

VILLAGE OF CHATHAM, ILLINOIS

ORDINANCE NO. 01-50

AN ORDINANCE PERTAINING TO ADULT USES

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF CHATHAM, ILLINOIS
THIS 25 DAY OF SEPTEMBER 2001

Published in pamphlet form by the authority of the President and
Board of Trustees of the Village of Chatham, Sangamon County,
Illinois, this 25 day of SEPTEMBER, 2001.

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

CERTIFICATE

I certify that I am the duly elected and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I further certify that on 25, SEPTEMBER, 2001, the corporate authorities of such Village passed and approved Ordinance No. 01-50 entitled:

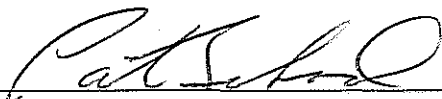
AN ORDINANCE PERTAINING TO ADULT USES

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 01-50 including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the Village Hall, commencing on 26, SEPTEMBER, 2001, to continue for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

DATED at Chatham, Illinois, this 25 day of SEPTEMBER, 2001.

(SEAL)



Village Clerk

AN ORDINANCE PERTAINING TO ADULT USES

WHEREAS, upon review of summaries of studies from around the country, including but not limited to the Report of the Minnesota Attorney General's Working Group on the Regulation of Sexually Oriented Businesses; a document entitled "Facts on the Harmful Secondary Effects of Sexually Oriented Businesses", and a number of reported court decisions, including *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 1 (1986); *DiMa Corporation v. Town of Hallie*, 185 F.3d 823 (7th Cir. 1999); *Tee & Bee, Inc. v. City of West Allis*, 936 F. Supp 1479 (E.D. Wis. 1996) and *Northend Cinema, Inc. v City of Seattle*, 90 Wash. 709 (1978) the corporate authorities of the Village of Chatham find that sexually oriented businesses are associated with:

- (1) high crime rate areas;
- (2) deteriorated commercial and residential areas;
- (3) depreciation of property values in the area;
- (4) dramatic changes in the character of the neighborhood when more than one sexually oriented business is operating in a given area; and

WHEREAS, sales tax revenues are important to the economic well-being of the Village of Chatham; and

WHEREAS, the persons who use the shopping areas within the Village will shop elsewhere if these shopping areas are identified with adult uses; and

WHEREAS, the intent of these adult use regulations is to protect the public health, safety and welfare by limiting the deleterious effects of sexually oriented businesses on the use and enjoyment of property in adjacent areas; and

WHEREAS, the corporate authorities recognize that the First Amendment to the United States Constitution requires that the Village of Chatham “refrain from effectively denying” certain expressive adult use operations a reasonable opportunity to open and operate within the Village; and

WHEREAS, State law, specifically, section 11-5-1.5 of the Illinois Municipal Code, makes it “prohibited within a municipality to locate an adult entertainment facility within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship;”

WHEREAS, these regulations are meant as a narrow means to eliminate, or at least limit, the deleterious effects of adult uses on the health, safety and welfare of the residents, business owners and property owners in the Village of Chatham; and

WHEREAS, the regulations limiting the areas available for adult uses have been narrowly drafted to separate adult uses from residential areas and from each other; and further, the regulations have been drafted to keep such uses from defining the character of the major commercial areas within the Village; and

WHEREAS, it is the intent of the Corporate authorities that these regulations be as strict as constitutionally permissible and that they shall be severable, where necessary, to insure their constitutionality; and

WHEREAS, a public hearing was held before the Chatham Planning Commission and it has filed its Recommendation and Findings of Fact, dated 8-16-01 with the corporate authorities.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CHATHAM, SANGAMON COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Chapter 161 is hereby added to the Village of Chatham Code of Ordinances, is amended to state as follows.

**CHAPTER 161
ADULT USES**

161.001 Definitions.

(1) Adult Bookstore: An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities," or "specified anatomical areas;" or an establishment with a segment or section devoted to the sale or display of such materials; or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(2) Adult Club: A public or private establishment, a primary purpose of which is to provide members or guests with a venue to perform "specified sexual activities" with other members or guests.

(3) Adult Entertainment Cabaret: A public or private establishment which (i) features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows; (ii) not infrequently features entertainers who display "specified anatomical areas"; or (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of, "specified sexual activities".

(4) Adult Motion Picture Theater: A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(5) Adult Novelty Store: An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotion and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(6) Adult Entertainment Facility: As defined by Section 11-5-1.5 of the Illinois Municipal Code, "a striptease club or a pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows or other exhibitions or an adult book store or adult video store whose primary business is the commercial sale, dissemination, or distribution of sexually explicit material, shows or other exhibitions."

(7) Adult Use: Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult entertainment facility, adult novelty stores, adult clubs, and other similar uses of property within the Village.

(8) "Specified Sexual Activities" means: (i) human genitals in the state of sexual stimulation or arousal; (ii) acts of human masturbation, sexual intercourse or sodomy; and (iii) fondling or other erotic touching of human genitals, pubic region, buttock or female breasts; and excretory functions as part of or in connection with any of the foregoing activities.

(9) "Specified Anatomical Areas" means: (a) less than completely and opaquely covered: (i) human genitals, (ii) pubic region, (iii) buttock, (iv) female breasts below a point immediately above the top of the areola; and (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Sec. 161.002 Liquor Sale and Consumption Prohibited

No liquor license shall be issued and no liquor shall be sold or consumed on the premises of any adult use.

Sec. 161.003 Location.

Adult uses are permitted in only in areas zoned B-2 under the Zoning Chapter of this Code of Ordinances, provided:

(1) No adult use shall be located within 500 feet of any property which is zoned residential, or the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship; or another adult use;

(2) In accordance with Section 11-5-1.5 of the Illinois Municipal Code, no adult entertainment facility shall be located within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship;

(3) No adult use shall be located in a building in which there is an establishment selling alcoholic liquors.

161.004 Criminal Background Requirement

No permit shall be issued to a person who has been convicted of any crime involving prostitution, obscenity or other offense of a sexual nature, or to a business entity, any manager or owner of 5% or more of the interest of which has been convicted of such a crime.

161.005 Permit Review

Permits for constructing or occupying an adult use shall be issued only after the following review process. The applicant shall apply to the Zoning Administrator for the permit; the application shall be accompanied by a \$350.00 application fee. The application shall be on a form substantially in the form attached hereto as Appendix A.

The Zoning Administrator shall provide a copy of the application to the Chief of Police, and shall process the portion of the application marked "For Zoning Administrator's Review" and shall forward the application to the Planning Commission for review. Within 60 days of filing, the Planning Commission shall conduct a review of the application for conformance with the Zoning, Subdivision, and Adult Use Chapters of the Village Code of Ordinances. The Planning Commission shall render a recommendation to the Village Board as to whether the proposed adult use conforms with all Village ordinances, and may recommend conditions on the development and operation of the adult use related to site plan, floor plan, construction materials, lighting, parking and circulation, ingress and egress, landscaping and screening, and signage in order to assure that the design and operation of the adult use is in conformance with all Village ordinances and is compatible with surrounding uses.

161.006 Action by Chief of Police

The Chief of Police shall run a criminal background check on all persons disclosed by the application to have a 5% or greater ownership interest in the permit application, in order to verify that no such persons have been convicted of the crimes of prostitution, obscenity, or other crimes of a sexual nature. The Chief of Police shall report his findings to the Village Board.

161.007 Action by Corporate Authorities

Within 30 days of receipt of the Planning Commission's recommendation, the Village Board shall, by resolution, duly made, seconded, passed, and signed by the Village President,

grant or deny the permit. The Village Board's action shall specify the location, by legal description and common address, of the adult use, and shall specify the nature of the adult use permitted. The Village Board may place conditions on the adult use. The Village Board's determination is a final agency action subject to administrative review.

161.008 Exterior Display. No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

161.009 Existing Adult Uses: Any adult use which existed lawfully, but which became nonconforming upon the adoption of this ordinance, may be continued as hereinafter provided:

(a) Upon written notice from the Village to the owners or interests therein that any building, structure, lot or regulated use is nonconforming under the provisions of the Zoning Ordinance as amended, the owners or interests therein shall, within two months from the date of such notice, apply to the Village Clerk for a Certificate Of Nonconformance.

(b) Failure to apply for a Certificate Of Nonconformance within 60 days of the notice provided in Section (a) above will require the amortization of the nonconformance within six months of the notice provided for in Section (a).

(c) Nonconformances that have applied for a Certificate Of Nonconformance from the Village Clerk shall be discontinued within one year of the notice provided in Section (a) above.

161.010 Permit Renewal

(A) Except as set forth in subsection (B) of this section, a permit granted pursuant to this Ordinance is valid until December 31 of the year in which it is granted. During the month of December of each year, each licensee shall apply for a permit renewal, using the permit renewal application set forth as Appendix B to this Ordinance. A renewal permit, when granted, shall be valid until December 31 of the following year. The annual permit renewal fee shall be \$50.00.

(B) Upon any change in ownership of greater than 5% of a corporate or LLC licensee, the licensee shall apply for a permit renewal, using application set forth in Appendix B to this Ordinance. The renewal permit shall be valid until December 31 of the year in which it was issued.

(C) The Chief of Police shall run a criminal background check on all persons disclosed by a renewal application under either subsection (A) or (B) to have a 5% or greater ownership interest in the applicant, in order to verify that no such persons have been convicted of the crimes of prostitution, obscenity, or other crimes of a sexual nature. The Chief of Police shall report his findings to the Village President. Renewal permits shall be granted by the Village President unless the Village President finds that the applicant is in violation of this Chapter or any other provision of the Village of Chatham Code of

Ordinances, or of the conditions of the original permit. Any denial of a renewal permit application is subject to administrative review.

161.011 Offenses

(A) No natural person, and no legal person such as a corporation, limited liability company, or other business entity shall own, manage, or operate an adult use within the corporate limits of the Village without a permit from the Village obtained in accordance with this chapter.

(B) No natural person, and no legal person such as a corporation, limited liability company, or other business entity shall provide false information on an application for an adult use permit.

(C) No natural person, and no legal person such as a corporation, limited liability company, or other business entity shall own, manage or operate an adult use within the corporate limits of the Village except in conformance with this chapter.

161.012 Penalties

Natural and legal persons found guilty of violating this Chapter shall, upon conviction thereof, be subject to a fine of not less than \$250.00 or more than \$750.00. Each day a violation occurs shall be deemed a separate offense. Where a corporation, limited liability company or other legal person owns or operates an adult use, all officers, directors, managers and employees who knowingly participated in management decisions shall be liable to the same extent as the legal person.

161.013 Enlargement or Change in Nature of Use

An adult use permit is specific to a location and to a use. No adult use may be enlarged, nor the nature of the adult use changed, without the owner and manager thereof securing a new permit.

161.014 Guide to Interpretation

Nothing in this Chapter shall be construed as permitting or endorsing any activity or use which violates state or federal law, including but not limited to laws pertaining to obscenity, prostitution, and solicitation.

161.015 Severability

The provisions of this Chapter are severable. If any provision of this Chapter, or if Section 11-5-1.5 of the Illinois Municipal Code is invalidated by a court of law, then the offending section of this Chapter, shall be severed and the remainder of the Chapter shall be enforced to the full extent possible.

SECTION 2: The following use is hereby added to Section 158.033(J)(2) of the Village of Chatham Code of Ordinances, pertaining to permitted uses in B-2 Zones, to state as follows:

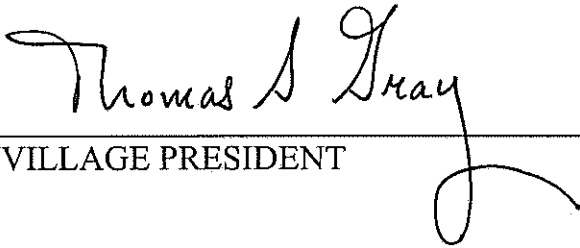
Adult Uses, pursuant to a permit granted in accordance with Chapter 161 of this Code of Ordinances.

SECTION 3: Subsection (6) is hereby added to Section 158.112(B) of the Village of Chatham Code of Ordinances, pertaining to the jurisdiction of the Planning Commission, to state as follows:

(7) To conduct hearings on Adult Use permits in accordance with Chapter 161 of this Code of Ordinances.

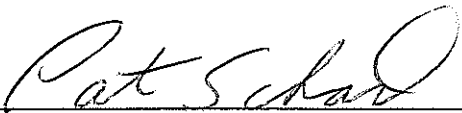
SECTION 4: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law. The Clerk shall publish this Ordinance in pamphlet form and shall see to its inclusion in the next update of the Village of Chatham Code of Ordinances.

PASSED this 25 day of SEPTEMBER, 2001.



VILLAGE PRESIDENT

ATTEST:



Village Clerk

AYES: 6
NAYS: 0

PASSED: 9-25-01
APPROVED: 9-25-01

ABSENT: 0

**VILLAGE OF Chatham, ILLINOIS
APPLICATION FOR ADULT USE PERMIT**

***Directions to Applicant: All information requested must be supplied.
Use a continuation sheet if needed.***

The undersigned hereby applies for an adult use permit from the Village of Chatham in accordance with Chapter 161 of the Village of Chatham Code of Ordinances.

1. Name, address and telephone number of applicant:

2. Type of business entity:

None—the applicant is an individual or individuals. If proposed use is “adult club” as defined in Chapter 161 of the Chatham Code of Ordinances, identify all members on a separate sheet.

Corporation* LLC*

Other—please specify _____

*Attach a certificate of good standing from the Illinois Secretary of State.

3. Names and addresses of all persons with a 5% or greater ownership interest in the applicant, if the applicant is other than an individual or individuals:

4. Name and address of person to contact regarding this application, and such person's relationship to the applicant:

5. Address and legal description of the premises at which the adult use will be conducted:

6. Nature of applicant's interest in the premises:

Ownership (attach copy of deed) Leasehold (attach copy of lease)

- Contract for deed (attach copy of contract)
- Other (please specify and attach evidence of interest) _____

7. Narrative description of intended use of the property:

8. Names, addresses and phone numbers of managers of adult use:

9. A site plan and floor plan drawn to scale, identification of construction materials, and plans for lighting, parking and circulation, ingress and egress, landscaping and screening, and signage, are attached.

I hereby certify under penalty of perjury that the foregoing statements are true and correct. I have reviewed Chapter 161 of the Village of Chatham Code of Ordinances and will abide by its terms. I attach a check in the amount of \$350 to cover the cost of the permit application.

Signature: _____

Date: _____

For Zoning Administrator's use only

Present zoning of the property: _____

Zoning classifications and uses of all properties within 1000 feet of property line:

Recommend Approval Recommend Denial for the following reasons:

Signature: _____

Date: _____

**VILLAGE OF Chatham, ILLINOIS
APPLICATION FOR ADULT USE RENEWAL PERMIT**

Directions to Applicant: All information requested must be supplied.
Use a continuation sheet if needed.

The undersigned hereby applies for an adult use renewal permit from the Village of Chatham in accordance with Chapter 161 of the Village of Chatham Code of Ordinances.

1. Date of approval of original permit: _____

2. Name, address and telephone number of applicant:

3. Type of business entity:

None—the applicant is an individual or individuals. If proposed use is "adult club" as defined in Chapter 161 of the Chatham Code of Ordinances, identify all members on a separate sheet.

Corporation* LLC*

Other—please specify _____

*Attach a certificate of good standing from the Illinois Secretary of State.

4. Names and addresses of all persons with a 5% or greater ownership interest in the applicant, if the applicant is other than an individual or individuals:

5. Name and address of person to contact regarding this application, and such person's relationship to the applicant:

6. Address of the premises at which the adult use will be conducted:

7. Nature of applicant's interest in the premises, if different from original permit:

Ownership (attach copy of deed) Leasehold (attach copy of lease)

- Contract for deed (attach copy of contract)
- Other (please specify and attach evidence of interest) _____

8. Applicant hereby certifies that the use of the premises is the same as set forth in the original permit.

9. Names, addresses and phone numbers of managers of adult use:

I hereby certify under penalty of perjury that the foregoing statements are true and correct. I have reviewed Chapter 161 of the Village of Chatham Code of Ordinances and will abide by its terms. I attach a check in the amount of \$50.00 to cover the cost of the permit application.

Signature: _____

Date: _____

For Chief of Police Use Only

I have performed a criminal background check on all persons listed in this application as owners of a 5% or greater interest in the applicant or as the manager of the facility. I find that:

- no such persons have been convicted of the crimes of prostitution or obscenity, or other crimes of a sexual nature.
- the following persons listed in this application have been convicted of the crimes of prostitution or obscenity or other crimes of a sexual nature:

Name	Date of Conviction	Description of Crime
_____	_____	_____
_____	_____	_____
_____	_____	_____

Date

Chief of Police

For Village President's Use Only

This renewal application is approved denied for the following reasons:

Village President

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

I, the undersigned, do hereby certify that I am the duly qualified and acting Village Clerk of the Village of Chatham, Sangamon County, Illinois.

I do further certify that the ordinance attached hereto is a full, true, and exact copy of Ordinance No. 2001- 50 adopted by the President and Board of Trustees of said Village on the 25 day of SEPTEMBER, 2001, said Ordinance being entitled:

AN ORDINANCE PERTAINING TO ADULT USES

I do further certify that prior to the making of this certificate, the said Ordinance was spread at length upon the permanent records of said Village, where it now appears and remains.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Village this 25 day of SEPTEMBER, 2001.



Village Clerk

ORDINANCE CERTIFICATE

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

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Village Clerk