

CHAPTER 111: ADULT ENTERTAINMENT BUSINESSES

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§ 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADULT BOOKSTORE. An establishment having as a substantial amount of its stock in trade or its dollar volume in trade, books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT CABARET. A nightclub, bar, theater, restaurant, or similar establishment which features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas, or which regularly feature films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

ADULT DRIVE-IN THEATER. A lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions, and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which

a substantial amount of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ADULT ENTERTAINMENT BUSINESS. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret, adult drive-in theater, adult live entertainment arcade, or other non-specified businesses which, as a substantial part of their business activities, sell or provide depictions of or provide activities which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

ADULT LIVE ENTERTAINMENT ARCADE. Any building or structure which contains or is used for commercial entertainment where the patrons directly or indirectly are charged a fee to view from an enclosed or screened area or booth, a series of live dance routines, strip performances, or other gyrational choreography, which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

ADULT MINI MOTION PICTURE THEATER. An enclosed building with a capacity of more than five but fewer than 50 persons used for presenting films, motions pictures, video cassettes, slides, or similar photographic reproductions in which a substantial part or portion of the total presentation time is devoted to the showing of materials which are 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.

ADULT MOTION PICTURE ARCADE. 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 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.

ADULT MOTION PICTURE THEATER. An enclosed building with a capacity of 50 or more persons used for presenting films, motion pictures, video cassettes, slides, or similar photographic reproductions in which a substantial portion of the total presentation time is devoted to showing of materials which are 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.

SPECIFIED ANATOMICAL AREAS. Includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the aureole; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
- (4) Flagellation or torture in the context of a sexual relationship;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic touching, fondling, or other such contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation as part of or in connection with any of the activities set forth in divisions (1) through (7) above.

SUBSTANTIAL AMOUNT or ***SUBSTANTIAL PORTION.*** Thirty percent or more of the inventory, receipts, or projection or performance time is devoted to, or derived from, the activities regulated herein.
(Ord. 2000-03, passed 6-12-2000)

§ 111.02 LICENSE REQUIREMENT.

(A) It shall be unlawful for any person to engage in, conduct, or carry on or to permit to be engaged in, conducted, or carried on, in or upon any premises in the city, the operation of an adult entertainment business as herein defined without first having obtained a separate license for such adult entertainment business from the Chief of Police.

(B) Every applicant for a license to maintain, operate, or conduct an adult entertainment business shall file an application in duplicate under oath with the Chief of Police upon a form provided by the city and pay a filing fee of \$500 to the Clerk-Treasurer, who shall issue a receipt which shall be attached to the application filed with the Chief of Police.

(C) The Clerk-Treasurer shall attach a copy of this chapter to each permit issued so that this chapter is incorporated by reference therein.

(D) If a permit is not issued, the Clerk-Treasurer may refund that portion of the filing fee not used to reimburse the city for background investigation costs, but in no event will more than \$400 be refunded.

(Ord. 2000-03, passed 6-12-2000) Penalty, see § 111.99

§ 111.03 APPLICATION AND ISSUANCE.

(A) The application for a license to operate an adult entertainment business shall set forth the exact nature of the entertainment to be offered, the proposed place of business and facilities therefor, and the name and address of each applicant.

(B) The application shall be filed by the individual or individuals who will operate the adult entertainment business. If the entity seeking the license is not an individual, the following information in division (C) below must be provided for each officer or director of the entity as well as the individual employed by such entity as manager or a similar position.

(C) In addition to the foregoing, any applicant for such a license shall furnish the following information:

- (1) Written proof that the applicant is at least 18 years of age;
- (2) Two portrait photographs of the applicant at least two inches by two inches;
- (3) Fingerprints;
- (4) Business, occupation, or employment for the three years immediately preceding the date of application;
- (5) A copy of the state liquor license and a copy of the liquor license application, if any;
- (6) Previous adult entertainment business or liquor establishment business history;
- (7) Any criminal convictions, except minor traffic violations; and
- (8) A copy of the birth certificate for each individual who will be performing as an entertainer in the adult cabaret or adult live entertainment arcade within five days of the individual's commencement of work.

(D) The Chief of Police shall issue a permit for an adult entertainment business within 30 days following receipt of application if all requirements of this chapter for an adult entertainment business are met, and may issue such a license unless he or she finds that:

- (1) The operations as proposed by the applicant, if permitted, would not comply with all applicable ordinances; or
- (2) The applicant and any other person who will be directly engaged in the management and operation of an adult entertainment business has been convicted of a felony, an offense involving sexual misconduct with children, or any obscenity, keeping or residing in a house of ill fame, solicitation of a

lewd or unlawful act, prostitution, or pandering or other sex crimes as defined by I.C. 35-42-4-1 et seq., or comparable statutes in other states.

(E) If the Chief of Police fails to issue the permit within the time provided, the application is deemed denied.

(F) If the Chief of Police denies issuance of a license for an adult entertainment business, the applicant may appeal the denial as described below.

(Ord. 2000-03, passed 6-12-2000)

§ 111.04 DISPLAYING LICENSE.

The license shall be displayed in a prominent location at the establishment during business hours and shall be subject to examination or inspection by the general public and any other person at all times.

(Ord. 2000-03, passed 6-12-2000) Penalty, see § 111.99

§ 111.05 ADVERTISING.

(A) No adult entertainment business shall be conducted in any manner that permits, from the outside of the establishment, the observation of any activities or materials depicting, describing, or relating to topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers or form of entertainment.

(B) No adult entertainment business shall advertise said business on the outside of such premise by means of materials which are 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.

(C) No outside loud speakers may be utilized, nor may the music or entertainment be conducted at sound levels such that the content of the lyrics or commentary is discernible outside or beyond the premises.

(Ord. 2000-03, passed 6-12-2000) Penalty, see § 111.99

§ 111.06 LOCATION.

No adult entertainment business lot shall be located closer than 1,000 feet of another such adult entertainment business lot, nor closer than 1,000 feet to any existing church lot, school lot, day care facility lot, public park, or residential lot within the city.

(Ord. 2000-03, passed 6-12-2000) Penalty, see § 111.99

§ 111.07 ADDITIONAL RESTRICTIONS.

(A) If an adult arcade or adult motion picture arcade provides booths or enclosed areas for viewing the entertainment, the booth or enclosed area must be of transparent glass or plastic, or have a glass or plastic door that forms one entire side of the booth or enclosure that allows continuous unobstructed monitoring of all areas of the booth or enclosure.

(B) Any adult entertainment business which provides for live entertainment shall prohibit the touching of any specified anatomical areas of such entertainers by the patrons of the establishment. This shall be accomplished by, among other things, physical barriers, the size of the stage, or whatever additional measures are necessary to ensure the separation of entertainers from patrons.
(Ord. 2000-03, passed 6-12-2000) Penalty, see § 111.99

§ 111.08 REVOCATION OR SUSPENSION OF LICENSE.

(A) Any adult entertainment business license may be revoked or suspended by the Chief of Police if the Chief finds that:

(1) The licensee has violated any of the provisions of this chapter regulating adult entertainment business;

(2) The licensee violates, or has violated within the last ten years, any state statute pertaining to obscenity, public indecency, sex crimes, as defined in § 111.03(D)(2) above, or allows minors to perform as employees, or the licensee knowingly, or under circumstances where the licensee should have known of the offending conduct, employs individuals who violate or have violated any such state statute;

(3) The licensee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this chapter, or knowingly caused or suffered another to furnish or withhold such information on his or her behalf; and/or

(4) The licensee knowingly, or under circumstances where the licensee should have known of the offending conduct, permitted any violation of applicable state or municipal law to occur on the licensed premises.

(B) The notice of revocation will be sent by certified mail to the licensee at the address on the permit at least ten days in advance of the revocation date.
(Ord. 2000-03, passed 6-12-2000)

§ 111.09 APPEAL; HEARING.

(A) When an application for an adult entertainment business permit is denied or a permit is revoked, the applicant or licensee may, within 14 days of notice thereof, request a hearing before the Board of Public Works and Safety by written application to the Mayor's office at 401 John F. Kennedy Avenue, Loogootee, Indiana 47553.

(B) A hearing shall be scheduled for the next public meeting of the Board of Public Works and Safety. The applicant or licensee may present evidence and argument, cross-examine witnesses, and be represented by counsel.

(Ord. 2000-03, passed 6-12-2000)

§ 111.99 PENALTY.

Violations of this chapter shall be punishable by a fine not exceeding \$2,500 in addition to any other remedies which the city may have. The City Attorney is authorized to prosecute any such violations or seek mandatory injunctive relief to prohibit or discontinue such violations, in his or her discretion.

(Ord. 2000-03, passed 6-12-2000)