



RICHLAND COUNTY COUNCIL

DEVELOPMENT AND SERVICES COMMITTEE

Bernice G. Scott
District 10

Damon Jeter
District 3

Norman Jackson, Chair
District 11

Kit Smith
District 5

Bill Malinowski
District 1

Special Called Meeting
February 5, 2008
5:45 PM

Richland County Council Chambers
County Administration Building
2020 Hampton Street

Call to Order

Adoption of Agenda

I. Items for Action

A. An ordinance amending the Richland County Code of Ordinances; Chapter 26, Land Development; Article VI, Supplemental use standards; Section 26-151, Permitted uses with special requirements; subsection (c), Standards; Paragraph (66), Sexually oriented businesses; so as to amend requirements pertaining to sexually oriented businesses [Pages 2 – 17]

B. Fire agreement extension with the City of Columbia [Pages 18 – 19]

II. Items for Discussion / Information

There are no items for discussion / information.

Adjournment

Staffed by: Joe Cronin

STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR RICHLAND COUNTY
ORDINANCE NO. ___-08HR

AN ORDINANCE AMENDING THE RICHLAND COUNTY CODE OF ORDINANCES; CHAPTER 26, LAND DEVELOPMENT; ARTICLE VI, SUPPLEMENTAL USE STANDARDS; SECTION 26-151, PERMITTED USES WITH SPECIAL REQUIREMENTS; SUBSECTION (C), STANDARDS; PARAGRAPH (66), SEXUALLY ORIENTED BUSINESSES; SO AS TO AMEND REQUIREMENTS PERTAINING TO SEXUALLY ORIENTED BUSINESSES.

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, and welfare of patrons of such businesses as well as citizens of the County; and

WHEREAS, upon review of numerous studies, case law, analyses, and observations, the County concludes that sexually oriented businesses, as a category of business, are associated with a wide variety of negative secondary effects, including but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, undesirable and criminal behavior associated with alcohol consumption, adverse impacts on surrounding properties, litter, and sexual assault and exploitation; and

WHEREAS, the Richland County Council has a substantial government interest in minimizing and controlling these adverse effects and thereby protecting the health, safety and welfare of the citizenry; protect the citizens from crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses as well as sexually oriented businesses that may locate in the County in the future; and

WHEREAS, the County recognizes its constitutional duty to interpret, construe, and amend its laws and ordinances to comply with constitutional requirements as they are announced; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the United States Constitution or the South Carolina Constitution, but to enact an ordinance to further the content-neutral governmental interests of the County, to wit, the controlling of secondary effects of sexually oriented businesses.

WHEREAS, the secondary effects information discussed herein is in addition to secondary effects information compiled and considered by the Richland County Council when it

adopted Ordinance 1609-87 HR, which became the original Sexually Oriented Business Ordinance, and subsequent amendments thereto; and

WHEREAS, the Richland County Council finds that documents and public comments in that original legislative record for Ordinance 1609-87HR, as well as the secondary effects information identified in this ordinance provide legislative support for the original Sexually Oriented Business Ordinance.

Pursuant to the authority by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY RICHLAND COUNTY COUNCIL:

SECTION I. The Richland County Code of Ordinances, Chapter 26, Land Development; Article II, Rules of Construction/Definitions; Section 26-22, Definitions; is hereby amended by the deletion of the definition of “Sexually oriented business” and the substitution of the following language:

Sexually oriented business. An adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, ~~escort agency, nude model studio,~~ or sexual encounter center. As used in this chapter, the following definitions shall apply to such businesses:

- (a) *Adult arcade.* Any place where the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- (b) *Adult bookstore or adult video store.* A commercial establishment which, as one of its principal business purposes, offers for sale or rental (for any form of consideration) any one (1) or more of the following:
 - (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes ~~or video reproductions,~~ compact discs, digital video discs, video reproductions, slides, or other visual representations, which depict or describe specified sexual activities or specified anatomical areas; or
 - (2) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such

commercial establishment from being categorized as an adult bookstore or adult video store so long as one of its principal business ~~purposes~~ activities is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

(3) Principal business activities means the commercial establishment has a substantial portion of its displayed merchandise which consists of said items; or has a substantial portion of the wholesale value of its displayed merchandise which consists of said items; has a substantial portion of the retail value of its displayed merchandise which consists of said items; or derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items; or maintains a substantial section of its interior business space for the sale or rental of said items.

(c) *Adult cabaret.* A nightclub, bar, restaurant, or similar commercial establishment, ~~that regularly features:~~ regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

~~(1) Persons who appear in a state of nudity; or~~

~~(2) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or~~

~~(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.~~

(d) *Adult motel.* A hotel, motel, or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(e) *Adult motion picture theater.* A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, compact discs, digital video discs, video reproductions, or similar photographic reproductions are

regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- ~~(f) *Adult theater.* A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.~~
- (gf) *Escort.* A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- (hg) *Escort agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.
- (ih) *Establishment of a sexually oriented business.* Any of the following:
- (1) The opening or commencement of any sexually oriented business as a new business;
 - (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - (3) The additions of any sexually oriented business to any other existing sexually oriented business; or
 - (4) The relocation of any sexually oriented business.
- (ji) *Nude model studio.* Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. This definition shall not include a modeling class operated by a proprietary school licensed by the State of South Carolina, or by a college, junior college, or university in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing and where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class. In these situations, no more than one (1) nude model may be present at any one time.
- (ki) *Nude or a state of nudity.* ~~The appearance of a person's genitals, pubic area, vulva, anus, anal cleft or cleavage of the buttocks, including the portion of the buttocks within four (4) inches on either side of a vertical line extending upward from the anus, or any simulation thereof; or any portion of a female breast below a horizontal line across the top of the areola at its highest point, or any simulation thereof. This definition shall include the entire lower portion of the female breast.~~

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

- ~~(l)~~ *Permittee and/or licensee.* A person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
- ~~(mk)~~ *Semi-nude.* A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices. The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of a majority of the male or female buttocks. This definition shall include the lower portion of the female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- ~~(nl)~~ *Sexual encounter center.* A business or commercial enterprise that, as one of its ~~primary~~ principal business purposes, offers for any form of consideration:
- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- ~~(om)~~ *Specified anatomical areas.* ~~The male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.~~ The human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- ~~(pn)~~ *Specified sexual activities.* Any of the following:
- (1) ~~The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;~~ intercourse, oral copulation, masturbation or sodomy; or
 - (2) ~~Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, and/or sodomy;~~
 - (3) ~~Masturbation, actual or simulated; or~~

- (24) Excretory functions as part of or in connection with any of the activities set forth in subsection (1) through (3) of this definition above.
- (ep) *Substantial enlargement of a sexually oriented business.* The increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on August 1, 1987.
- (fp) Transfer of ownership or control of a sexually oriented business. Any of the following:
- (1) The sale, lease, or sublease of the business; or
 - (2) The transfer of securities which constitute a controlling interest in the business whether by sale, exchange or similar means; or
 - (3) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

SECTION II. The Richland County Code of Ordinances; Chapter 26, Land Development; Article VI, Supplemental Use Standards; Section 26-151, Permitted Uses with Special Requirements; Subsection (c), Standards; Paragraph (66), Sexually Oriented Businesses, is hereby amended by the deletion of the language contained therein and the substitution of the following language:

(66) *Sexually oriented businesses.*

a. Use districts: General Commercial.

b. Purpose and Findings:

1. ~~It is the~~ purpose of this subsection is to regulate sexually oriented businesses in order to promote the health, safety, ~~morals~~, and general welfare of the citizens of Richland County. ~~Furthermore, the purpose of these regulations is~~ and to establish reasonable and uniform regulations to prevent the ~~continued deleterious location and concentration~~ secondary effects of sexually oriented businesses within the County. The provisions of this subsection have neither the purpose nor ~~the~~ effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, ~~including sexually oriented materials or expression~~. Similarly, it is ~~not~~ neither the intent nor effect of these regulations to restrict or deny access by adults to sexually oriented materials or expression protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the

intent nor effect of this subsection to condone or legitimize the distribution or exhibition of obscenity ~~obscene~~ material.

2. Based on evidence of the adverse secondary effects of sexually oriented businesses presented in hearings and reports made available to the Richland County Council, and on the findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, LLC*, 124 S. Ct. 2219 (2003); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Chesapeake B & M, Inc. v. Harford County*, 58 F.3d 1005 (4th Cir. 1995); *Centaur v. Richland County*, 392 S.E.2d 165 (S.C. 1990); and other cases; and on reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona (1979); Minneapolis, Minnesota (1980); Houston, Texas (1987); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City, Oklahoma (1986); Dallas, Texas (1997); Newport News, Virginia (1996); New York Times Square Study (1994); Phoenix, Arizona (1995-1998); Centralia, Washington 2004; Greensboro, North Carolina (2003); and also from the reports of "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, January 12, 2000; and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Richland County Council finds:
 - (a) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, public safety risks, prostitution, potential spread of disease, lewdness, public indecency, illicit sexual activity, illicit drug use and drug trafficking, undesirable and criminal behavior associated with alcohol consumption, negative impacts on surrounding properties, litter, and sexual assault and exploitation.
 - (b) Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating in the future. This substantial government interest in preventing secondary effects, which is the County's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to future secondary effects that could occur in the County related to current sexually oriented businesses in the future as well as sexually oriented businesses that may locate in the County in the future. The County finds that the cases and

secondary effects documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

c. Classification. Sexually oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and
9. Sexual encounter centers.

~~d. Permit and/or license required:~~

- ~~1. A person commits a misdemeanor if he or she operates a sexually oriented business without a valid permit and/or license, issued by the county for the particular type of business.~~
- ~~2. An application for a permit and/or license must be made on a form provided by the Richland County Planning Department. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.~~
- ~~3. The applicant must be qualified according to the provisions of this section, and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and building official. The health department, fire department, and building official shall complete their inspections and certify same to the zoning administrator within twenty one (21) days of receipt of the application by said zoning administrator.~~

- ~~4. If a person who wishes to operate a sexually oriented business is an individual, he or she must sign the application for a permit and/or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit and/or license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit and/or license as applicant.~~
 - ~~5. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him or her from the requirement of obtaining a sexually oriented business permit and/or license.~~
- ~~e. *Issuance of permit and/or license.* The zoning administrator shall approve the issuance of a permit and/or license to an applicant within thirty (30) days after receipt of an application unless he or she finds one or more of the following to be true:~~
- ~~1. An applicant is under eighteen (18) years of age.~~
 - ~~2. An applicant or applicant's spouse is overdue in his payment to the county of taxes, fees fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.~~
 - ~~3. An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the applicant form.~~
 - ~~4. An applicant is residing with a person who has been denied a permit and/or license by the county to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.~~
 - ~~5. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.~~
 - ~~6. The permit and/or license fee required by this ordinance has not been paid.~~
 - ~~7. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this section.~~
 - ~~8. The permit and/or license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of~~

~~the sexually oriented business. The permit and/or license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.~~

~~f. Fees. The annual fee for a sexually oriented business permit and/or license is five hundred (\$500.00) dollars.~~

~~g. Inspection.~~

~~1. An applicant or permittee and/or licensee shall permit representatives of the sheriff's department, health department, fire department, planning department, or other county departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.~~

~~2. A person who operated a sexually oriented business, or his/her agent or employee, commits a misdemeanor if he or she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.~~

~~h. Expiration of permit and/or license.~~

~~1. Each permit and/or license shall expire one year from the date of issuance and may be renewed only by making application as provided in subsection e. above. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit and/or license will not be affected.~~

~~2. When the zoning administrator denies renewal of a license, the applicant shall not be issued a permit and/or license for one (1) year from the date of denial. If, subsequent to denial, the zoning administrator finds that the basis for denial of the renewal permit and/or license has been corrected or abated, the applicant may be granted a permit and/or license, if at least ninety (90) days have elapsed since the date denial became final.~~

~~i. Suspension. The zoning administrator shall suspend a permit and/or license for a period not to exceed thirty (30) days if he or she determines that a permittee and/or licensee or an employee of a permittee and/or licensee has:~~

~~1. Violated or is not in compliance with any provision of this section;~~

~~2. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;~~

~~3. Refused to allow an inspection of the sexually oriented business premises as authorized by this section; or~~

4. ~~Knowingly permitted gambling by any person on the sexually oriented business premises.~~

~~j. *Revocation.*~~

1. ~~The zoning administrator shall revoke a permit and/or license if a cause of suspension in subsection i. above occurs and the permit and/or license has been suspended within the preceding twelve (12) months.~~

2. ~~The zoning administrator shall revoke a permit and/or license if he or she determines that:~~

- (a) ~~A permittee and/or licensee gave false or misleading information in the material submitted to the planning department during the application process;~~

- (b) ~~A permittee and/or licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;~~

- (c) ~~A permittee or licensee or an employee has knowingly allowed prostitution on the premises;~~

- (d) ~~A permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;~~

- (e) ~~A permittee and/or licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises;~~

- (f) ~~A permittee and/or licensee is delinquent in payment to the county or state for any taxes or fees past due.~~

3. ~~When the zoning administrator revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented permit and/or license for one (1) year from the date revocation became effective. If, subsequent to revocation, the zoning administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date the revocation became effective.~~

~~k. *Transfer of permit and/or license.* A permittee and/or licensee shall not transfer his/her permit and/or license to another, nor shall a permittee and/or licensee operate a sexually oriented business under the authority of a permit and/or license, at any place other than the address designated in the application.~~

d. *Location of Sexually Oriented Businesses:*

1. ~~A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business outside of a designated GC General Commercial District. All sexually oriented businesses shall be located within a GC General Commercial District.~~
2. ~~A person commits a misdemeanor if he or she operates or causes to be operated a sexually oriented business~~ A sexually oriented business shall not be located within one thousand (1,000) feet of any place of worship, a public or private elementary or secondary school, a child daycare center or a pre-school, a boundary of any residential district, or a public park adjacent to any residential district, ~~or the property line of a lot devoted to residential use.~~
3. ~~A person commits a misdemeanor if he or she operates or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a~~ A sexually oriented business shall not be located within one thousand (1,000) feet of another sexually oriented business.
4. ~~A person commits a misdemeanor if he or she operates or permits~~ The operation, establishment, or maintenance of more than one (1) sexually oriented business is prohibited in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.
5. For the purpose of this ~~Section 26-151(e)(66)~~ subparagraph d. 2., above, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a place of worship or public or private elementary or secondary school, or to the nearest boundary of an affected public park, or a residential zoning district, ~~or a residential lot.~~
6. For the purpose of ~~subsection~~ subparagraph d. 3., above, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which the businesses are located.
7. ~~Any sexually oriented business lawfully operating on August 1, 1987 that is in violation of subsections 1. through 6. above, shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more~~

~~sexually oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is nonconforming.~~

- ~~8. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a place of worship, public or private elementary or secondary school, public park, residential district, or residential lot within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.~~

~~m. *Additional regulations for adult motels.*~~

- ~~1. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.~~
- ~~2. A person commits a misdemeanor, if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit and/or license, he/she rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he/she rents or sub-rents the same sleeping room again.~~
- ~~3. For purposes of subsection 2. above, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.~~

~~em. *Regulations pertaining to exhibition of sexually explicit films or videos.*~~

~~1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, compact discs, digital video discs, or other video, electronic, or digital reproduction that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:~~

- ~~(a) Upon application for a sexually oriented permit and/or license, the application shall be accompanied by a Δ diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted must be provided to the Zoning Administrator. A manager's station may not~~

exceed thirty-two (32) square feet of floor area. ~~The diagram shall also designate the place at which the permit will be conspicuously posted, if granted.~~ A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. ~~The zoning administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.~~

- (b) The ~~application~~ diagram shall be sworn to be true and correct by the applicant.
- (c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the zoning administrator.
- (d) It is the duty of the owner(s) and operator(s) of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager's stations designated, then 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 (1) of the manager's stations. The view required in this ~~subsection~~ subparagraph must be by direct line of sight from the manager's station.
- (f) It shall be the duty of the owner(s) and operator(s), and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in ~~subsection~~ subparagraph (e) above remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the ~~application diagram submitted filed~~ pursuant to ~~subsection~~ subparagraph (a) above.
- (g) No viewing room may be occupied by more than one (1) person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot-candle as measured at the floor level.

(i) It shall be the duty of the owner(s) and operator(s), and it shall also be the duty of any agents and employees present in the premises, to ensure that the illuminations described above, is maintained at all times that any patron is present in the premises.

~~2. A person having a duty under subsection (a) through (i) of subsection 1., above, commits a misdemeanor if he or she knowingly fails to fulfill that duty.~~

f. Regulations pertaining to adult cabarets. It shall be a violation of this chapter for an employee, independent contractor, or person under a similar arrangement with any owner, operator, manager, agent, shareholder of an adult cabaret, while located within an adult cabaret, to appear in a state of nudity or to fail to comply with the definition of semi-nude.

~~eg. Exemptions. It is a defense to prosecution under subsections subparagraph (66)e- and (66)f. (66)d.,~~ above (Location of Sexually Oriented Businesses), that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school licensed by the State of South Carolina; or by a college, junior college, or university supported entirely or partly by taxation; or
2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
 - (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and
 - (c) Where no more than one (1) nude model is present at any one (1) time.

SECTION III. Severability. If any section, subsection, or clause of this article shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION IV. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION V. Effective Date. All sections of this ordinance shall be effective on and after _____, 2008.

RICHLAND COUNTY COUNCIL

BY: _____
Joseph McEachern, Chair

ATTEST THIS THE ____ DAY

OF _____, 2008

Michielle R. Cannon-Finch
Clerk of Council

RICHLAND COUNTY ATTORNEY'S OFFICE

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

First Reading:	February 5, 2008 (tentative)
Public Hearing:	February 26, 2008 (tentative)
Second Reading:	February 26, 2008 (tentative)
Third Reading:	March 4, 2008 (tentative)

Richland County Council Request of Action

Subject: FIRE SERVICE CONTRACT ESD010708002

A. Purpose

The purpose of this report is to obtain County Council approval to authorize the County Administrator to begin negotiations for a new fire service contract with the City of Columbia.

B. Background / Discussion

Since 1992 Richland County has partnered with the City of Columbia to provide fire suppression service to the unincorporated areas of the county. Richland County provides the other services such as code enforcement, hazardous materials enforcement, etc. The current agreement expires in 2008. It is necessary to negotiate with the City of Columbia to create a new agreement or to negotiate an extension of the current agreement.

C. Financial Impact

County Council approves the fire service budget during the regular budget process. Richland County has a separate millage to fund fire services. Each year the exact cost for the City of Columbia to provide fire suppression is itemized for Council's consideration and approval. The budget will be presented to Council within the next few months.

D. Alternatives

1. Richland County can negotiate a new contract with Columbia.
2. Richland County can extend the existing contract if Columbia agrees.
3. Richland County can provide fire service without assistance from the City of Columbia.

E. Recommendation

It is recommended that Council authorize the County Administrator to negotiate with Columbia and report back to Council on the options generated from the discussions.

Recommended by: Michael A. Byrd **Department:** Emergency Services **Date:** 01-07-08

F. Reviews

Finance

Reviewed by: Daniel Driggers

Date: 1/31/08

Recommend Council approval

Recommend Council denial

Comments regarding recommendation:

Legal

Reviewed by: Amelia Linder

Date: 2/4/08

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: All of the alternatives are legally sufficient; therefore, this request is at the discretion of County Council.

Administration

Reviewed by: J. Milton Pope

Date: 1-31-08

Recommend Council approval

Recommend Council denial

Comments regarding recommendation: I recommended that Council authorize the County Administrator to negotiate with Columbia and report back to Council on the options generated from the discussions.