



**JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA REQUEST

TO: Board of County Commissioners
Philip Morley, County Administrator

FROM: Al Scaff, Department of Community Development (DCD) Director 
Stacie Hoskins, DCD Planning Manager 
David Wayne Johnson, Associate Planner

DATE: April 25, 2010

SUBJECT: Re-establishment of Adult Business Moratorium

STATEMENT OF ISSUE:

Initially commenced during the 2005 Housekeeping Omnibus for Permit Efficiency (HOPE), the BOCC has adopted several moratoria on adult businesses. The Planning Commission submitted its recommendation to the BoCC for amendment to the UDC on March 22, 2011. The Board would like to conduct a workshop to further explore the possibility of enacting business licensing provisions as well as land use regulations, making it necessary to extend the moratorium.

To date, no applications for adult businesses have been submitted. The Board has adopted seven moratoria regarding adult businesses:

- Ordinance No. 04-0314-05, adopted March 14, 2005
- Ordinance No. 05-0505-08, adopted May 5, 2008
- Ordinance No. 10-1103-08, adopted November 3, 2008
- Ordinance No. 05-0427-09, adopted April 27, 2009
- Ordinance No. 08-1109-09, adopted November 9, 2009
- Ordinance No. 02-0510-10, adopted May 10, 2010
- Ordinance No. 06-1025-10, adopted October 25, 2010 and expires April 25, 2011

ANALYSIS/STRATEGIC GOALS/PROS and CONS:

Moratoriums are valid for 6-month periods so they must be reinstated periodically as the final legislation is drafted. The regulations and related issues for siting and licensing Adult Businesses are currently being researched by the BoCC. The current moratorium will expire before anticipated adoption of those regulations. Legal counsel has reviewed the proposed ordinance and approved it as to form.

FISCAL IMPACT/COST-BENEFIT ANALYSIS:

The BOCC is required to hold a public hearing within 60 days of adoption of the moratorium.

RECOMMENDATION:

DCD recommends the BOCC:

1. Re-establish the moratorium by adopting the attached Ordinance

REVIEWED BY:


Philip Morley, County Administrator


Date

permits and approvals for adult businesses and thereafter to hold a public hearing on the moratorium within 60 days of the commencement of the moratorium;

NOW, THEREFORE BE IT RESOLVED, that the Board of County Commissioners ordains as follows:

SECTION 1. Moratorium Established. A moratorium is imposed upon the filing with the County any applications for permits or approvals for "adult businesses." "Adult businesses" are defined for the purposes of this ordinance in Exhibit A, attached hereto and incorporated by reference.

SECTION 2. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances shall not be affected.

SECTION 3. Effective Date. This ordinance shall take effect immediately after passage. It shall be effective for six (6) months.

APPROVED AND SIGNED THIS _____ DAY OF April 2011.

SEAL

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

John Austin, Chair

Phil Johnson, Member

David Sullivan, Member

ATTEST

Lorna Delaney
Clerk of the Board

Approved as to form

David Alvarez 4/14/2011

David Alvarez, Chief Civil DPA

EXHIBIT A

- (a) **“Adult businesses”** means any establishment or premises which has as a substantial or significant portion of its trade, the display, barter, rental or sale of any adult entertainment medium, or which meets the definitions of “Adult Retail Establishment”, “Adult Theatre” or “Adult Entertainment Establishment”.
- (b) **“Adult retail establishment”** means any premises in which twenty-five percent or more of the retail space open to patrons consists of merchandise distinguished or characterized by the depiction, description, simulation or relation to “specified sexual activities” or “specified anatomical areas” as those terms are defined below. Merchandise for the purposes of this definition may include but is not limited to books, video, photographs, devices, magazines, posters or other mediums utilized to sell or display material.
- (c) **“Adult Theatre”** means any place of public assembly at which motion picture, slides, videos, films or any other method of visual media are presented which are characterized by depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in this section, for observation by patron therein. This shall not include movies that have been rated G, PG, PG-13, NC-13, NC-17 or R by the Motion Picture Association of America.
- (d) **“Adult Entertainment Establishment”** means any business or establishment which displays any performance, display, dance or any other medium which the public, patrons, or members are invited or admitted where such entertainment involves a person appearing or performing who: i) Is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, vulva or (without regard to gender) any portion of the pubic region, anus or genitals; or ii) Touches, caresses or fondles the breasts, buttocks, anus, genitals or pubic region of themselves, a patron, another employee, or anyone else, with the intent to sexually arouse or excite.
- (e) **“Specified anatomical areas”** means any of the following: i) less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately about the top of the areola; ii) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
- (f) **“Specified sexual activities”** means any of the following: i) Human genitals in a state of sexual stimulation or arousal; or ii) Acts of human masturbation, sexual intercourse, sodomy or bestiality; or iii) Fondling or other erotic touching of human genitals, pubic region, human anus, or female breast.