed.
- K. "Operate" means to own, conduct or maintain the affairs of an "Adult Business."
- L. "Operator" means any Person on the premises of an Adult Business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A Person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business
- M. "Patron" means any Person who enters an "Adult Business" without regard to whether a purchase is made from the "Adult Business" or compensation is paid to the "Adult Business" or any Employee of the "Adult Business" for merchandise, entertainment or service; provided that the term "Patron" shall not include Persons who enter an "Adult Business", for the sole purpose of providing service or merchandise to the "Adult

Business" and who do not remain in the "Adult Business" after the purpose has been accomplished including, but not limited to, Persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the "Adult Business" and any similar activity.

- N. "Person" means any individual, partnership, corporation, limited liability company, trust, unincorporated association, joint venture, governmental entity, or other entity or group of Persons, however organized.
- O. "Server" means any person who serves food or drink at an "Adult Business."
- P. "Sexually-Oriented Toys or Novelties" means instruments, devices or paraphernalia that either depict representations of "Specified Anatomical Areas" or are designed or marketed for use in connection with "Specified Sexual Activities." In determining whether an item is "designed or marketed for use" in connection with "Specified Sexual Activities," the following guidelines may be considered:
 - 1. Expert testimony as to the principle use of the item;
 - 2. Evidence concerning the total business of a Person or business establishment and the type of merchandise involved in the business;
 - 3. National and local advertising concerning the use of the item;
 - 4. Evidence of advertising concerning the nature of the business establishment;
 - 5. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
 - 6. The physical or structural characteristics of the item;
 - 7. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Any Person may request an interpretive ruling from the Chief of Police, or his or her designee, as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with "Specified Sexual Activities." An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten business days following submission of a completed application. The decision of the Chief of Police may be appealed to the Governing Body within fifteen days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

Q. "Specified Anatomical Areas" means:

1. Any of the following, or any combination of the following, when less than completely and opaquely covered: any human genitals, pubic region, any buttock, or any portion of the female breast or breasts that is situated below a point immediately above the top of the areola, but not including any portion of the cleavage of the female breast 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.

R. "Specified Criminal Act" means any of the following crimes for which less than eight years has elapsed since the date of conviction or the date of release from confinement with respect to a felony, or for which less than two years has elapsed since the date of conviction with respect to a misdemeanor, whichever is the later date:

1. sexual offenses set forth in Chapter 566 of the Revised Statutes of Missouri, and amendments thereto;
2. prostitution offenses set forth in Chapter 567 of the Revised Statutes of Missouri, and amendments thereto;

3. offenses involving a child and sex set forth in Chapter 568 of the Revised Statutes of Missouri, and amendments thereto;
4. pornography and related offenses set forth in Chapter 573 of the Revised Statutes of Missouri, and amendments thereto;
5. controlled substance, illegal drug, or narcotics offenses as set forth in the state comprehensive drug control act set forth in Chapter 196 of the Revised Statutes of Missouri, and amendments thereto;
6. offenses involving money laundering;
7. offenses involving tax evasion;
8. offenses similar to the foregoing offenses that are set forth in other portions of state statutes;
9. any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
10. any offense in another jurisdiction that, had the predicate act(s) been committed in Missouri, would have constituted any of the foregoing offenses. If necessary, the City Attorney shall issue an interpretive ruling determining whether a crime from another jurisdiction corresponds to the crimes set forth above in subparagraphs 1 through 7, inclusive.

S. "Specified Sexual Activities" mean any of the following:

1. Sexual conduct including, but not limited to, actual or simulated acts of sexual intercourse, masturbation, oral copulation or sodomy;
2. Fondling or other erotic touching of a Person's clothed or unclothed genitals, pubic region, buttock, anus or female breast;
3. Sadomasochistic acts; or
4. Human genitals in a state of sexual stimulation or arousal;

5. Excretory functions as a part of or in connection with any of the activities described in paragraph 1. of this subsection S.;

Section 2. That Title VI, Chapter 650, Section 650.010 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.010. LICENSE REQUIRED FOR ADULT BUSINESS.

- A. It shall be unlawful for any Person to Operate or maintain an Adult Business in the City unless the owner, Operator or lessee thereof has obtained an Adult Business license from the City, or to Operate that business after that license has expired or been revoked or suspended by the City.
- B. It is unlawful for any Entertainer, Server, Employee, Manager, Operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed Adult Business.
- C. The failure to post an Adult Business license in the manner required herein shall be prima facie evidence that an Adult Business has not obtained such a license. In addition, it shall be prima facie evidence that any Entertainer, Employee, Manager or owner who performs any business, service or entertainment in an Adult Business in which an Adult Business license is not posted in the manner required herein had knowledge that the business is not licensed.
- D. Any business that engages in the exchange, rental, or sale of Adult Media if the business is not open to the public in general but only to one or more classes of the public, excluding any Minor by reason of age, or if a substantial or significant portion of the items are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether that business enterprise is in compliance with this Chapter. This entry and inspection shall take place during hours when the business is

open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of the business.

Section 3. That Title VI, Chapter 650, Section 650.011 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.011 LICENSE REQUIRED FOR MANAGERS, SERVERS AND ENTERTAINERS.

It is unlawful for any Person to work as an Entertainer, Server or Manager at an Adult Business without first obtaining a license to do so from the City, or to work as an Entertainer, Server or Manager at an Adult Business after such Person's license to do so has expired or been revoked or suspended.

Section 4. That Title VI, Chapter 650, Section 650.012 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.012. LICENSE, CLASSIFICATION AND FEES.

- A. The license year for all fees required herein shall be from each June 1 through May 30. The application for a license shall be accompanied by payment in full of the fee stated herein by certified or cashier's check or money order, and no application shall be considered complete until this fee is paid.
- B. All licenses shall be issued for a specific location and shall be nontransferable, and license fees shall be nonrefundable.
- C. The classification of licenses and fees for each shall be as follows:
 - 1. Adult Business license fee is \$750.00 per year;
 - 2. Manager's license fee is \$75.00 per year;
 - 3. Entertainer's license fee is \$75.00 per year;
 - 4. Server's license fee is \$75.00 per year.

Section 5. That Title VI, Chapter 650, Section 650.013 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.013. LICENSE LIMITED TO ONE IDENTIFIABLE TYPE OF ADULT USE

All Adult Business licenses shall be issued only for the one Adult Business use listed on the application. Any change in the type of adult use shall invalidate the Adult Business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use. The establishment or maintenance of more than one Adult Business in the same building, structure or portion thereof is prohibited.

Section 6. That Title VI, Chapter 650, Section 650.014 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.014. LICENSE APPLICATION

A. Adult Business License.

All Persons desiring to secure a license to Operate an Adult Business as required herein shall make a verified application with the City Clerk. All applications shall be submitted in the name of the Person who owns the Adult Business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. If the applicant is a limited liability company, the application shall be signed by a member. In all other instances where the owner is not an individual, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:

1. The name, any aliases, mailing address for receipt of notices, home telephone number, occupation, date and place of birth and social security number of the applicant.
2. The tax identification number and registered agent, if the owner is required to have a tax identification number or registered agent.

3. The name of the Adult Business, a description of the type of Adult Business to be performed on the licensed premises, and the name of the owner of the premises where the Adult Business will be located.
4. The names, social security numbers and dates of birth of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all stockholders or members who own more than a ten percent (10%) interest in the company.
5. A statement from the applicant whether the applicant and each Person required to be identified in the application, pursuant to subparagraph 4 above, in previously operating in this or another city, county or state, has had an Adult Business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.
6. A statement from the applicant and each Person required to be identified in the application, pursuant to subparagraph 4 above, that each Person has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor or municipal ordinance violation, or released from confinement for conviction of a misdemeanor or municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where the felony, misdemeanor or municipal ordinance violation constitutes a Specified Criminal Act.
7. On applications requesting a license to Operate a Bath House, the applicant shall provide for each Employee, a health certificate from a duly licensed Kansas or Missouri physician stating that within 90 days prior thereto, the applicant and all other Persons working on the premises have been examined and found free of any Contagious or Communicable Diseases. This shall be a continuing

requirement. For each Person who is employed, the above described health certificate shall be submitted to the City Clerk within forty-eight (48) hours of the time that Person begins employment.

8. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Missouri Secretary of State.
9. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter regulating Adult Businesses.

Failure to provide the information and documentation required herein shall constitute an incomplete application and the application shall not be processed by the City. The City Clerk shall notify the applicant whether or not the application is complete within five (5) working days of the date the application is received by the City Clerk; in the event the City Clerk has determined that the application is incomplete, the notification to the applicant shall include a written explanation of the reason(s) why the application is incomplete.

B. Manager, Server or Entertainer License.

All Persons desiring to secure a license to be a Manager, Server or Entertainer shall make a verified application with the City Clerk. All applications shall be submitted in the name of the Person proposing to be a Manager, Server or Entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:

1. The applicant's name, any aliases, mailing address for receipt of notices, home telephone number, date and place of birth, social security number, and, in the case of Entertainers, any stage names or nicknames used in entertaining.

2. The name and address of each Adult Business where the applicant intends to work as a Manager, Server or Entertainer.
3. A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor or ordinance violation, or released from confinement for conviction of a misdemeanor or ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where that felony, misdemeanor or ordinance violation constitutes a Specified Criminal Act.
4. The applicant shall present to the City Clerk, who shall copy, documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - a. a current motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - b. a current state-issued identification card bearing the applicant's photograph and date of birth;
 - c. an official and valid passport issued by the United States of America;
 - d. an immigration card issued by the United States of America;
 - e. any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk;
or
 - f. any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required herein shall constitute an incomplete application and the application shall not be processed by the

City. The City Clerk shall notify the applicant whether or not the application is complete within five (5) working days of the date the application was received by the City Clerk; in the event the City Clerk has determined that the application is incomplete, the notification to the applicant shall include a written explanation of the reason(s) why the application is incomplete.

C. Facilities necessary.

No adult business license to conduct a Bath House or body painting studio shall be issued unless an inspection by an authorized representative of the Platte County Health Department reveals that the premises from which the applicant intends to conduct business comply with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the operation of the business shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of Operators and Patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one (1) Patron. Heavy white paper may be substituted for sheets; provided that the paper is changed for every Patron. No activity related to an Adult Business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment that is fitted with a door capable of being locked.
2. Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided: A single water closet per sex shall be provided for each twenty (20) employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets for male employees and patrons, after one (1) water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Platte County Health Department shall certify that the proposed business establishment complies with all the requirements of this Section and shall give or send that certification to the City Clerk; provided however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City Official may recommend the issuance of a license contingent upon the compliance with any requirements in this Section.

D. Application processing.

1. Upon receipt of a completed application for an Adult Business, Manager, Server or Entertainer license, the City Clerk shall immediately transmit one (1) copy of the application to the Chief of Police and one (1) to the Building Inspector.
2. The City Clerk shall notify the applicant for an Adult Business license of his/her obligation to obtain necessary permits from the South Platte Fire Protection District and, if applicable, from the Platte County Health Department.
3. The City Clerk shall notify the applicant for Manager, Server or Entertainer in a Bath House or body painting studio of his/her obligation to obtain a certificate of health.
4. It shall be the duty of the Chief of Police or his/her designee to investigate the application to determine whether the information contained in the application is accurate and whether the applicant is qualified for the license for which he/she has applied. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk.

5. It shall be the duty of the Building Inspector to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the Building and Property Conversation Codes, and to verify that the applicant has received a permit from the South Platte Fire Protection District. The Building Inspector shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk.
6. Upon receipt of the reports from the Chief of Police and the Building Inspector, the City Clerk shall submit the application, with accompanying documentation and signatures, to the City Administrator or the City Administrator's designee. The City Administrator shall approve or disapprove the application within forty-five (45) days from the date of its filing with the City Clerk.

Section 7. That Title VI, Chapter 650, Section 650.015 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.015. EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL.

- A. If the application for an Adult Business, Manager, Server or Entertainer license is in proper form and accompanied by the appropriate license fee, the City Administrator shall examine the application, and after the examination the City Administrator may, if the applicant is qualified, approve a license as provided for by law; provided that a license shall not be approved for any person ineligible pursuant to [Section 650.020](#).
- B. The record of the City Administrator shall show the action taken on the application, and if the license is granted, the City Administrator shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued. The license shall be posted in a conspicuous place in the business that is licensed or where the licensee is working.
- C. If an application for a license is disapproved, the applicant shall be notified immediately by registered or certified mail to the address given by the applicant on the application, and the notification shall state the basis for

that disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

Section 8. That Title VI, Chapter 650, Section 650.020 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.020. LICENSE – INELIGIBILITY AND DISQUALIFICATION

No Person is eligible nor shall a license be issued to:

- A. An applicant for an Adult Business license if one or more of the following conditions exist:
 - 1. The premises for which an application for an Adult Business has been made is located within one thousand (1000) feet of any primary or secondary school, house of worship, public library, licensed child care center, public park, or property zoned or used for residential purposes, which uses are located within the city limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the Adult Business would be Operated to the nearest point on the property line of any primary or secondary school, house of worship, public library, licensed child care center, public park, or property zoned or used for residential purposes located within the City;
 - a. provided the phrase "property zoned or used for residential purposes" shall not include any property zoned for residential use for which a special use permit has been granted for an indefinite period of time which permit allows a non-residential use;
 - b. provided further, the list of uses set forth above shall exclude streets, alleys and highway rights-of-way;
 - 2. The premises for which an application for an Adult Business has been made is located within one thousand (1000) feet of any other business located within or without the City meeting the definition of Adult Business, as set forth in this Chapter, regardless of whether

the other business has applied for or received a license to Operate an Adult Business at that location. Measurements shall be made in a straight line, without regard to intervening structures or objects from the closest property line of the premises from which the proposed Adult Business would be Operated to the nearest point on the property line of the other business meeting the definition of Adult Business, as set forth in this Chapter;

3. The applicant knowingly failed to supply all of the information requested on the application;
 4. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
 5. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City; provided that, upon a showing that the premises meets these requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Governing Body;
 6. The applicant has been convicted, released from incarceration for conviction or diverted on any Specified Criminal Act during the time period set forth herein;
 7. The applicant has had an Adult Business license or comparable license revoked or suspended in this or any other city during the past five (5) years; or
 8. If the applicant is applying for a license to Operate a Bath House or body painting studio and applicant has not produced a health certificate as required herein for all Persons working on the premises.
- B. An applicant for a Manager, Server or Entertainer license if one or more of the following conditions exist:

1. the applicant has been convicted, released from incarceration for conviction or diverted on any Specified Criminal Act during the time period set forth herein;
2. the applicant knowingly failed to provide all of the information required on the application;
3. the applicant knowingly gave materially false, fraudulent or untruthful information on the application;
4. the applicant has had a Manager, Server or Entertainer license revoked or suspended in this or any other city during the past five (5) years; or
5. the applicant is applying for a license for a Manager, Server or Entertainer in a Bath House and has not produced a health certificate as required herein.

Section 9. That Title VI, Chapter 650, Section 650.030 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.030. STANDARDS OF CONDUCT.

It shall be unlawful for any Adult Business, or any Manager, Server, Entertainer or Employee thereof, or any Patron of an Adult Business, while on or about the premises of the business, to knowingly fail to adhere to the following standards of conduct, as applicable:

A. Identification Cards.

Any Manager, Server or Entertainer issued a license under this Chapter shall, at all times when working in an Adult Business, have in their possession a valid identification card issued by the City, bearing the permit number, the Employee's physical description and a photograph of that Employee. These identification cards shall be laminated to prevent alteration.

B. Age Restriction.

No person shall knowingly allow a person under the age of eighteen years on the premises of an Adult Business.

C. Exterior Observation.

The premises of all Adult Businesses will be so constructed as to ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows shall be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

D. Exterior Display.

No Adult Business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or Persons depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

E. Nudity Prohibited.

No Manager, Employee, Server, Entertainer or Patron in an Adult Business other than a licensed Bath House shall be Nude.

F. Sale or Consumption of Alcohol Prohibited.

No Person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of an Adult Business.

G. Specified Criminal Acts and Specified Sexual Activities Prohibited.

No Manager, Employee, Server, Entertainer or Patron of an Adult Business shall engage in any Specified Criminal Act or any Specified Sexual Activity on the premises of the business.

H. Certain Other Acts Prohibited.

1. No Manager, Employee, Server, Entertainer or Patron shall wear or use any device or covering exposed to view which simulates any Specified Anatomical Area or use artificial devices or inanimate objects to simulate or depict any Specified Sexual Activity while on the premises of an Adult Business.
2. All dancing or other live Adult Entertainment on the licensed premises shall only occur upon a stage at least eighteen inches above the immediate floor level and removed at least six (6) feet from the nearest Patron. The six-foot boundary from the outer edge of the stage shall be painted or otherwise clearly indicated on the floor so that Patrons will not cross the six-foot boundary. The absence of this demarcation will create a presumption that there have been violations of these standards of conduct during performances in unmarked areas. No Manager in charge of the Adult Business at the time shall knowingly permit any Patron to have any physical contact with an Entertainer or to cross the six-foot boundary while the Entertainer is engaged in a performance of Adult Entertainment. No Patron shall intentionally have any physical contact with an Entertainer or cross the six-foot boundary while the Entertainer is engaged in a performance of Adult Entertainment. No Entertainer shall engage in any performance of Adult Entertainment, except upon the stage.
3. The display of adult media within or visible from the same area where the dancing or live Adult Entertainment occurs is prohibited.
4. No Employee, Server or Entertainer of an Adult Business, while on the premises of the business, shall knowingly touch, fondle or caress any Specified Anatomical Area of another Person, or knowingly permit another Person to touch, fondle or caress any Specified Anatomical Area of such Employee, Server or Entertainer, whether that Specified Anatomical Area is clothed, unclothed, covered or exposed. No Patron while on the premises of an Adult Business shall knowingly touch, fondle or caress any Specified Anatomical Area of an Employee, Server or Entertainer employed by the Adult Business, whether that Specified Anatomical Area is clothed, unclothed, covered or exposed.

4. No Entertainer shall solicit, demand or receive any payment or gratuity from any Patron for any act prohibited herein and while on the premises of an Adult Business and no Entertainer shall receive any payment or gratuity from any Patron for any entertainment except as follows:
 - a. while that Entertainer is on the stage a Patron may place a payment or gratuity into a container provided by the Adult Business for the receipt of gratuities to be located outside the six-foot boundary surrounding the stage; or
 - b. while that Entertainer is not on the stage, but while on the premises of an Adult Business and is clothed so as to not expose to view any Specified Anatomical Area, a Patron may place a payment or gratuity into the Entertainer's hand.
5. No owner, Operator or Manager of an Adult Business shall:
 - a. knowingly permit alcoholic liquor or cereal malt beverages to be brought, sold or consumed upon the premises;
 - b. knowingly allow or permit any Employee of the business or any Patron to engage in any Specified Criminal Act or any Specified Sexual Activity on the premises;
 - c. knowingly allow or permit any Minor to be in or upon the premises of an Adult Business;
 - d. knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law to occur on the premises.

I. Signs required.

All Adult Entertainment Businesses that provide live entertainment shall conspicuously display in the common area at the principal entrance to the premises, a sign, on which uppercase letters shall be at least two (2) inches high, and lowercase letters at least one inch high, which shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED
AND LICENSED BY THE CITY OF PARKVILLE

ENTERTAINERS ARE:

- ◆ Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the pubic region, buttocks, genitals or female breast of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the pubic region, buttocks, genitals or female breast of said entertainer.
- ◆ Not permitted to be nude.
- ◆ Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

While the entertainer is on the stage, by placing a payment or gratuity into a container located outside a six-foot boundary surrounding the stage; or

While the entertainer is not on the stage, by placing a payment or gratuity into the entertainer's hand.

CUSTOMERS ARE:

- ◆ Not permitted to be upon the stage at any time or to be within the six-foot marked boundary surrounding the stage while entertainers are performing.
- ◆ Not permitted to touch, caress or fondle the pubic region, genitals, buttocks or female breast of any employee, server or entertainer or engage in solicitation for prostitution.

J. Lighting required.

The premises of all Adult Businesses shall be equipped with overhead lighting in every place to which customers are permitted access, at an illumination of not less than one foot candle, as measured at the floor level, and the illumination must be maintained at all times that any customer or Patron is present in or on the premises.

K. Closed booths or rooms prohibited.

An Adult Business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;
2. An operator's station shall not exceed thirty-two square feet of floor area;
3. If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;
4. The view required under this subsection shall be by direct line of sight from the operator's station;
5. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and
6. It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

L. Ventilation and sanitation requirements.

The premises of all Adult Businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

M. Hours of operation.

No operator shall allow or permit an Adult Business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day other than a Sunday. No Adult Business may be open between the hours of 12:00 midnight and 12:00 noon on a Sunday.

Section 10. That Title VI, Chapter 650, Section 650.040 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.040 LICENSE – POSTING OR DISPLAY

- A. Every Person licensed as an Adult Business shall post these license in a conspicuous place and manner on the Adult Business premises.
- B. Every Person holding a Server, Manager or Entertainer license shall post his or her license in his or her work area on the Adult Business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this Chapter.

Section 11. That Title VI, Chapter 650, Section 650.050 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.050 MANAGER ON PREMISES

- A. A Manager shall be on duty at all Adult Businesses at all times the premises are open for business. The name of the Manager on duty shall be prominently posted during business hours.
- B. It shall be the responsibility of the Manager to verify that any Person who provides Adult Entertainment or works as a Server within the premises possesses a current and valid Entertainer or Server's license and that those licenses are prominently posted. It shall also be the responsibility of

the Manager to ensure that Minors do not enter upon the premises of an Adult Business.

Section 12. That Title VI, Chapter 650, Section 650.060 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.060 INSPECTOR AND INSPECTIONS

All Adult Businesses and any business with respect to which there is a reasonable basis to believe is operating as an Adult Business shall permit representatives of the police department or any other City official acting in their official capacity to inspect the premises as necessary to ensure the business is complying with all applicable regulations and laws.

Section 13. That Title VI, Chapter 650, Section 650.070 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.070 SUSPENSION, REVOCATION OR NON-RENEWAL OF LICENSE

Suspension, revocation or nonrenewal of licenses may be justified whenever the City Clerk has information that:

- A. the owner or Operator of an Adult Business or a holder of a Manager, Server or Entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this Chapter; or
- B. there have been recurrent violations of provisions of this Chapter that have occurred under any circumstances that the owner or Operator of an Adult Business knew or should have known that such violations were committed; or
- C. the Adult Business license or the Manager, Server or Entertainer license was knowingly obtained through false statements in the application for such license, or renewal thereof; or

- D. the Adult Business licensee or the Manager, Server or Entertainer licensee knowingly failed to make a complete disclosure of all information in the application for the license, or renewal thereof; or
- E. the licensee has become disqualified from having a license by conviction of a Specified Criminal Act.

Upon receipt of any of the information set forth above, the City Clerk shall make this information known to the Governing Body, which, upon five (5) days written notice to the Person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. The Governing Body may pass a resolution setting forth the procedures for the conduct of these hearings. Based on the evidence produced at the hearing, the Governing Body may take any of the following actions:

1. direct the City Clerk to suspend the license for up to ninety (90) days; or
2. direct the City Clerk to revoke the license for the remainder of the license year; or
3. direct the City Clerk to place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of this Chapter occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

Section 14. That Title VI, Chapter 650, Section 650.080 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.080 RENEWAL

- A. A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on May 30 of each calendar year, and renewal applications for the licenses shall be submitted by May 1 of that year.

- B. Upon timely application and review as provided for a new license, a license issued under the provisions of this Chapter shall be renewed by issuance of a new license in the manner provided herein for the initial issuance of the license.
- C. If the application for renewal of a license is not made during the time provided herein, the expiration of that license shall not be affected, and a new application shall be required.

Section 15. That Title VI, Chapter 650, Section 650.090 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.090 JUDICIAL REVIEW – STAY OF ENFORCEMENT OR ORDERS

Following the entry of an order by the Board of Aldermen suspending or revoking a license issued pursuant to this Chapter, or disapproval by the City Administrator of the renewal application for a license, that licensee or applicant may seek judicial review in a manner provided by law. The Board of Aldermen may stay enforcement of the order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

Section 16. That Title VI, Chapter 650, Section 650.100 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.100 PENALTY

It shall be unlawful for any Person to violate any of the provisions of this Chapter. Upon conviction thereof, that Person shall be fined not to exceed five hundred dollars (\$500.00), or be punished by incarceration for a period not to exceed ninety (90) days, or by both the fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this Chapter shall constitute a separate and distinct offense.

Any premises, building, dwelling or other structure in which Adult Business is repeatedly operated or maintained in violation of this Chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

Notwithstanding the provisions of this Chapter, the City may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this Chapter.

This Chapters does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of this Chapter. Notwithstanding any other provision of law to the contrary, for purposes of this Chapter, an act by an Employee shall be imputed to the Adult Business for purposes of finding a violation of this Chapter only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

Section 17. That Title VI, Chapter 650, Section 650.110 of the Parkville Municipal Code is hereby repealed and replaced as follows:

SECTION 650.110 REGULATIONS

The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for carrying out the duties of his/her office which are not inconsistent with the provisions of this Chapter.

Section 18. That Title VI, Chapter 650, Section 650.120 of the Parkville Municipal Code is hereby added as follows:

SECTION 650.120 APPLICABILITY OF CHAPTER TO EXISTING BUSINESSES

- A. The provisions of this Chapter shall apply to all Adult Businesses existing on the effective date of Ordinance No. _____, as well as to all Adult Businesses established after the effective date of Ordinance No. _____, including any existing business on the effective date that alters its operations in a manner so as to become an Adult Business after the effective date.

- B. Any Adult Business lawfully operating on _____, that does not comply with Section 650.020.A.(1) and (2) herein shall be deemed a nonconforming business. The nonconforming business will be permitted to continue for a period not to exceed six (6) months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. The nonconforming businesses shall not be increased, enlarged, extended or altered, except that the business may be changed to a conforming business. If two (2) or more Adult Businesses are within one thousand (1000) feet of one another and otherwise in a permissible location, the Adult Business that was first established and continually operating at a particular location is the conforming business and any later-established business is nonconforming.
- C. An Adult Business lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the grant or renewal of the Adult Business license, of a primary or secondary school, house of worship, public library, licensed day care center, public park or property zoned or used for residential purposes located within the City limits and within one thousand (1000) feet of the Adult Business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.
- D. Any nonconforming business may apply to the Governing Body for an extension of time beyond that date provided herein within which to terminate the nonconforming business or make the business conforming. No extension of time shall be granted for a period longer than one (1) year after the termination date otherwise set forth herein and shall be granted only upon a showing of extreme hardship.

Section 19. That Title VI, Chapter 650, Section 650.130 of the Parkville Municipal Code is hereby added as follows:

SECTION 650.130 RETAIL SALES OF ADULT MEDIA

A. Applicability.

This section shall apply to any bookstore, video store or other similar retail store in which Adult Media constitutes more than ten (10) percent, but not

more than thirty-three (33) percent, of the store's inventory at any time, or where Adult Media constitutes more than ten (10) percent but not more than thirty-three (33) percent of the merchandise displayed for sale or rental at any time, or where Adult Media occupies more than ten (10) percent, but not more than thirty-three (33) percent, of the sales floor area of the business (not including store rooms, stock areas, restrooms, or any portion of the business not open to the public) at any time.

B. Prohibition of Public Display.

The owner or Manager of a store to which this section is applicable shall have the affirmative duty to prevent the display of Adult Media at or within the portions of the business open to Minors.

C. Display of Adult Media.

Adult Media in a store to which this section applies shall be kept in a separate room or section of the store, which room or section shall:

1. not be open to any Minor;
2. be physically and visually separate from the rest of the store by an opaque wall or durable material reaching at least eight (8) feet high or to the ceiling, whichever is less;
3. be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children; and
4. have access controlled by electronic or other means to provide assurance that Minors will not accidentally enter such room or section.

Section 20. That Title VI, Chapter 650, Section 650.140 of the Parkville Municipal Code is hereby added as follows:

SECTION 650.140 SEVERABILITY

Severability is intended throughout and within the provision of this Chapter. If any section, subsection, subdivision, paragraph, sentence, clause, phrase or portion of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Chapter.

Section 21. That Title VI, Chapter 650, Section 650.150 of the Parkville Municipal Code is hereby added as follows:

SECTION 650.150 SAVINGS CLAUSE

Neither the adoption of this Chapter nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under this Chapter, nor be construed as affecting any of the provisions of the ordinances relating to the collection of any license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

Section 22. This ordinance shall be in effect immediately upon its passage and approval.

PASSED and APPROVED this ___ day of _____, 2012.

Mayor James C. Brooks

ATTESTED:

City Clerk Claudia Willhite

