

## CHAPTER 25

### ADULT ENTERTAINMENT ESTABLISHMENTS ORDINANCE

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF EAST DUBLIN AS FOLLOWS:

#### **Purpose.**

The purpose of this Ordinance is to regulate certain types of businesses including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. However, it is recognized that such regulation cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this Ordinance represents a balancing of competing interests; reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

#### **Definitions.**

The following terms used in this Ordinance defining adult entertainment establishments shall have the meanings indicated below:

- (a) **Adult bookstore** means an establishment having a substantial or significant portion of its stock in trade, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified anatomical areas or an establishment with a segment or section, comprising 20 percent of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- (b) **Adult business** Either:
  - a. Any business other than those expressly specified in this Ordinance, where employees patrons expose specified anatomical areas or engage in specified sexual activities; or
  - b. Any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.
- (c) **Adult dancing establishment** means a business that features dancers displaying or exposing specified anatomical areas.
- (d) **Adult motion picture theater** means an enclosed building with a capacity of fifty (50)

or more persons used for presenting material 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.

- (e) **Adult minimotion picture theater** means an enclosed building with a capacity of less than fifty (50) persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- (f) **Adult hotel or motel** means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities of specified anatomical areas.
- (g) **Adult motion picture arcade** means any place to which the public is permitted or invited wherein coin 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 an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
- (h) **Adult video store** means any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or their reproductions, whether for sale or rent, 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, comprising five (5) percent of its total floor space, devoted to the sale or display of such material or which derives more than five (5) percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- (i) **Erotic dance establishment** means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- (j) **Encounter center or rap establishment** means any business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.
- (k) **Escort bureau: introduction services** means any business, agency, or persons, who, for a fee, commission, hire, reward or profit, furnished or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

- (l) **Good moral character** A person is of good moral character according to this Ordinance if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five (5) years. The city may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.
- (m) **Minor** means, for the purposes of this Ordinance any person who has not attained the age of twenty-one (21) years.
- (n) **Specified sexual activities** means and shall include any of the following:
- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, saphism, zooerasty, or
  - (2) Clearly depicts human genitals in a state of sexual stimulation, arousal, or tumescence; or
  - (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or
  - (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or
  - (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
  - (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
  - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.
- (o) **Specified anatomical areas** shall include any of the following:
- (1) Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the aureola; or
  - (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

### **Erotic dance establishment regulations.**

- (a) No person, firm, partnership, corporation or other entity shall advertise or cause to be advertised an erotic dance establishment without a valid adult entertainment establishment license issued pursuant to this Ordinance.
- (b) No later than March first of each year, an erotic dance establishment licensee shall file a verified report with the City Administrator or his designee showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.
- (c) An erotic dance establishment licensee shall maintain and retain for a period of two (2) years the names, addresses and ages of all persons employed as dancers.
- (d) No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of twenty-one (21) years or a person not licensed pursuant to this Ordinance.
- (e) No person under the age of twenty-one (21) shall be admitted to an adult entertainment establishment.
- (f) An erotic dance establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m. Monday through Friday, and Saturday from 8:00 a.m. through 2:55 a.m. on Sunday. No licensee shall permit his place of business to open on Christmas Day.
- (g) No erotic dance establishment licensee shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor, malt beverage, wine, any other alcoholic beverage, or controlled substance upon the premises of the licensee.
- (h) An adult entertainment establishment licensee shall conspicuously display all licenses required by this Ordinance.
- (i) All dancing shall occur on a platform intended for that purpose which is raised at least 18 inches from the level of the floor.
- (j) No dancing shall occur closer than four (4) feet to any patron.
- (k) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.
- (l) No patron shall directly pay or give any gratuity to any dancer.
- (m) No dancer shall solicit any pay or gratuity from any patron.
- (n) All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to three and five tenths (3.5) foot candles per square foot.

### **Certain activities prohibited.**

No person, firm, partnership, corporation or other entity shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion of a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

### **Permit required.**

It shall be unlawful for any person, association, partnership or corporation to engage in, conduct, or carry on in or upon any premises within the City of East Dublin any of the adult entertainment establishments defined in this Ordinance without a permit to do so. No permit so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.

### **Operation of unlicensed premises unlawful.**

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, encounter center, escort bureau or adult business or adult dancing establishments unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this Ordinance, which license shall not be under suspension or permanently or conditionally revoked.

### **Admission of minors unlawful.**

It shall be unlawful for a licensee to admit or permit the admission of minors within a licensed premises.

### **Sales to minors unlawful.**

It shall be unlawful for any person to sell, barter or give or to offer to sell, barter or give to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult business or adult dancing establishment or other adult entertainment establishment.

### **Location.**

No adult entertainment establishment, business, or use shall be located within 1,000 feet, measured from the closest point of the real property on which the adult entertainment establishment is sought to be erected and operated in a straight line to the closest point of the real property of the following:

- (1) Any parcel of land which is either named or used for residential uses or purposes;
- (2) A church, school, government owned or operated public facility, library, public park, or hospital;

- (3) Any other adult entertainment establishment;
- (4) An establishment licensed to sell alcoholic beverages.

If the adult entertainment establishment or the activity to which a measurement is required is a part of a tract of land occupied by other uses the measurements shall be from the closest point of the total tract of land(s) and not the building(s) in which the activities are located.

**Adult entertainment establishment employees.**

- (a) Qualifications. Employees of an adult entertainment establishment shall be not less than twenty-one (21) years of age. Every employee must be of good moral character as defined in this Ordinance. Any employee who is convicted of a crime that is a felony, or any crime not a felony if it involves moral turpitude, while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five (5) years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term “convicted” shall include an adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime, and the terms “employed on the premises” and “work on any licensed premises” shall include as well work done or services performed while in the scope of employment elsewhere than the licensed premises.
- (b) Approval for employment. Before any person may work on a licensed premises, he shall file a notice with the City Administrator or his designee, of his intended employment on forms supplied by the City Administrator or his designee and shall receive approval of such employment from the City Administrator or his designee. The prospective employee shall supply such information as the City Administrator or his designee requires, including a set of fingerprints, on regular City of East Dublin, or United States Department of Justice forms. Upon approval, the employee may begin working on the licensed premises. If approval is denied the prospective employee may, within ten (10) days of said denial, apply to the City Administrator or his designee in writing for a hearing. The decision of the City Administrator or his designee after hearing may be appealed to the Mayor and City Council which may issue such order as is proper in the premises. An investigation fee of fifty dollars (50.00) shall accompany the notice of intended employment or a receipt of the City Administrator or his designee evidencing the payment of such fee at the time the notice is filed.
- (c) Suspension, revocation of license. Violation of the provisions of this Ordinance, the ordinances of the City of East Dublin laws and regulations of the State of Georgia, or the rules and regulations of the City shall subject an employee to suspension or revocation of license.
- (d) Independent contractors. For the purpose of this Ordinance, independent contractors shall be considered as employees and shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

### **Application for permit.**

- (a) Any person, association, partnership or corporation desiring to obtain a permit to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the City Administrator or his designated representative. Before submitting such application, a nonrefundable fee, established by resolution of the Mayor and City Council, shall be paid to the City Administrator or his designee to defray, in part, the cost of investigation and report required by this Ordinance. The City Administrator or his designee shall issue a receipt showing that such application fee has been paid. The receipt or a copy thereof shall be supplied to the City Administrator or his designee at the time such application is submitted.
- (b) The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

### **Application contents.**

Each application for an adult entertainment establishment permit shall contain the following information:

- (1) The full true name and any other names used by the applicant;
- (2) The present address and telephone number of the applicant;
- (3) The previous addresses of the applicant, if any, for a period of five (5) years immediately prior to the date of the application and the dates of residence at each;
- (4) Acceptable written proof that the applicant is at least twenty-one (21) years of age;
- (5) The applicant's height, weight, color of eyes and hair and date and place of birth;
- (6) Two (2) photographs of the applicant at least two (2) inches by two (2) inches taken within the last six (6) months;
- (7) Business, occupation or employment history of the applicant for the five (5) years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors and officers of a corporation and, if a corporation, all shareholders holding more than five (5) percent of the shares of corporate stock outstanding;
- (8) The business license history of the applicant and whether such applicant, in previous operations in this or any other city, state or territory under license, has such license or permit for an adult entertainment business or similar type of business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation;

- (9) All convictions, including ordinance violations, exclusive of traffic violations, stating the dates and places of any such convictions;
- (10) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, and each stockholder holding more than five (5) percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the city clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.
- (11) The names and addresses of the owner and lessor of the real property upon which the business is to be conducted and a copy of the lease or rental agreement;
- (12) Such other identification and information as the police department may require in order to discover the truth of the matters herein before specified as required to be set forth in the application;
- (13) The age and date of birth of the applicant, of any partners, or of any and all officers, of any stockholders of more than five (5) percent of the shares of the corporation stock outstanding, directors of the applicant if the applicant is a corporation;
- (14) If the applicant, any partners or any of the officers or stockholders holding more than five (5) percent of the outstanding shares of the corporation, or the directors of the applicant if the applicant is a corporation, have ever been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, in the past five (5) years and, if so, a complete description of any such crime, including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed;
- (15) The city shall require the individual applicant to furnish fingerprints of the applicant;
- (16) If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any;
- (17) At least three (3) character references from individuals who are in no way related to the applicant or shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the applicant if the license is granted and who have not been convicted of any felony or a crime not a felony involving moral turpitude in the past five (5) years. The City Administrator or his designee shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all



character references on such forms;

- (18) Address of the premises to be licensed;
- (19) Whether the premises are owned or rented and, if the applicant has a right to legal possession of the premises, copies of those documents giving such legal right;
- (20) A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its
- (21) Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
  - a. If the applicant is an individual, the individual;
  - b. If by a partnership, by the manager or general partner;
  - c. If a corporation, by the president of the corporation;
  - d. If any other organization or association, by the chief administrative official.

**Applicant to appear.**

The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear at the City of East Dublin, and produce proof that a non-refundable application fee, established by resolution of the Mayor and Council, has been paid and shall present the application containing the aforementioned and described information.

**Application; investigation.**

The city shall have thirty (30) days to investigate the application and the background of the applicant. Upon completion of the investigation, the City Administrator or his designee may grant the permit if it finds:

- (1) The required fee has been paid;
- (2) The application conforms in all respects to the provisions of this Ordinance;
- (3) The applicant has not knowingly made a material misrepresentation in the application;
- (4) The applicant has fully cooperated in the investigation of his application;
- (5) The applicant, if an individual, or any of the stockholders of the corporation, any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving conduct or convicted of an attempt to commit any of the above mentioned offenses, or convicted in any state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above mentioned offenses, or any crime

involving dishonesty, fraud, deceit or moral turpitude;

- (6) The applicant has not had an adult entertainment establishment permit or other similar license or permit denied or revoked for cause by this city or any other city located in or out of this state prior to the date of application;
- (7) The building, structure, equipment or location of such business as proposed by the applicant would comply with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards;
- (8) The applicant is at least twenty-one (21) years of age;
- (9) That the applicant, his or her employee, agent, partner, director, officer, stockholder, or manager has not, within five (5) years of the date of the application, knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur;
- (10) That on the date the business for which a permit is required herein commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open;
- (11) That the proposed premises is not to be located too close to any church, school, library, governmental building or site or any other business restricted hereunder;
- (12) That the grant of such license will not cause a violation of this article or any other ordinance or regulation of the City of East Dublin, State of Georgia or the United States;
- (13) Any other inquiry deemed necessary or desirable by the city to insure the health, safety, and welfare of the citizens of the City of East Dublin, or the preservation of its neighborhoods.

**Persons prohibited as licensees.**

- (a) No license provided by this Ordinance shall be issued to or held by:
  - (1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes;
  - (2) Any person who is not of good moral character;

- (3) Any corporation, any of whose officers, directors or stockholders holding over five (5) percent of the outstanding issues shares of capital stock are not of good moral character;
  - (4) Any partnership or association, any of whose officers or members holding more than five (5) percent interest therein are not of good moral character;
  - (5) Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character;
  - (6) Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, the State of Georgia or the City of East Dublin.
- (b) Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the city, no new licenses shall issue. In determining the needs and desires of the inhabitants, the standard of review shall be that the market is virtually unrestrained as defined in *Young v. American Mini Theaters, Inc.*

**Permit-Refusal; appeal.**

If the City, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this Ordinance, it shall notify the City Administrator or his designee of such opinion and, within thirty (30) days of the date of application, provide copies of the investigation report to the City Administrator or his designee. The City Administrator or his designee shall, within ten (10) days, notify the applicant by certified mail of such denial. Any applicant who is denied a permit may appeal such denial to the Mayor and City Council.

**Same - Renewal.**

Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this article. The renewal fees for the adult entertainment establishments permits shall be established by resolution of the Mayor and City Council.

**Same - Nontransferable.**

No adult entertainment establishment permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such permit, and such permit shall thereafter be null and void; provided and excepting, however, that if the permitted is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such permit, and in such case the permit, upon notification to the city, shall be placed in the name of the surviving partner. An adult

entertainment establishment permit issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a permit or any stock authorized but not issued at the time of the granting of a permit is thereafter issued and sold, transferred or assigned.

**Change of location or name.**

- (a) No adult entertainment establishment shall move from the location specified on its permit until a change of location fee, established by resolution of the Mayor and City Council, has been deposited with the City and approval has been obtained from the City Administrator or his designee and the zoning department. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.
- (b) No permitted shall operate, conduct, manage, engage in or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his permit.
- (c) Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this Ordinance.

**Appeal - Procedure.**

The permitted shall, within ten (10) days after he has been notified of an adverse determination, submit in writing a notice of appeal to the City Manager or his designee.

The notice of appeal shall be addressed to the Mayor and City Council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the Mayor and City Council and the name and address of the applicant.

The City Administrator or his designee shall place the appeal on the agenda of the next regular Mayor and City Council meeting occurring not less than five (5) nor more than thirty (30) days after receipt of the application for Mayor and City Council action.

**Same - Mayor and City Council determines procedure.**

When an appeal is placed on the Mayor and City Council agenda, the Mayor and City Council may take either of the following actions:

- (1) Set a hearing date and instruct the City Administrator or his designee to give such notice of hearing as may be required by law;
- (2) Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a city employee and may be appointed for an extended period of time. The City Administrator or his designee shall assume responsibility for such publication of

notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this Ordinance.

### **Mayor and City Council hearing.**

Whenever the City Administrator or his designee has scheduled an appeal before the Mayor and City Council, at the time and date set therefore, the Mayor and City Council shall receive all relevant testimony and evidence from the permitted, from interested parties and from city staff. The Mayor and City Council may sustain, overrule or modify the action complained of. The action of the Mayor and City Council shall be final.

### **Powers of hearing officer.**

The hearing officer appointed pursuant to the procedure set out in this Ordinance may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.

### **Rules of evidence inapplicable.**

The Mayor and City Council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this article. Rules of evidence as applied in an administrative hearing shall apply.

### **Hearing officer - Report.**

The hearing officer shall, within a reasonable time not to exceed thirty (30) days from the date such hearing is terminated; submit a written report to the Mayor and City Council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions and recommendations. All such reports shall be filed with the City Administrator or his designee and shall be considered public records. A copy of such report shall be forwarded by certified mail to the permitted/appellant the same day it is filed with the City Administrator or his designee, with additional copies furnished to the Chief of Police.

The City Administrator or his designee shall place the hearing officer's report on the agenda of the next regular Mayor and City Council meeting occurring not less than ten (10) days after the report is filed and shall notify the permitted/appellant of the date of such meeting at least ten (10) days prior to the meeting unless the permittee appellant stipulates to a shorter notice period.

### **Same - Action by Mayor and City Council.**

The Mayor and City Council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the Mayor and City Council does not adopt the hearing officer's recommendation, it may:

- (1) Refer the matter to the same or another hearing officer for a completely new hearing or for the taking of additional evidence on specific points; in either of such cases, the

hearing officer shall proceed as provided in this Ordinance.

- (2) Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

### **Unlawful operation declared nuisance.**

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this Ordinance shall be and the same is hereby declared to be unlawful and a public nuisance. The city may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It shall take such other steps and shall apply to other such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this Ordinance. In addition, violation of the provisions of this Ordinance shall be per se grounds for suspension or revocation of a license granted hereunder.

### **Cleaning of licensed premises.**

Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment and supplies on the licensed premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or as often as collections permit.

### **Self - inspection of licensed premises.**

The licensee of a licensed premises or his designated representative shall make sanitary inspections of the licensed premises at least once a month and shall record his findings on a form supplied by the City Administrator or his designee. Each licensed premises shall post and maintain in a readily accessible place a schedule for maintaining the sanitation of the premises.

### **Sealing for unsanitary or unsafe conditions.**

A licensed premises or any part thereof may be sealed by order of the City Administrator or his designee on his finding of a violation of this Ordinance resulting in an unsanitary or unsafe condition. Prior to sealing, the City Administrator or his designee shall serve on the licensee, by personal service on him or by posting in a conspicuous place on the licensed premises, a notice of the violations and order to correct it within twenty-four (24) hours after service. If the violation is not so corrected, the City Administrator or his designee may physically seal that portion of the licensed premises causing the violation and order the discontinuance of use thereof until the violation has been corrected and the seal removed by the City Administrator or his

designee. The City Administrator or his designee shall affix to the sealed premises a conspicuous sign labeled "Unclean" or "Unsafe" as the case may be.

**Abatement as sanitary nuisance.**

A licensed premises or any part thereof may be abated as a sanitary nuisance.

**Effective Date**

This Ordinance shall be effective as of the date of its adoption, except any existing adult entertainment establishment shall comply with the terms of this Ordinance on or before

\_\_\_\_\_.

**Violations; penalty.**

Any person violating the provisions of this Ordinance shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. In addition to such fine or imprisonment, violation of this Ordinance shall also be grounds for immediate suspension or revocation of the license issued hereunder.

**Separability.**

If any portion or subparagraph of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

AS ADOPTED ON JULY 12, 1999.

ATTEST:

\_\_\_\_\_  
George H. Gornto, Mayor

\_\_\_\_\_  
Terrie E. Drew, City Clerk