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## **Chapter 78 ADULT ENTERTAINMENT\***

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**\*Cross references:** Amusements and entertainment, ch. 10; businesses, ch. 22.

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### **ARTICLE I. IN GENERAL**

#### **Sec. 78-1. Authority.**

This chapter is enacted under the home rule of power of the city in the interest of the health, peace, safety and general welfare of the people of the city, and under the authority of the city to regulate the sale and consumption of alcoholic beverages under the 21st Amendment to the Constitution of the United States. (Ord. No. 04-97, § 1(2), 3-17-1997)

#### **Sec. 78-2. Purpose.**

The intent of the city commission in adopting this chapter is to establish reasonable and uniform regulations for the adult entertainment industry that will protect the health, safety, property values and general welfare of the people, businesses and industries of the city. It is not the intent of the city commission to legislate with respect to matters of obscenity. These matters are regulated by federal and state law, including F.S. ch. 847. (Ord. No. 04-97, § 1(4), 3-17-1997)

#### **Sec. 78-3. Findings of facts.**

- (a) Based on evidence and testimony presented at public hearings before the city commission and on the findings incorporated in Jacksonville Code, chapter 150, formerly chapter 410, ordinance 77-257-256, section 1; the Los Angeles Municipal Code, section 12.70, ordinance 156509(1982); the Detroit Zoning Ordinance, 66,0000, ordinance 742-G, section 1, 10-24-72; "A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values," conducted by the Division of Planning Department of Metropolitan Development, Indianapolis, January 1984; excerpts from the transcript of the March 9, 1993, Macon, Georgia, city hall meeting; Summary of Findings of Fact: Macon, Georgia; Findings of Fact Based on Police Reports and Incidents Reports on Bar Related Incidents in Macon, Georgia, occurring between August 1992 and February 1993; Testimony on the Effects of Adult Entertainment by Detective Robert Allen, Chief of Detectives, Macon, Georgia; Findings of Fact Based on the Studies Conducted by Other Cities Throughout the United States on the Effects of Adult Entertainment; Findings of Fact Based on the Studies Used by Palm Beach County, Florida, on the Effects of Adult Entertainment; Affidavits of Parties in Support of the Adult Entertainment Ordinance Enacted by the City of Dallas, Texas, particularly Affidavits on the Effects of Adult Entertainment; Findings of Fact Based on the Study Conducted by the City of Austin, Texas; Study of Adult Entertainment conducted by the City of Austin, Texas; Findings of Fact Based on the Study Conducted by the City of Los Angeles, California, on the Effects of Adult Entertainment; Study of Adult Entertainment Conducted by the City of Los Angeles, California; Findings of Fact Based on the Study Conducted by Orange County, Florida, on the Effects of Adult Entertainment; Findings of Fact Based on the Study Conducted by Orange County, Florida (including affidavits, police reports and pictures); Study of Adult Entertainment Conducted by the City of Indianapolis, Indiana; Findings of Fact Based on the Study Conducted by the City of St. Paul,

Minnesota on the Effects of Adult Entertainment; Study of Adult Entertainment Conducted by the City of St. Paul, Minnesota; Findings of Fact Based on a Study Conducted by the Attorney General of the State of Minnesota of the Effects of Adult Entertainment; Study of Adult Entertainment Conducted by the Attorney General of the State of Minnesota; Findings of Fact Based on the Study Conducted by Manatee County, Florida, on the Effects of Adult Entertainment; Study of Adult Entertainment Conducted by Manatee County, Florida; "The Porn Report: Five Years Later"; Dr. James Dobson's interview with Theodore Bundy; the Findings of Fact set out in section 3-5 of the Adult Entertainment Code of Orange County, Florida, the city commission finds:

- (1) Establishments exist or may exist within the city and other nearby cities or counties in Central Florida where adult entertainment material is possessed, displayed, exhibited, distributed and/or sold for commercial purposes in the form of books, magazines, periodicals or other printed material, or photographs, films, motion pictures, prints, videotapes, slides, computer digital graphic recordings or other visual representations or recordings, or recordings or other audio matter, or instruments, novelty devices or paraphernalia that depict, illustrate, describe or relate to specified sexual activities or specified anatomical areas.
- (2) Establishments exist or may exist within the city and other nearby cities or counties in Central Florida:
  - a. Where the superficial tissues of one person are manipulated, rubbed, stroked, kneaded and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
  - b. Where dancers, entertainers, performers or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical area; or
  - c. Where straddle dancing or private modeling occurs.
- (3) Commercial sexually oriented businesses exist or operate or may exist or operate within the city and other nearby cities or counties in Central Florida where sexually oriented services are offered for commercial or pecuniary gain in the form of commercial physical contact, escort services or private modeling. The workers of such sexually oriented businesses engage in physical contact or touching with customers, including acts of prostitution, or encourage or entice the customers to engage in acts of lewdness.
- (4) The activities described in subsections (1), (2) and (3) of this section occur at establishments that operate primarily for the purpose of making a profit and, as such, are subject to regulation by the city in the interest of the health, safety, morals, economy, property values and general welfare of the people, businesses and industries of the city.
- (5) When the activities described in subsections (1), (2) and (3) are present in establishments within the city, other activities which are illegal, unsafe or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include but are not limited to prostitution; pandering; solicitation for prostitution; lewd and lascivious behavior; exposing minors to harmful materials; possession, distribution and transportation of obscene materials; sale or possession of controlled substances, and violent crimes against persons and property.
- (6) When the activities described in subsections (1), (2) and (3) are present in establishments within the city, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote crimes, particularly the kinds

detailed in subsection (5), and ultimately lead residents and businesses to move to other locations.

- (7) The establishments in which the activities described in subsections (1), (2) and (3) occur are often constructed, in part or in whole of substandard materials, and are often maintained in a manner reflecting disregard for the health and safety of the occupants, and have exterior signs or appearance that depreciate the value of adjoining and surrounding property and otherwise contribute to urban decline.
- (8) The activities described in subsections (1), (2) and (3) frequently occur in establishments concurrent with the sale and consumption of alcoholic beverages, which concurrence leads to a further increase in criminal activity, unsafe activity and disturbances of the peace and order of the surrounding community and creates additional hazards to the health and safety of customers and workers and further depreciates the value of adjoining real property harming the economic welfare of the surrounding community and adversely affecting the quality of life, commerce and community environment.
- (9) In order to preserve and safeguard the health, safety, property values and general welfare of the people, businesses and industries of the city, it is necessary and advisable for the city to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in subsections (1), (2) and (3) occur.
- (10) Physical contact or touching within establishments at which the activities described in subsections (1), (2) and (3) occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.
- (11) In order to preserve and safeguard the health, safety and general welfare of the people of the city, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers and customers at establishments where the activities described in subsections (1), (2) and (3) occur.
- (12) The potential dangers to the health, safety and general welfare of the people of the city posed by permitting an establishment at which the activities described in subsections (1), (2) and (3) occur to operate without first meeting the requirements for obtaining a license under this chapter are so great as to require the licensure of such establishments prior to their being permitted to operate.
- (13) Requiring operators of establishments at which the activities described in subsections (1), (2) and (3) occur to keep records of information concerning current workers and certain recent past workers will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by preventing minors from working in such establishments.
- (14) Prohibiting establishments at which the activities described in subsections (1), (2) and (3) occur from operating within set distances of educational institutions, religious institutions, residences, areas zoned or designated for residential use and parks at which minors are customarily found will serve to protect minors from the adverse effects of the activities that accompany such establishments.
- (15) Straddle dancing, unregulated private performances and enclosed adult booths in establishments at which the activities described in subsections (1), (2) and (3) occur have resulted in indiscriminate commercial sex between strangers and poses a threat to the health of the

participants and promotes the spread of communicable and social diseases. Straddle dancing does not contain any element of communication and is therefore conduct rather than expression.

- (16) Workers at establishments in which the activities described in subsections (1), (2) and (3) occur engage in a higher incidence of certain types of unhealthy or criminal behavior than workers of other establishments, including a very high incidence of prostitution or engaging in lewdness in violation of F.S. ch. 796, operation without occupational licenses, and operating unlicensed massage parlors and cosmetology businesses.
- (17) Physical contact or touching between workers of sexually oriented businesses and customers poses a threat to the health of both and promotes the spread of communicable and sexually transmissible diseases.
- (18) The practice of not paying workers at sexually oriented businesses and requiring them to earn their entire income from tips or gratuities from their customers who are predisposed to want or desire sexual activity has resulted in an extremely high incidence of prostitution and crimes related to lewdness by workers.
- (19) Sexually oriented businesses involve activities that are pure conduct engaged in for the purpose of making a profit, rather than speech or expressive activity, and therefore are subject to and require increased regulation to protect the health, welfare and safety of the community.
- (20) Requiring sexually oriented businesses to post a listing of services provided and restrict services to those listed as well as to maintain worker records and transaction records in a daily register will discourage incidents of criminal behavior such as lewdness and prostitution, thereby further safeguarding the health of both workers and customers and will assist facilitating the identification of potential witnesses or suspects if criminal acts do occur.

(Ord. No. 04-97, § 1(5), 3-17-1997)

**Sec. 78-4. Penalty.**

Whoever violates any section of this chapter may be punished as provided in F.S. chs. 166 and 162. The violation of any section of this chapter may be punished by citation, and such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second offense, and a mandatory court appearance for the third offense.

(Ord. No. 04-97, § 1(35), 3-17-1997)

**Sec. 78-5. Reserved.**

**Sec. 78-6. Enforcement.**

(a) The provisions of this chapter may be enforced by:

- (1) A suit brought by the city commission in the circuit court to restrain, enjoin, or prevent a violation of this chapter;
- (2) Enforcement proceedings by the city code enforcement board; or
- (3) Citation enforcement as provided in section 78-4.

(Ord. No. 04-97, § 1(7), 3-17-1997)

**Sec. 78-7. Responsibilities of departments.**

- (a) Ultimate responsibility for the administration of this chapter is vested in the city commission. The other departments are responsible for the following:
- (1) The city manager or his authorized designee is responsible for granting, denying, revoking, renewing, suspending and canceling adult entertainment licenses for proposed and existing adult entertainment establishments as set forth in this chapter. Additionally, the city manager or his authorized designee is responsible for inspecting any proposed adult entertainment establishment or existing adult entertainment establishment in order to ascertain compliance with this chapter, and all applicable building codes, statutes, ordinances and regulations.
  - (2) The sheriff's department or the city law enforcement agency is responsible for verifying information contained on an application made pursuant to section 78-42; for inspecting proposed or existing adult entertainment establishments in order to ascertain compliance with applicable criminal statutes and ordinances, including those set forth in this chapter; for determining whether any applicant for an adult entertainment license has been convicted of a felony or a specified criminal act within the previous five years; and for enforcing applicable criminal statutes and ordinances, including those set forth in this chapter.
  - (3) The fire and rescue department is responsible for inspecting any proposed or existing adult entertainment establishment in order to ascertain compliance with this chapter and all applicable fire codes, statutes, ordinances and regulations.
  - (4) The health department of the county is responsible for inspecting any proposed or existing adult entertainment establishment in order to ascertain compliance with this chapter and all applicable health codes, statutes, ordinances and regulations.
  - (5) Additionally, the city manager or his authorized designee is responsible for ascertaining whether the location of proposed adult entertainment establishments complies with all distance, zoning and location requirements of this chapter, applicable portions of this chapter, and all applicable zoning regulations in the city and whether existing adult entertainment establishments are in compliance with this chapter and all applicable zoning regulations and land use laws.

(Ord. No. 04-97, § 1(8), 3-17-1997)

**Sec. 78-8. Appeals.**

Any decision of the city manager or his authorized designee pursuant to granting or denying a license under this chapter may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

(Ord. No. 04-97, § 1(9), 3-17-1997)

**Sec. 78-9. Notice.**

Any notice required under this chapter shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license, which shall be considered the correct address for service unless the city manager or his authorized designee has been otherwise notified in writing, or by personal service or delivery to the applicant or licensee.

(Ord. No. 04-97, § 1(10), 3-17-1997)

**Sec. 78-10. Immunity from prosecution.**

The city, any of its departments or agents, or any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult entertainment establishment while acting within the scope of the authority under this chapter.

(Ord. No. 04-97, § 1(11), 3-17-1997)

**Sec. 78-11. Construction of chapter.**

This chapter shall be liberally construed to accomplish its purpose of licensing, regulating and dispersing adult entertainment and related activities. Unless otherwise indicated, all provisions of this chapter shall apply equally to all persons, regardless of sex.

(Ord. No. 04-97, § 1(12), 3-17-1997)

**Secs. 78-12--78-40. Reserved.**

**ARTICLE II. LICENSE**

**Sec. 78-41. Required; classifications.**

- (a) *Requirement.* No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment license by the city manager or his authorized designee under this chapter.
- (b) *Classifications.* Adult entertainment establishment licenses referred to in this chapter shall be classified as follows:
  - (1) Adult bookstore;
  - (2) Adult performance establishment;
  - (3) Adult theater;
  - (4) Escort service; or
  - (5) Physical contact parlor.
- (c) *Single classification of license.* An adult entertainment license for a particular adult entertainment establishment shall be limited to one classification of license.

(Ord. No. 04-97, § 1(13), 3-17-1997)

**Sec. 78-42. Application for license; application fee; consent by applicant.**

- (a) *Required.* Any person desiring to operate an adult entertainment establishment shall file with the city manager or his authorized designee a sworn license application on a standard application form supplied by the city manager or his authorized designee.
- (b) *Contents of application.* The completed application shall contain the following information and shall be accompanied by the following documents:
  - (1) If the applicant is:
    - a. An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is at least 18 years of age;

- b. A partnership, the partnership shall state its complete name, the names, residential addresses and residential telephone numbers of all partners, whether general or limited, the residential address of at least one person who is authorized to accept service of process, and a copy of any existing partnership agreement, and proof of partnership registration in accordance with state law and the partnership's Federal Identification Number; or
  - c. A corporation, the corporation shall state its complete name, state the date of its incorporation, provide evidence that the corporation is in good standing, provide the names and capacity of all officers, directors and principal stockholders, the name and address of the registered corporate agent for service of process, the name, residential address and residential telephone number of the person making the application for the corporation, provide proof in the form of a corporate act designating the applicant as a lawful representative of the corporation, and provide a copy of its articles of incorporation and bylaws; if more than 30 percent of the applicant corporation's outstanding shares are held by any other corporate entity, provide the name and address of the registered agent of those corporations;
- (2) If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and the county of registration under F.S. § 865.09;
  - (3) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has, within the five-year period immediately preceding the date of the application, been convicted of a felony of any state, or of the United States, or of any specified criminal act, and, if so, the specific crime involved, the date of conviction and the place of conviction;
  - (4) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) has had a previous license under this chapter suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (b)(1) has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this chapter has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation;
  - (5) Whether the applicant or any other individuals listed pursuant to subsection (b)(1) holds any other licenses under this chapter and, if so, the names and locations of such other licensed establishments;
  - (6) The single classification of license for which the applicant is filing;
  - (7) The location of the proposed establishment, including a legal description of the property site, a legal street address, the name and address of the real property owner of the site, and a notarized statement of consent to the specific proposed adult entertainment use of the property from the owner of the property, if the applicant is not the owner;
  - (8) The applicant's mailing address, business addresses, residential address, and business and residential telephone numbers; and
  - (9) A site plan drawn to appropriate scale of the proposed establishment, including but not limited to the following:
    - a. All property lines, rights-of-way and the location of buildings, parking areas and spaces, curb cuts, and driveways;

- b. All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures; and
  - c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;
- (10) A recent photograph of the applicant;
  - (11) The applicant's social security number or employer tax identification number and either the applicant's driver's license number or the number of a state or federally issued identification card;
  - (12) The names of the workers for the proposed establishment, if known, or, if presently unknown, a statement to that effect; and
  - (13) A location map that clearly depicts the site and identifies the surrounding lots, parcels and land uses on each surrounding lot or parcel within one-fourth mile of the boundary line of the proposed establishment.
- (c) *Application fee.* Each application shall be accompanied by a nonrefundable fee established by resolution of the city commission in the appendix A fee schedule. Such application fee shall be used to defray the costs and expenses incurred by the various departments in reviewing the application. If the application for a license is approved and a license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to this chapter.
- (d) *False, incorrect or incomplete application.* If the city manager or his authorized designee determines or learns at any time that the applicant has falsely or incorrectly completed an application or has not properly completed the application for a proposed establishment, the city manager or his authorized designated director shall promptly notify the applicant of such fact and shall allow the applicant ten days to correct or properly complete the application. The revised application shall then be promptly forwarded to the appropriate department for further review. The time period for granting or denying a license under this chapter shall be stayed during the period in which the applicant is allowed an opportunity to correct or properly complete the application. Upon receipt of a revised application, the 30-day time period for granting or denying a license shall be extended ten days to 40 days total.
- (e) *Consent.* By applying for a license under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise of his responsibilities under this chapter by the agents or departments of the city.

(Ord. No. 04-97, § 1(14), 3-17-1997)

**Sec. 78-43. Processing of application; investigation; findings.**

- (a) *Processing.* Upon receipt of a complete application properly filed with the city manager or his authorized designee and upon payment of the nonrefundable application fee, the city manager or his authorized designee shall immediately stamp the application with the date it was received and shall immediately thereafter send photocopies of the application and all attachments to the department.
- (b) *Investigation.* Each department shall promptly conduct an investigation of the applicant, application and the proposed establishment in accordance with its responsibilities under this chapter to determine whether false, incomplete or incorrect information was given on the application, or whether the

proposed establishment will be in violation of any provision of this chapter, or of any building, fire, health, zoning or planning statute, code, ordinance, regulation, lease, deed restriction or court order.

- (c) *Findings.* After investigation, each department shall promptly report its findings in writing and shall forward its findings to the city manager or his authorized designee and shall state whether the department finds that false, incomplete or incorrect information was provided on the application and whether the proposed establishment will be in violation of any provision of this chapter or of any building, fire, health or zoning statute, code, ordinance, regulation, lease, deed restriction or court order.

(Ord. No. 04-97, § 1(15), 3-17-1997)

**Sec. 78-44. Grant; denial; rejection.**

(a) *Time period for granting or denying license.* The city manager or his authorized designee shall grant or deny an application for a license under this chapter within 30 days from the date of its proper filing. Upon the expiration of the 30th day, the applicant shall be permitted to begin operating the establishment as an adult entertainment establishment for which a license is sought (provided all other required permits, licenses and certificates have been obtained), unless the city manager or his authorized designee notifies the applicant of a denial of the application and states the reasons for that denial.

(b) *Granting of application for license.* If none of the departments has made a finding that would require that the application be denied, the city manager or his authorized designee shall grant the application, notify the applicant within seven days of the granting, and issue the license to the applicant upon payment of the appropriate annual license fee required in this chapter with credit for the application fee as provided in section 78-42(c).

(c) *Denying of application for license.*

(1) The city manager or his authorized designee shall review the findings reported by the departments and deny the application for any of the following reasons:

- a. The application contains false information or is incomplete;
- b. The applicant has failed to comply with state law, including F.S. ch. 607 regarding corporations, F.S. ch. 620 regarding partnerships, or F.S. § 895.09 regarding doing business under fictitious names;
- c. The granting of the application would violate a statute or ordinance, deed restriction, lease, or an order from a court of law that effectively prohibits the applicant from obtaining an adult entertainment establishment license; or
- d. The applicant or any other individual listed pursuant to section 78-42(b)(1) has had a license under this chapter suspended or revoked.

(2) If the application is denied, the city manager or his authorized designee shall, within seven days, notify the applicant of the denial and the reasons for the denial.

(d) *Reapplication.* If a person applies for a license at a particular location within a period of nine months from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances that would probably lead to a different decision regarding the former reasons for denial, the application shall be rejected.

(Ord. No. 04-97, § 1(16), 3-17-1997)

**Sec. 78-45. Contents; term; renewal; expiration; cancellation; reports; consent.**

- (a) *Contents.* An adult entertainment license shall state the name of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, the date of issuance, and the date of expiration.
- (b) *Term.* All licenses issued under this chapter shall be annual licenses that shall commence running October 1, if they have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1, but before March 31 of the following year, the applicant shall pay the applicable license fee in full. If a license is issued after March 31, but before October 1 of the same year, the applicant shall pay half the applicable license fee.
- (c) *Renewals.* Licenses shall be renewed annually. Subject to other provisions of this chapter, a licensee under this chapter shall be entitled to a renewal of his annual license from year to year, as a matter of course, by October 1 by presenting the license for the previous year, restating and updating all information required for a license application, and by paying the applicable license fee.
- (d) *Expiration.* A license that is not renewed under this chapter by October 1 of each year shall expire. However, an expired license may be renewed by November 13 of the same year upon presentment of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon payment of the applicable license fee, and upon payment of a penalty of ten percent of the applicable license fee for the month of October and an additional penalty of five percent of the appropriate license fee for the month of November.
- (e) *Cancellation.* Any expired licenses not renewed by November 13 shall be canceled summarily by the city manager or his authorized designee.
- (f) *Reports and records.* Each licensee shall keep such records and make such reports as may be required by the city manager or his authorized designee and other departments to implement this chapter and to carry out its purpose. Whenever the information required by or provided on the application under section 78-42(b) has changed, the licensee shall promptly report in writing to the city manager or his authorized designee the changed information.
- (g) *Consent.* By holding a license under this chapter, the licensee shall be deemed to have consented to the provisions of this chapter and to the exercise by the city manager or his authorized designee and other departments of their responsibilities under this chapter.

(Ord. No. 04-97, § 1(17), 3-17-1997)

**Sec. 78-46. Annual license fee.**

- (a) *Levy.* License fees as established by resolution of the city commission in the appendix A fee schedule for the following classifications of adult entertainment establishment are levied:
  - (1) Adult bookstore;
  - (2) Adult theater;
  - (3) Adult performance establishment;
  - (4) Escort service; and
  - (5) Physical contact parlor.

- (b) *Fees regulatory.* The annual license fees collected under this chapter are declared to be regulatory fees, which are collected for the purpose of examination and inspection of adult entertainment establishments under this chapter and its administration. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other ordinances.

(Ord. No. 04-97, § 1(18), 3-17-1997)

**Sec. 78-47. Transfer.**

(a) *Requirements.* An adult entertainment license is not transferable, in part or in full, to another person by surrendering possession, control or operation of the licensed establishment. An adult entertainment license may be transferred to another person only upon satisfaction of the following requirements:

- (1) A license transfer is applied for to the city manager or his authorized designee by filing an application setting forth the information called for under section 78-42(b), and the application has been granted by the city manager or his authorized designee after investigation by the department;
- (2) Satisfactory proof is provided that control of the establishment has been or will be transferred through a bona fide sale, lease, rental or other transaction;
- (3) A transfer fee of ten percent of the applicable annual license fee is paid; and
- (4) A transferred license has been issued by the city manager or his authorized designee.

Any person transferring a license is not entitled to a refund of any fees.

(b) *Effect of suspension or revocation procedures.* No license may be transferred pursuant to subsection (a) of this section when the city manager or his authorized designee has notified the licensee of pending suspension or revocation proceedings against the license.

(c) *No transfer to a different location.* A licensee shall not transfer his license to another location.

(d) *Attempted improper transfer void.* Any attempted transfer of a license either directly or indirectly in violation of this section is declared void. Continuation of a business once a license is declared void is prohibited. A new application must be submitted, for which the application fee shall be the full amount plus ten percent.

(Ord. No. 04-97, § 1(19), 3-17-1997)

**Sec. 78-48. Changing name of establishment.**

(a) No licensee may change the name of an adult entertainment establishment unless the licensee satisfies each of the following requirements:

- (1) Gives the city manager or his authorized designee 30 days' notice in writing of the proposed name change;
- (2) Pays the city manager or his authorized designee a \$10.00 change-of-name fee; and
- (3) Complies with F.S. § 865.09 regarding fictitious names.

(Ord. No. 04-97, § 1(20), 3-17-1997)

**Sec. 78-49. Suspension and revocation.**

- (a) *Suspension for illegal transfer.* If the city manager or his authorized designee learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to section 78-47, the city manager or his authorized designee shall forthwith suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until documents that satisfy the requirements of section 78-47(a) are filed with the city manager or his authorized designee and a transferred license has been issued.
- (b) *Suspension for violation of building, fire, health or zoning statute, code, ordinance or regulation.* If a department learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of a building, fire, health, zoning, planning or land development statute, code, ordinance or regulation, whether federal, state or local, contrary to the respective general requirements of section 78-86, the department shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day period, the department shall notify the city manager or his authorized designee, who shall forthwith suspend the license and notify the licensee of the suspension. The suspension shall remain in effect until the department that reported the violation notifies the city manager or his authorized designee in writing that the violation of the provision in question has been corrected.
- (c) *Suspension for illegal conduct at establishment.*
- (1) *Three convictions.* If three or more violations of specified criminal acts occur at an adult entertainment establishment within a two-year period, and convictions result from at least three of the violations, the city manager or his authorized designee shall, upon receiving evidence of the three convictions, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of 30 days.
  - (2) *Additional conviction following suspension.* If one or more additional violations of any specified criminal act occurs at the same establishment within a period of two years from the date of the last violation from which the conviction resulted for which the licensee was suspended for 30 days under subsection (c)(1) of this section, but not including any time during which the license was suspended for 30 days, and a conviction results from one or more of the violations, the city manager or his authorized designee shall, upon receiving evidence of the additional conviction after previous suspension, suspend the license again and notify the licensee of the suspension. The suspension shall remain in effect for a period of 90 days.
  - (3) *Additional conviction following two prior suspensions.* If one or more additional violations of any specified criminal act occurs at the same establishment within a period of two years from the date of the last violation from which the conviction resulted for which the license was suspended for 90 days under subsection (c)(2), but not including any time during which the license was suspended for 90 days, and a conviction results from one or more of the violations, the city manager or his authorized designee shall, upon receiving evidence of the additional conviction after two previous suspensions, suspend the license and notify the licensee of the suspension. The suspension shall remain in effect for a period of 180 days.
- (d) *Effective date of suspension.* All periods of suspension shall take effect ten days after the date the city manager or his authorized designee mails the notice of suspension to the licensee or posts the notice of suspension at the licensee's establishment, or on the date the licensee delivers his license to the city manager or his authorized designee, whichever happens first. A suspension shall be abated if the licensee timely challenges the suspension pursuant to the procedure set forth in section 78-50.

- (e) *Revocation for repeat convictions following three suspensions.* If one or more additional violations of any specified criminal act occurs at an adult entertainment establishment that has had a license suspended for a period of 180 days pursuant to subsection (c)(3), and the violation occurs within a period of two years from the date of the last violation from which the conviction resulted for which the license was suspended for 180 days, but not including any time during which the license was suspended for 180 days, the city manager or his authorized designee shall, upon receiving evidence of a conviction for the subsequent violation after three suspensions, forthwith notify the licensee of the revocation.
- (f) *Revocation for false information.* If the city manager or his authorized designee receives evidence that a license was granted, renewed or transferred based upon false or incorrect information, misrepresentation of fact, or mistake of fact, the city manager or his authorized designee shall forthwith revoke the license and notify the licensee of the revocation.
- (g) *Effective date of revocation.* The revocation shall take effect ten days after the date the city manager or his authorized designee mails the notice of revocation to the licensee, or posts the notice of revocation at the licensee's establishment, or on the date the licensee delivers his license to the city manager or his authorized designee, whichever happens first. A revocation shall be abated in the event the licensee timely challenges the revocation pursuant to the procedure set forth in section 78-50.
- (h) *Transfer or renewal.* The transfer, renewal or amendment of a license pursuant to this chapter shall not frustrate a suspension or revocation of a license or related proceedings.

(Ord. No. 04-97, § 1(21), 3-17-1997)

**Sec. 78-50. Suspension and revocation proceedings.**

- (a) *Challenge to suspension or revocation.* If the city manager or his authorized designee notifies a licensee in writing of the suspension or revocation of a license, the suspension or revocation shall become final and effective ten days after mailing to the licensee's record address or actual delivery of the notice to the licensee, unless the licensee first files with the city manager or his authorized designee a written response stating the reasons why the suspension or revocation is alleged to be in error or inappropriate, and a written notice of intent to challenge the suspension, or revocation requesting a hearing. A suspension or revocation already in effect but not previously challenged in a suspension or revocation hearing may be challenged in the same manner but is not abated during the proceedings.
- (b) *Hearing on suspension or revocation.* When a licensee files a written response and notice of intent to challenge a pending or existing suspension or revocation, a public hearing to determine if the pending suspension or revocation will become effective and final shall be held by a hearing officer. The city manager or his authorized designee shall notify the city attorney, who shall schedule and provide notice of the hearing.
  - (1) The suspension or revocation hearing shall be held within 30 days of a written challenge and request for a hearing, or as soon thereafter as can reasonably be scheduled, but no sooner than after seven days' notice mailed to the licensee and posting to the public at a place for notices in a public building.
  - (2) The participants before the hearing officer shall be the licensee, any witnesses of the licensee, the city manager or his authorized designee, any interested members of the public, and any

witnesses of the interested members of the public. Any interested member of the public who participates at the hearing shall provide a mailing address with the hearing officer.

- (3) The licensee and any witnesses of the licensee shall be limited to a total of 30 minutes to present the licensee's case. The city manager or his authorized designee shall be similarly limited to a total of 30 minutes. Each interested members of the public and their witnesses, shall be limited to ten minutes. For good cause shown, the hearing officer may grant additional time to each side or the public.
  - (4) Testimony and evidence may be submitted by any witness but shall be limited to matters directly relating to the grounds for suspension or revocation. Irrelevant, immaterial or unduly repetitious testimony or evidence may be excluded.
  - (5) All testimony shall be under oath. The hearing officer shall decide all questions of procedure and standing. The order of presentation of testimony and evidence shall be as follows:
    - a. The licensee and any witnesses of the licensee.
    - b. Any interested member of the public and their witnesses, if any.
    - c. The city manager or his authorized designee and any witnesses.
    - d. Rebuttal witnesses from the licensee.
    - e. Rebuttal witnesses from the city staff.
    - f. Summation by the licensee.
    - g. Summation by the city manager or his authorized designee.
  - (6) The hearing officer may also call and question witnesses or request additional evidence as the hearing officer deems necessary and appropriate.
  - (7) To the maximum extent practicable, the hearing shall be informal. Reasonable cross examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony.
  - (8) If the hearing officer comes to believe that any facts, claims or allegations necessitate additional review or response by either the licensee or staff, the hearing officer may order the hearing continued until an announced date certain.
  - (9) The hearing officer shall render a written decision determining whether the suspension or revocation will become or remain effective within 20 days after the suspension or revocation hearing concludes.
- (c) *Filing of decision.* The original of the written decision of the hearing officer shall be filed with the clerk to the city commission, and copies shall be mailed to the city manager or his authorized designee, the licensee, and to any interested member of the public who participated at the hearing.
- (d) *Appeals to city commission.* Any person who participated in the suspension or revocation hearing before the hearing officer and who is aggrieved by the decision of the hearing officer on suspension or revocation of an adult entertainment license may appeal the decision to the city commission. A pending suspension or revocation shall be abated during an appeal of a hearing officer's ruling to the city commission.
- (1) For an aggrieved person to appeal a suspension or revocation decision, he shall file a notice of appeal and a written statement describing the alleged error by the hearing officer with the clerk

to the city commission not later than 15 days after the decision of the hearing officer is filed with the clerk to the city commission.

- (2) If an aggrieved party files a timely notice of appeal pursuant to subsection (a)(1) of this section, the city commission shall review the decision of the hearing officer within 30 days or as soon thereafter as can reasonably be scheduled. Prior to such review, no party may communicate with any commissioner about the case except for administrative and scheduling matters.
  - (3) The record before the city commission shall consist of the complete record of the proceedings and evidence before the hearing officer. The licensee, the city manager or his authorized designee and any interested member of the public who participated at the hearing before the hearing officer may make additional argument before the city commission.
  - (4) The licensee and city staff shall be limited to a total of ten minutes each to present additional argument. Any interested member of the public who participated at the hearing shall be limited to three minutes each to present argument. For good cause shown, the chairman may grant additional time.
  - (5) At the conclusion of the hearing, the city commission shall vote and render a decision either affirming or reversing the decision of the hearing officer or remanding the case to the hearing officer for further consideration of evidence or testimony.
  - (6) A record of the decision on the appeal shall be made and filed by the clerk to the city commission, who shall also notify the city manager or his authorized designee of the city commission's decision on the appeal.
  - (7) If a decision by the hearing officer that a suspension or revocation shall become effective is upheld by the city commission, that suspension or revocation shall go into effect the day following the decision of the city commission.
- (e) *Judicial review.* Any person who participated in a suspension or revocation hearing before the hearing officer and the appeal from that hearing before the city commission and who is aggrieved by the decision of the city commission on the appeal, may challenge the decision in the circuit court by filing a petition for writ of certiorari with the clerk to the circuit court not later than 30 days after the decision of the city commission is filed with the clerk to the city commission. The appellate record before the circuit court shall consist of the complete record of the proceedings before the city commission and the hearing officer.
- (f) *Requirement of exhaustion of procedures.* Judicial review of a suspension or revocation, or related hearing or appeal proceedings, shall be available only after the administrative remedies procedures set forth in this chapter have been exhausted.
- (g) *Notice of final suspension or revocation.* If no response or request for a suspension or revocation hearing is filed within ten days of the notice of a suspension or revocation, or if the licensee who requested the hearing does not appear at the suspension or revocation hearing after notice, or if the hearing officer decides after a hearing that a pending suspension or revocation will become final and no appeal is made to the city commission, or if an appeal is made and the city commission upholds a suspension or revocation decision of the hearing officer, the city manager or his authorized designee shall issue to the licensee notice of final suspension or revocation of the adult entertainment license, and mail or arrange delivery of the notice to the licensee's record address.
- (h) *Effective date of suspension or revocation.* The suspension or revocation of a license shall take effect the day after delivery of a notice of final suspension or revocation to the licensee in person, or by mail to the licensee's record address, or on the date the licensee surrenders the license, whichever

happens first. The licensee shall immediately return and surrender a revoked license to the city manager or his authorized designee or surrender the revoked license, upon demand, to a member of the department. A suspension or revocation shall be abated during an appeal of a hearing officer's ruling to the city commission until the day following the decision of the board.

- (i) *Effect of final revocation.* If a license is revoked, the licensee of the adult entertainment establishment shall not be allowed to obtain another adult entertainment license for a period of one year; and no adult entertainment license shall be issued again to any other person for the location upon which the adult entertainment establishment was situated.

(Ord. No. 04-97, § 1(22), 3-17-1997)

**Secs. 78-51--78-80. Reserved.**

### **ARTICLE III. REGULATIONS**

#### **Sec. 78-81. Proper zoning required.**

Notwithstanding any other provision of this chapter, except section 78-85 (or any provision of the city planning, land development and zoning regulations) no person shall propose, cause or permit the opening of, operation of, or enlargement of (except when an enlargement may be required by law), an adult entertainment establishment unless the establishment would or will be located in an industrial zoned district where adult entertainment establishments are an expressly permitted use.

(Ord. No. 04-97, § 1(23)(a), 3-17-1997)

#### **Sec. 78-82. Distance from other structures.**

(a) *Minimums.* In addition to the zoning requirements set forth in section 78-81, an adult entertainment establishment shall not be allowed to open, operate or be enlarged (except when an enlargement may be required by law) within any of the following distances:

- (1) From a preexisting adult entertainment establishment, 1,500 feet;
- (2) From a preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption, 1,500 feet;
- (3) From a preexisting religious institution, 1,500 feet;
- (4) From a preexisting educational institution, 1,500 feet;
- (5) From an area zoned within the city for residential use, 1,500 feet;
- (6) From an area designated as a category that permits residential uses on the future land use map of the city/county's comprehensive plan, 1,500 feet;
- (7) From the property line of a preexisting residence, 1,500 feet;
- (8) From a preexisting park, 1,500 feet; or within 500 feet of the right-of-way of Interstate 4.

(b) *Enlargement.* In this section, the term "enlargement" includes but is not limited to increasing the floor size of the establishment by more than ten percent.

(c) *Supplemental to alcoholic beverage regulations.* The zoning and distance requirements of section 78-81 and subsection (a) of this section are independent of and do not supersede the distance

requirements for alcoholic beverage establishments that may be contained in other laws, rules, ordinances or regulations.

(Ord. No. 04-97, § 1(23)(b)--(d), 3-17-1997)

**Sec. 78-83. Measurement of distance.**

The distance from a proposed or existing adult entertainment establishment to a preexisting adult entertainment establishment, a preexisting religious institution, a preexisting educational institution, an area zoned to permit residential use, an area designated on the future land use map of the comprehensive plan as residential, or as a category permitting residential, a preexisting residence, a preexisting park or a preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the preexisting adult entertainment establishment, preexisting religious institution, preexisting educational institution, area zoned to permit or as a category permitting residential use, area designated on the future land use map of the comprehensive plan as residential, preexisting residence, preexisting park, or preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption.

(Ord. No. 04-97, § 1(24), 3-17-1997)

**Sec. 78-84. Nonconforming uses.**

- (a) An adult entertainment establishment that, on February 22, 1997, was located on a site prohibited by section 78-81 shall cease operations by October 1, 2002.
- (b) When a nonconforming use of an adult entertainment establishment has been discontinued for 90 consecutive days or more, the nonconforming use shall be deemed abandoned; and the future use of the premises or site shall revert to only those uses permitted on the site on which the establishment is located.

(Ord. No. 04-97, § 1(25), 3-17-1997)

**Sec. 78-85. Variances.**

The city manager or his authorized designee is authorized to recommend a variance from the distance and zoning requirements of this article, pursuant to the procedures and criteria set forth for other variance requests as set forth in the zoning ordinance; and the city commission is authorized to make a determination on the staff's recommendation pursuant to this Code of Ordinances.

(Ord. No. 04-97, § 1(26), 3-17-1997)

**Sec. 78-86. General requirements for all adult entertainment establishments.**

- (a) Regardless of whether it is licensed under this chapter, each adult entertainment establishment is subject to all of the following general requirements and shall:
  - (1) Conform to all applicable building, fire, health, zoning, land development and land use statutes, codes, ordinances and regulations, whether federal, state or local.
  - (2) On the first Monday of each month provide the city law enforcement agency with a report of all persons who work or who were workers at the establishment or for the adult entertainment

business during the previous month, which report shall contain the legal name, stage name, date of birth, residential address, social security number and position of such persons.

- (3) Keep the adult entertainment license posted in a conspicuous place at the establishment available for inspection by the public at all times.
- (4) Cover opaquely so as to completely obscure the view through each window or other opening through which a person outside the establishment may otherwise see inside the establishment.
- (5) Maintain all exterior walls and surfaces of the establishment, excluding signs, a single achromatic or light pastel color, and maintain all awnings, canopies, window shutters, window treatment, or other trim the same color or a single different shade of the same achromatic or light pastel color. The trim color shall not exceed 20 percent of the entire exterior surface of the building. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone.
- (6) Install, construct, keep, maintain or allow only those signs at the establishment that comply with the city sign ordinances and the provisions of this subsection.
  - a. No sign shall contain any flashing lights, photographs, silhouettes, drawings or pictorial representations except for the logo of the establishment, provided that the logo does not depict any specified anatomical areas, or any portion of a male or female form at or below the clavicle;
  - b. No sign shall contain in the name or logo of the establishment or otherwise, any words or material that depict, describe, reference or infer in any manner sexual activities, specified anatomical areas or the display of specified anatomical areas;
  - c. Each letter forming a word on a sign shall be of a solid color; and each such letter shall be the same print-type, size and color, except any word which is normally capitalized shall be allowed to use a capital letter at the beginning of the word. The background behind such lettering on the display surface shall be of a uniform solid color.

(Ord. No. 04-97, § 1(27), 3-17-1997)

**Sec. 78-87. Adult theaters.**

- (a) In addition to the general requirements for an adult entertainment establishment contained in section 78-86, an adult theater shall comply with each of the special requirements listed in this section.
- (b) If an adult theater contains a hall or auditorium area, the area shall have:
  - (1) Individual separate seats, not couches, benches, or the like, to accommodate the number of persons allowed to occupy the area;
  - (2) A continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times;
  - (3) A sign posted in a conspicuous place at or near each entrance to the hall or auditorium area that lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area; and
  - (4) Sufficient illumination so that persons in all areas of the auditorium can be seen.
- (c) If an adult theater contains adult booths, each adult booth shall have:

- (1) A sign posted in a conspicuous place at or near the entrance that states the maximum number of persons allowed to occupy the booth, which number shall correlate with the number of seats in the booth;
  - (2) A permanently open entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails or the like that would allow the entrance to be closed or partially closed by any curtain, door or other partition;
  - (3) Individual, separate seats, not couches, benches or the like, that correlate with the maximum number of persons who may occupy the booth;
  - (4) A well-illuminated continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times;
  - (5) Except for the entrance, walls or partitions of solid construction without any holes or openings in such walls or partitions; and
  - (6) Illumination by a light bulb of no less than 25 watts.
- (d) If an adult theater is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those persons may not be seen from any public right-of-way, property zoned for residential use, religious institution, educational institution or park.

(Ord. No. 04-97, § 1(28), 3-17-1997)

**Sec. 78-88. Adult performance establishments.**

- (a) In addition to the general requirements for an adult entertainment establishment contained in section 78-86, an adult performance establishment shall comply with each of the special requirements listed in this section.
- (b) Each establishment must have a stage provided for the use by any worker who is displaying or exposing of any specified anatomical area to a patron consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet.
- (c) Any area in which a private performance occurs shall:
  - (1) Have a permanently open entrance not less than 32 inches wide and not less than six feet high, which entrance shall not have any curtain rods, hinges, rails or the like that would allow the entrance to be closed or partially closed by any curtain, door or other partition; and
  - (2) Have a wall-to-wall, floor-to-ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the worker from the person viewing the private performance.

(Ord. No. 04-97, § 1(29), 3-17-1997)

**Sec. 78-89. Adult bookstores.**

In addition to the general requirements for an adult entertainment establishment contained in section 78-86, an adult bookstore shall not display merchandise or adult material in a manner that allows such merchandise or adult material to be visible from outside the structures at the establishment.

(Ord. No. 04-97, § 1(30), 3-17-1997)

**Sec. 78-90. Sexually oriented businesses.**

- (a) In addition to the general requirements for adult entertainment establishment contained in section 78-86, a sexually oriented business (physical contact parlor or escort service) shall comply with the following special requirements:
- (1) Post in an open and conspicuous place and file with the city law enforcement agency a list of services provided by the sexually oriented business described in readily understandable language with a specification of the cost of such services. It shall be unlawful for any operator, worker or escort to advertise, state or offer to perform any service other than those posted.
  - (2) Provide each customer, in advance, with a separate written customer contract setting forth the services to be rendered, the cost of such services, the actual full legal name of the worker to provide such services, and the actual full name, address and telephone number of the customer to which the services are rendered.
  - (3) Maintain a daily register recording all transactions on a form provided by the city law enforcement agency containing records of all customers with full legal names, addresses, time expended, services purchased and mode of payment and full legal name of all workers who provided services, together with a copy of each customer contract.
  - (4) Not increase the incentive or temptation for workers to engage in prostitution or lewdness by allowing any worker of the sexually oriented business to accept any tips or gratuities received directly from a patron or customer in addition to the service fee amounts specified in the customer contract.

(Ord. No. 04-97, § 1(31), 3-17-1997)

**Sec. 78-91. Physical contact parlors.**

- (a) In addition to the general requirements for an adult entertainment establishment contained in section 78-86 and the general requirements for a sexually oriented business contained in section 78-90, a commercial physical contact parlor shall comply with the special requirements listed in this section.
- (b) Every commercial physical contact parlor must operate from a fixed physical location that shall have and display its sexually oriented business license and all other applicable occupational licenses required.
- (c) All physical contact offered or performed must take place in an establishment licensed under this chapter.
- (d) Clean linens and towels must be provided for each customer without any common use of towels or linens without re laundering; however, heavy white paper may be substituted for sheets, provided that such paper is used by only one customer, then discarded into a sanitary receptacle.
- (e) Closed cabinets for the storage of clean linens, towels and other materials used in connection with administering physical contact must be provided.
- (f) All nondisposable instruments and materials must be disinfected and sterilized after use on each customer.
- (g) All workers must wear a clean outer garment in the nature of a surgical gown when providing physical contact, and during all other times during working hours conceal, with a fully opaque covering, all specified anatomical areas of their bodies.

- (h) All patrons or customers must be informed in their customer contract that he must cover his specified anatomical areas with a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material while in the presence of a worker.
- (i) No animal, except a specially trained seeing-eye, hearing-ear, service or guide dog shall be permitted, suffered or allowed on the premises of the physical contact parlor.
- (j) Two separate work areas for providing physical contact to male and female customers, if both male and female customers are to be served simultaneously, must be provided.
- (k) All work areas where physical contact is to be provided must be configured so that the area is readily visible at all times from common areas of the establishment outside the work area.

(Ord. No. 04-97, § 1(32), 3-17-1997)

**Sec. 78-92. Escort services.**

- (a) In addition to the general requirements for an adult entertainment establishment contained in section 78-86 and the general requirements for a sexually oriented business contained in section 78-90 above, an escort service shall comply with the following special requirements:
  - (1) If offering or providing escorts within the city, an escort service must notify the city manager or his authorized designee of an authorized physical location, which may or may not be within the city, from where the escort service operates and dispatches escorts from and where the escort service will display its city adult entertainment license and all other applicable occupational licenses required.
  - (2) Include in all advertising or promotional literature posted, placed, published or distributed within the city the number of a valid adult entertainment establishment escort service license issued by the city manager or his authorized designee unless the escort service does not refer, send or dispatch escorts to within the jurisdictional limits of the city.
  - (3) Ensure that every escort and worker of an escort service is provided or obtains and carries while working as an escort, and displays upon the request of any law enforcement officer, an occupational license to engage in the occupation of escort within the city. An escort or worker of an escort service who is a paid employee for whom taxes and social security payments are withheld and paid by the escort service, and who is not an independent contractor, may substitute and carry a copy of the adult entertainment escort service license of the employing escort service.

(Ord. No. 04-97, § 1(33), 3-17-1997)

**Sec. 78-93. Worker records and inspections of records.**

- (a) An adult entertainment establishment shall maintain a worker record for each worker who currently works or performs at the establishment, and for each former worker who worked or performed at the establishment during the preceding one-year period.
  - (1) The worker record shall contain the current or former worker's full legal name, including any aliases, date of birth, residential address, residential telephone number, social security number, driver's license number or state or federally issued identification card number, and a recent photograph of the worker.

- (2) The worker record shall also state whether each worker is a paid employee for whom income taxes are withheld or is a lessee, sublessee, independent contractor, or subcontractor who is allowed to work or perform at the establishment.
- (3) The worker record shall also contain a copy of a valid city occupational license for any lessee, sublessee, independent contractor or subcontractor who is not an employee and is allowed to work or perform at the establishment.
- (b) For the purpose of ensuring compliance with this chapter, each original, or true and exact photocopies, of each required worker record, customer contract and daily register required by this chapter shall be kept available for inspection at the establishment at all times.
- (c) All operators of the establishment shall be responsible for knowing the location of the original, or true and exact photocopies, of each of the required worker record customer contract and daily register records.
- (d) An operator of the establishment shall, upon request by a law enforcement officer when the establishment is open for business, immediately make available for inspection the original, or the true and exact photocopies, of each of the required worker records, customer contracts and daily register records.

(Ord. No. 04-97, § 1(34), 3-17-1997)

**Sec. 78-94. Operation without valid adult entertainment license.**

- (a) It shall be unlawful for any person to be an operator of an adult entertainment establishment when:
  - (1) The establishment does not have a valid adult entertainment license for each applicable classification;
  - (2) The license of the establishment is under suspension;
  - (3) The license of the establishment has been revoked or canceled; or
  - (4) The establishment has a license that has expired.

(Ord. No. 04-97, § 1(36), 3-17-1997)

**Sec. 78-95. Working at unlicensed establishment.**

It shall be unlawful for any person to act as a worker of an adult entertainment establishment that the worker knows, or should know, does not have a valid license under this chapter, or that has a license under suspension, or that has been revoked, or canceled, or has expired, or that does not have each applicable adult entertainment license conspicuously displayed.

(Ord. No. 04-97, § 1(37), 3-17-1997)

**Sec. 78-96. Operation contrary to certain provisions.**

- (a) It shall be unlawful for any person to be an operator of an adult entertainment establishment:
  - (1) That does not satisfy all of the general requirements of section 78-86(3), (4), (5) or (6);
  - (2) That is an adult theater and does not satisfy all of the special requirements of section 78-87;
  - (3) That is an adult performance establishment and does not satisfy all of the special requirements of section 78-88;

- (4) That is an adult bookstore that does not satisfy all of the special requirements of section 78-89;
- (5) That is a sexually oriented business physical contact parlor or escort service that does not satisfy all of the special requirements of section 78-90;
- (6) That is a commercial physical contact establishment and does not satisfy all of the special requirements of section 78-91;
- (7) That is an escort service and does not satisfy all of the special requirements of section 78-92; or
- (8) While the entrance or exit of the establishment is locked when a patron, customer or other person, other than a worker, is inside the establishment.

(Ord. No. 04-97, § 1(38), 3-17-1997)

**Sec. 78-97. Prohibited acts.**

(a) It shall be unlawful for a worker of an adult entertainment establishment to commit any of the following acts or for an operator of an adult entertainment establishment to knowingly or with reason to know, permit, suffer or allow any worker to commit any of the following acts:

- (1) Engage in a straddle dance with a person at the establishment;
- (2) Offer, contract or otherwise agree to engage in a straddle dance with a person at the establishment;
- (3) Engage in any specified sexual activity at the establishment;
- (4) Engage in public nudity, as defined in section 78-5 at the establishment;
- (5) Display or expose at the establishment specified anatomical areas while such worker is not continuously positioned at least three feet away from all other persons or while such worker is not in an area as described in section 78-88(b);
- (6) Display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale or consumed;
- (7) Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment;
- (8) Engage in a private performance unless such worker is in an area which complies with the requirements of section 78-88(c)(1) and (2);
- (9) Intentionally touch any person at the adult entertainment establishment, while engaged in the display or exposure of any specified anatomical area; or
- (10) Intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, at any point below the waist and above the knee, of the person, or to intentionally touch the clothed or unclothed breast of any female person.

(b) Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any worker or operator of an adult entertainment establishment to expose any specified anatomical area during the worker's or operator's bona fide use of a restroom, or bona fide use of a dressing room which is used and occupied only by other workers or operators.

(Ord. No. 04-97, § 1(39), 3-17-1997)

**Sec. 78-98. Touching of workers prohibited.**

- (a) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch a worker who is displaying or exposing any specified anatomical area at the adult entertainment establishment.
- (b) It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of any worker, or to touch the clothed or unclothed body of any worker at any point below the waist and above the knee of the worker.

(Ord. No. 04-97, § 1(40), 3-17-1997)

**Sec. 78-99. Minors prohibited.**

- (a) It shall be unlawful for an operator or worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer or allow a person under 18 years of age to:
  - (1) Enter or remain in the establishment;
  - (2) Purchase goods or services at the establishment; or
  - (3) Work at the establishment as a worker.

(Ord. No. 04-97, § 1(42), 3-17-1997)

**Sec. 78-100. Required records and licenses.**

- (a) *Failure to maintain.* It shall be unlawful to be an operator of an adult entertainment establishment at which the license required by this chapter and each record required by this chapter, including every worker record, customer contract and daily register, have not been compiled, are not maintained, or are not made available for inspection by a law enforcement officer upon request when the establishment is open for business.
- (b) *Individual license required.* It shall be unlawful to be a worker of an adult entertainment establishment who fails to obtain, carry and display, upon demand of a law enforcement officer, while working in the adult entertainment occupation, an occupational license for the adult entertainment occupation in which the worker is engaged.
- (c) *Exception.* It is an affirmative defense and subsection (b) of this section does not apply to a worker of an adult entertainment establishment who is a paid employee or worker for whom taxes and social security payments are withheld and paid to the federal government by the adult entertainment establishment, and who is not an independent contractor except an employee or worker who is an escort working away from the establishment premises, who shall then be required to obtain, carry and display to law enforcement officer, upon demand, a copy of the adult entertainment license of the employing escort service.

(Ord. No. 04-97, § 1(43), 3-17-1997)

**Sec. 78-101. Exceeding occupancy limit of adult booth.**

It shall be unlawful for any person to occupy an adult booth in which booth there are more people than that specified on the posted sign required by section 78-87.(Ord. No. 04-97, § 1(44), 3-17-1997)

**Sec. 78-102. Hours of operation.**

(a) It shall be unlawful between the hours of 2:00 a.m. and 9:00 a.m. of any day for:

- (1) An operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow, suffer or permit any worker to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service.
- (2) A worker of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service.

(Ord. No. 04-97, § 1(45), 3-17-1997)

**Sec. 78-103. Alteration of license.**

It shall be unlawful for any person to alter or otherwise change the contents or appearance of an adult entertainment license except the city manager or his authorized designee.

(Ord. No. 04-97, § 1(46), 3-17-1997)

**Sec. 78-104. False or misleading statement in required documents.**

- (a) It shall be unlawful for any person applying for an adult entertainment license pursuant to this chapter to make a false statement or provide false or misleading information that is intended to facilitate the issuance of a license on the application required by section 78-42.
- (b) It shall be unlawful for any person to provide false or misleading information in the monthly reports required by section 78-86 or in the worker record, customer contract and daily register records required by sections 78-90 and 78-93.

(Ord. No. 04-97, § 1(47), 3-17-1997)

**Sec. 78-105. Solicitation or personal advertising.**

It shall be unlawful for any worker of an adult entertainment establishment while situated outside any structure at the adult entertainment establishment, or at a place at the adult entertainment establishment where the worker is visible from any public right-of-way or sidewalk, to display or expose specified anatomical areas, or to engage in personal advertising, pandering or solicitation, whether passive or otherwise, on behalf of the worker, any other worker, or the adult entertainment establishment. "Personal advertising" means encouraging or enticing, by whatever direct or indirect means, potential customers beyond the adult entertainment establishment to enter the adult entertainment establishment. Additionally, it shall be unlawful for an operator or any worker to suffer, permit or allow any door that is visible from a public right-of-way or sidewalk to be opened or remain opened except when a person is entering or exiting the establishment.

(Ord. No. 04-97, § 1(48), 3-17-1997)

**Sec. 78-106. Allowing customers to engage in specified sexual activity.**

It shall be unlawful for a worker of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer, entice or allow a customer to engage in any specified sexual activity at the establishment while remaining in the presence of the worker. (Ord. No. 04-97, § 1(49), 3-17-1997)

**Sec. 78-107. Prohibited acts by physical contact workers.**

- (a) It shall be unlawful for a worker of a physical contact parlor to commit any of the following acts or for an operator of a physical contact parlor to knowingly or with reason to know, permit, suffer, aid, assist or allow any worker to commit any of the following acts:
- (1) Fail to, while engaged in providing in physical contact, wear a clean outer garment in the nature of a surgical gown when providing commercial physical contact;
  - (2) Display or expose specified anatomical areas to a patron or customer at a physical contact parlor;
  - (3) Fail to require, at all times, all patrons or customers to cover the patron's or customer's specified anatomical areas by a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material while in the presence of a worker;
  - (4) Perform physical contact on a customer while not on the premises of a physical contact parlor licensed under this chapter;
  - (5) Engage in or offer to engage in any escort services or private modeling in relation to the physical contact parlor;
  - (6) Solicit or require a customer or patron to remove any item of clothing as a prerequisite to providing physical contact; or
  - (7) Solicit a tip or gratuity in exchange for a promise or suggestion of any act or enhanced service.

(Ord. No. 04-97, § 1(50), 3-17-1997)

**Sec. 78-108. Prohibited acts by escort service workers.**

- (a) It shall be unlawful for a worker of an escort service to commit any of the following acts or for an operator of an escort service to knowingly or with reason to know, permit, suffer, aid, assist, or allow any escort or escort service worker to commit any of the following acts:
- (1) Enter a hotel or motel for the purposes of meeting a patron or customer without immediately notifying the front desk, presenting a copy of their escort service or escort occupational license and identifying themselves, the escort service that sent them, the name of the customer they are meeting, and the location of the meeting, including any applicable room number and again notifying the front desk upon leaving safely;
  - (2) Distribute, place, post or leave any unsolicited business cards, advertisement or promotional material on or within the premises of any other business;
  - (3) Begin a meeting or service with a patron or customer after 10:00 p.m. in any evening;
  - (4) Begin a meeting or service with a patron or customer without first meeting the patron in a public place such as a bar or restaurant before accompanying the customer to any place that is not open and occupied by the public, such as a hotel room or residence;
  - (5) Display or expose specified anatomical areas to a patron or customer of an escort service;
  - (6) Require or solicit a customer or patron to remove any item of clothing; or
  - (7) Solicit a tip or gratuity in exchange for a promise or suggestion of any act or enhanced service.

(Ord. No. 04-97, § 1(51), 3-17-1997)

**Sec. 78-109. Prohibited acts by customers of sexually oriented businesses.**

- (a) It shall be unlawful for any patron or customer of a sexually oriented business (physical contact parlor or escort service) to do any of the following acts, or for a worker or operator of a sexually oriented business to knowingly suffer, permit, aid, assist or allow a customer to do any of the following acts:
- (1) Touch, massage or manipulate directly or indirectly the body of any worker of the sexually oriented business;
  - (2) Touch, massage, manipulate, display or expose any of the customer's own specified anatomical areas; or
  - (3) Engage in any specified sexual activity while in the presence of any worker of the sexually oriented business.

(Ord. No. 04-97, § 1(52), 3-17-1997)

**Sec. 78-110. Advertising prohibited activities.**

It shall be unlawful for an operator or worker of any adult entertainment establishment to advertise, encourage or promote any activity prohibited by this chapter or any applicable state statute or ordinance.

(Ord. No. 04-97, § 1(41), 3-17-1997)