

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5 OF THE CITY CODE, “BUSINESS AND OCCUPATION LICENSES”.

WHEREAS, in March 1993, the City Council passed Ordinance No. 12351 enacting a new Article 17 of Chapter 5 to regulate adult entertainment businesses; and,

WHEREAS, the City seeks to amend the adult entertainment business regulations of Article 17, Chapter 5.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That Article 17, Chapter 5 of the City Code is hereby amended as follows:

ARTICLE 17. ADULT ENTERTAINMENT BUSINESSES

Sec. 5.17.001. Application of other provisions.

The licenses provided for in this article are subject to the general provisions of this chapter. In the event of a conflict between the provisions of this article and other parts of this chapter or Code, the provisions of this article shall control.

The licenses required by this article shall be in addition to any other licenses required by this Code.

Sec. 5.17.002. Definitions.

For purposes of this article and unless the context plainly requires otherwise, the following definitions are adopted:

Adult business is any business enterprise:

- 1. That has as a primary business purpose the sale, display or rental of goods that are designed for use in connection with "specified sexual activities," or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; or**
- 2. That has one of the following as a primary business purposes:**
 - a. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display "specified anatomical areas" or "specified sexual activities," or**
 - b. The providing of services that provide "specified sexual activities" or "specified anatomical areas" ancillary to other pursuits, or allow participation in "specified sexual activities" ancillary to other pursuits.**
- 3. The definition of "adult business" also includes, but is not limited to, any and all of the following, as defined herein:**
 - a. Businesses that offer the following described goods for sale or rent:**
 - i. Adult retail establishments means an establishment which as a primary business purpose, offers for sale or rent, any one or more of the following: instruments, devices, gifts or more of the following: instruments, devices, sexually-oriented toys or novelties; lingerie, gifts or**

paraphernalia which are designed for use in connection with "specified sexual activities" or clothing that graphically depicts "specified anatomical areas" or any of the materials sold or rented in an adult bookstore as defined herein.

- ii. Adult bookstore means an establishment which as a primary business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iii. Adult newsrack means any coin or card operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iv. Adult newsstand means a freestanding structure, vehicle or booth which as a primary business purpose, offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
- b. Businesses that provide the following entertainment:
- i. Adult entertainment business means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment" as defined herein, is a primary business purpose.
 - ii. Adult motion picture theater means an establishment containing a room with seats facing a screen or projection areas, where a primary business purpose is the exhibition to customers of films, videotapes, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iii. Adult theater means an establishment located in an enclosed building where the business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas or live performers, for observation by customers and patrons.
 - iv. Adult entertainment cabaret means an establishment in which the primary business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances; or material which is primarily characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - v. Adult entertainment studio (includes the terms exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, in which the primary business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to "specified sexual activities" or the exhibition of "specified anatomical areas."
 - vi. Adult encounter parlor means an establishment in which the primary business purpose is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.
 - vii. Body painting studio means an establishment in which the primary business purpose is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers view "specified anatomical areas."
- c. Businesses that provide the following described services:
- i. Bath house means an enterprise offering baths with other persons present who are nude or displaying "specified anatomical areas."
 - ii. Adult motel means an enterprise offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motions pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified

anatomical areas" and rents room accommodations for less than six hours at a time.

- iii. Adult entertainment means any live exhibition, performance, display or dance of any type, including but not limited to, talking singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.
- iv. Adult entertainment arcade means an establishment, or that part of an establishment, which regularly features or otherwise offers to customers, in a viewing area which is designed for occupancy by no more than one person, any live, filmed or videotaped exhibition, performance or dance of any type by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical areas, or by "specified sexual activities" or who otherwise appear in such attire, costume or clothing so as to expose to view "specified anatomical areas."
- v. Adult entertainment facility means any building, structure or facility which contains or is used for commercial entertainment, including adult bookstores, modeling studios, theaters used for presenting live presentations, or for presenting videotapes, films or the electronic transmission or retransmission of a picture predominantly distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to specified sexual activities, as said term is defined herein, and including adult cabaret facilities, and adult entertainment arcades (regardless of whether the theater, facility or arcade provides a live presentation, videotape; film presentation or the electronic transmission or retransmission of a picture), where the customers observe any live presentation, videotape or film presentation or the electronic transmission or retransmission of a picture of persons wholly or partially nude with their genitals or pubic region exposed or covered only with transparent covering or, in the case of female persons, with the areola and nipple of the breast exposed or covered only with transparent covering, or observe specified sexual activities, as said term is defined herein.
- vi. Nude modeling agency means an establishment in the business of offering for compensation the viewing of the human body when the subject's body is displayed for the customers' view of "specified anatomical areas."
- vii. Adult media means books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMs or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical area(s).
- viii. Adult video viewing booth means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books magazines or periodicals) for observation by patrons therein. Adult video viewing booths are sometimes referred to as peep shows, adult video arcades, panorams and adult mini-motion picture theaters. An adult video viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than 150 square feet of gross floor area.

ADULT BOOKSTORE is an establishment having as a ten percent portion of its stock in trade, books, photographs, magazines, films or videos for sale or viewing on the premises by use of motion picture devices or by use of the electronic transmission or retransmission of a picture, or other coin operated means, or other

~~periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to specified sexual activities as said term is defined herein.~~

ADULT CABARET is an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, into a viewing area which is designed for occupancy by more than five persons, any live exhibition, performance or dance by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified

ADULT ENTERTAINMENT ARCADE is an adult entertainment facility, or that part of an adult entertainment facility, which regularly features or otherwise offers to the public, customers or members, into a viewing area which is designed for occupancy by no more than five persons, any live exhibition, performance or dance of any type by a person or persons whose exhibition, performance or dance is characterized by the exposure of any specified anatomical area, or by specified sexual activities, or who otherwise appear unclothed or in such attire, costume or clothing so as to expose to view specified anatomical areas.

ADULT ENTERTAINMENT FACILITY is any building, structure or facility which contains or is used for commercial entertainment, including adult bookstores, modeling studios, theaters used for presenting live presentations, or for presenting videotapes, films or the electronic transmission or retransmission of a picture predominantly distinguished or characterized by their principal emphasis on matters depicting, describing, or relating to specified sexual activities, as said term is defined herein, and including adult cabaret facilities, and adult entertainment arcades (regardless of whether the theater, facility or arcade provides a live presentation, videotape; film presentation or the electronic transmission or retransmission of a picture), where the customers observe any live presentation, videotape or film presentation or the electronic transmission or retransmission of a picture of persons wholly or partially nude with their genitals or pubic region exposed or covered only with transparent covering or, in the case of female persons, with the areola and nipple of the breast exposed or covered only with transparent covering, or observe specified sexual activities, as said term is defined herein.

ADULT ENTERTAINMENT FACILITY PREMISES is the bounds of the enclosure of an adult entertainment facility that is licensed, or part of which is licensed, as an adult entertainment business.

Contagious and communicable diseases means those diseases which are set out in the Code of State Regulations established by the State of Missouri.

CUSTOMER is any person who:

1. Is allowed to enter an adult entertainment facility in return for the payment of an admission fee or any other form of consideration or gratuity; or
2. Enters an adult entertainment facility and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
3. Is a member of and on the premises of an adult entertainment facility operating as a private club.

DIRECTOR is the ~~Director of Finance~~ **Community Development Director** of the City of Independence, Missouri, or designee.

EMPLOYEE is any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of an adult business. ~~any person who renders any service whatsoever to the customers of an adult entertainment facility or who works in or about an adult entertainment facility and who receives compensation for such service or work from the operator or owner of the facility or from the customers therein. "Employee" includes managers, entertainers and independent contractors who work in or at or render any services directly related to the operation of an adult entertainment facility.~~

ENTERTAINER is any person who provides adult entertainment within an adult entertainment facility as defined in this section, whether or not a fee is charged or accepted for entertainment.

ENTERTAINMENT is any exhibition or dance of any type, pantomime, modeling or any other performance.

MANAGER is any person who manages, directs, administers, or is in charge of, the affairs and/or conduct of any portion of any activity ~~involving adult entertainment~~ occurring at any adult business entertainment facility.

Minor means any person less than eighteen (18) years of age.

Nude or nudity means the appearance of the human bare buttocks, anus, human genitals, the areola or the nipple of the female breast or a state of dress which fails to opaquely or fully cover the anus, human genitals or the areola or the nipple of the female breast.

MODELING STUDIO is an establishment or business which provides for a fee or compensation the services of modeling on premises for the purpose of reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise. This does not apply to public or private schools wherever persons are enrolled in a class.

OPERATOR is any person operating, conducting or maintaining an adult entertainment business.

OWNER or OWNERS is or are the proprietor, if a sole proprietorship; all partners (general and limited), if a partnership; or all officers, directors, and persons holding ten percent or more of the outstanding shares, if a corporation.

Patron means any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business for merchandise, entertainment or service, provided that the term "patron" shall not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business and who do not remain in the adult business after the purpose had been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.

PERSON is any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group or persons however organized.

Premises means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

Primary business purpose shall mean:

- (1) Thirty-Three (33) percent or more of the gross floor space is devoted to that purpose; or,**
- (2) Thirty-Three (33) percent or more of the retail floor space is devoted to that purpose; or,**
- (3) Thirty-Three (33) percent or more of the sales of the business are derived from that purpose.**

PUBLIC PLACE is any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

Server means any person who serves food and drink at an adult entertainment business.

SPECIFIED ANATOMICAL AREAS:

1. Less than completely and opaquely covered:
 - a. Human genitals, pubic region or pubic hair; or
 - b. Buttock; or
 - c. Female breast or breasts below a point immediately above the top of the areola; or

- d. Any combination of the foregoing; or,
- 2. Human male genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES include sexual conduct, being acts of normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification, as such terms are defined in the pornography and related offenses chapter of the Missouri Criminal Code.

VIEWING AREA is the area where a customer or member would ordinarily be positioned while watching an exhibition, performance or dance.

Sec. 5.17.003. License required for adult businesses and adult entertainment businesses.

Adult entertainment business license.

- A. It shall be unlawful for any person to operate or maintain an adult business or adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City. It shall be unlawful for any person to operate or maintain an adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio in the City unless the owner, operator or lessee thereof has obtained from the Director a license to do so, to be designated in "adult entertainment business license", or to operate such business after such license has been revoked, or while such license is suspended.
- B. It shall be unlawful for any entertainer, employee or manager to knowingly perform any service or entertainment directly related to the operation of an unlicensed adult entertainment business. ~~arcade, adult cabaret, adult bookstore, or modeling studio.~~
- C. The failure to post an adult business license in the manner required herein shall be prima facie evidence that an adult business has not obtained such a license. It shall be prima facie evidence that any adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio that fails to have posted, in the manner required by this article, an adult entertainment facility license, has not obtained such license. In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business arcade, adult cabaret, adult bookstore, or modeling studio in which a license is not posted, in the manner required by this article, had knowledge that such business was not licensed.
- D. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical area(s) shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an Adult Business as defined herein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

Sec. 5.17.004. License required for managers, servers and entertainers. Adult entertainment permit for managers and entertainers.

It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended. ~~It shall be unlawful for any person to work as an entertainer or manager at an adult entertainment arcade, adult cabaret, adult bookstore, or modeling studio without having first obtained from the Director a permit to do so, to be designated as an "adult entertainer's permit", or an "adult entertainment manager's permit", respectively, or to work as an entertainer or manager at such business after such person's permit has been revoked, or while such person's permit is suspended.~~

Sec. 5.17.005. ~~Licenses and permits~~—Classification and fees.

- A. The license or permit year shall be from each January 1 through December 31. The application for a license or permit shall be accompanied by payment in full of the fee, as set forth in the Schedule of Fees, as amended, stated in this chapter, by certified or cashiers check or money order, and no application shall be considered complete until such fee is paid. Such fee shall not be refunded under any circumstances.
- B. All licenses shall be issued for a specific location and shall be non-refundable and nontransferable. The classification of licenses for an adult entertainment business shall be as follows:
1. ~~Adult bookstore license~~
 2. ~~Adult cabaret license~~
 3. ~~Adult entertainment arcade license~~
 4. ~~Modeling studio license~~
- ~~The classification of permits for an adult entertainment business shall be as follows:~~
1. ~~Adult entertainment manager's permit~~
 2. ~~Adult entertainer's permit~~
- C. All adult business licenses shall be issued only for the one adult business use listed on the application. Any change in the type of adult use shall invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

Sec. 5.17.006. ~~License or permit~~ applications.

- A. ~~Adult Business Entertainment Facility License.~~ All persons desiring to secure a license to operate an adult business as required herein shall make a verified application with the Community Development Department. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City and shall require all of the following information: All applications for an adult entertainment business license shall be submitted in the name of the person proposing to conduct or operate such adult entertainment on the premises and shall be signed by such person and notarized. All applications shall be submitted on a form supplied by the Director, and shall require the following information:

1. The name, residence address, home telephone number, date and place of birth; and social security number of the applicant;
2. The business name, address and telephone number of the establishment;
- 3. The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.**
- ~~4.3~~ The names, residence addresses, residence telephone numbers, social security numbers and dates of births of any partners, if the applicant is a partnership; or if the applicant is a corporation, of all corporate officers and directors;
- ~~5.4~~. If the applicant is a corporation, such information as the Director, by rule, may require concerning the identity of corporate shareholders having a ten percent or greater interest in the corporation;
- ~~6.5~~. Addresses of the applicant, or of any partner, or of all corporate officers and directors; for the five years immediately prior to the date of application;
- ~~7.6~~. A description of the adult **business entertainment** or similar business history of the applicant, or of any partner, or of all corporate officers and directors; whether any such person or entity, in previously operating in this or another city, county or state, has had a business license revoked or suspended, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation;
- ~~8.7~~. A description of the business, occupation, or employment of the applicant, or of any partner, or of all corporate officers and directors; for the three years immediately preceding the date of application;
- ~~9.8. A statement from the applicant; or from each partner; or from each corporate officer and director; that each such person has not been convicted of, or released from confinement for conviction of, any felony, misdemeanor or municipal ordinance violation listed in Section 5.17.007(A), during the respective time periods provided in that section; A statement from the applicant, all partners or each corporate officer and director that each such person has not been either: convicted of, or released from confinement for conviction of, or diverted from prosecution on:~~
 - ~~1) A felony within the five (5) years immediately preceding the application; or~~
 - ~~2) A misdemeanor within the two (2) years immediately preceding the application; or~~
 - ~~3) A municipal or county ordinance violation within the two (2) years immediately preceding the application, where such felony, misdemeanor, municipal or county ordinance violation involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Statutes or County or Municipal ordinances.~~
- ~~10.9~~. A full set of fingerprints and a photograph, to be taken by the **Police Department Director**, of the applicant, or of all partners, or of all corporate officers and directors;
- ~~11.10~~. If the applicant is a corporation, a current certificate of good standing issued by the Missouri Secretary of State.

Failure to provide information required by this subsection shall constitute an incomplete application and shall not be processed.

- B. **Manager, server or entertainer's license. All persons desiring to secure a license under the provisions of this chapter to be an adult entertainment manager, server or entertainer shall make a notarized application to the Community Development Department. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be submitted on a form supplied by the City and shall require the following information: *Manager's or Entertainer's Permit*. All applications for an adult entertainment manager's permit or adult entertainer's**

~~permit shall be signed by the applicant and notarized. All applications shall be submitted on a form supplied by the Director and shall require the following information:~~

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining;
2. The name and address of each **adult entertainment** business at which the applicant intends to work as a manager, **server** or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this article, **indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises.**
3. A statement from the applicant that he or she has not been convicted of, or released from confinement for conviction of, **or diverted from prosecution on: any felony, misdemeanor or municipal ordinance violation listed in Section 5-17.007(B), during the respective time periods provided in that section;**

a. A felony criminal act within five years immediately preceding the application, or

b. A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

4. A full set of fingerprints and a photograph, to be taken by the **Police Department Director**, of the applicant;
5. The applicant shall present documentation that he or she has attained the age of 18 years. Any of the following shall be accepted as documentation of age:
 - a. A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth,
 - b. A state-issued identification card bearing the applicant's photograph and date of birth,
 - c. An official passport issued by the United States of America,
 - d. An immigration card issued by the United States of America,
 - e. Any other picture identification issued by a governmental entity, or
 - f. Such other form of identification as the Director deems, by rule, to be acceptable;

Failure to provide information required by this subsection shall constitute an incomplete application and shall not be processed.

C. Application processing.

1. **Upon receipt of an application for an adult business, manager, server or entertainer license, the Community Development Department shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the Community Development**

Department shall transmit a copy of the application to the Department of Health and Animal Services and the Fire Department.

2. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the application meets the requirements herein for issuance of the license for which the application is made. The Chief of Police shall report the results of the investigation to the Community Development not later than twenty (20) working days from the date the application is received by the City Clerk.
3. It shall be the duty of the Community Development Department, the Department of Health and Animal Services, and the Fire Department to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, and fire code ordinances of the City. The departments shall report the results of their investigation to the Community Development Department not later than twenty (20) working days from the date the application is received by the City.

**Sec. 5.17.007. Examination of application, issuance of licenses ~~or permits~~, disapproval—
Findings.**

- A. After an investigation, the Director shall issue the applicable license authorized by this article if the Director finds:
 1. That the business for which a license is required herein will be conducted in a building, structure and location which complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, as well as the requirements of this chapter;
 2. That the applicant, or any of his, her or its employees, agents, partners, directors, officers, stockholders or managers has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in any report or record required to be filed with the Director (as part of the original license application or application for renewal thereof);
 3. That the applicant, and all employees, agents, partners, directors, officers, or managers of the applicant have attained the age of 18 years;
 4. That the applicant, or any partner, or any corporate officer or director; has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or controlled substance or illegal drugs or narcotics offenses, as described in the Missouri Comprehensive Drug Control Act, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.
 5. That the applicant; or any partner, or any corporate officer or director, has not had a license or permit issued under the provisions of this article revoked within five years immediately preceding the application.
- B. The license application for an adult business shall be approved or disapproved within 30 days from the date of filing a completed application which complies with the requirements of this article, unless the applicant agrees in writing to an extension of such time period.

C. The records of the Community Development Director shall show the action taken on the application, and if the license is granted, the Community Development Director shall direct the issuance of the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working. After an investigation, the Director shall issue any applicable permit authorized by this article if the Director finds:

1. ~~That the applicant has not made any false, misleading or fraudulent statement of material fact in the application for a license, or in the providing of documentation of age (as part of the original permit application or application for renewal thereof);~~
2. ~~That the applicant, has attained the age of 18 years;~~
3. ~~That the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Missouri Criminal Code, or similar statutes, or controlled substance or illegal drugs or narcotics offenses, as described in the Missouri Comprehensive Drug Control Act, or similar statutes, or has not been convicted of a municipal ordinance violation, or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution, or sale of controlled substances or illegal drugs or narcotics.~~
4. ~~That the applicant has not had a license or permit issued under the provisions of this article revoked within five years immediately preceding the application.~~

D. All incomplete applications shall be denied.

E. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

Sec. 5.17.008. Issuance of licenses or permit—Time. License—Ineligibility and disqualification

No person is eligible nor shall a license be issued to an applicant for an adult business license if one or more of the following conditions exist:

- A. The premises for which an application for an adult business has been made is located within one thousand two hundred (1,200) feet of any school, church, licensed child care center or child care center that has been inspected by the City; public park; or, property zoned or used for residential purposes, which uses are located within the City limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of any school, church, licensed child care center or child care center that has been inspected by the City, public park or property zoned or used for residential purposes located within the City. The license application for an adult entertainment business shall be approved or disapproved within 30 days from the date of filing a completed application which complies with the requirements of this article, unless the applicant agrees in writing to an extension of such time period. It shall be the duty of the applicant to request, in writing, confirmation of zoning, building codes, fire, health, and property maintenance ordinance compliance from the appropriate City departments, and the application shall not be considered complete until such requests are made. The response to such requests, confirming compliance or otherwise, shall be made in writing to the Director no more than 20

~~days after receipt of the request. It shall be the duty of the Director to request criminal records and to investigate other information required by the license application. If a license application is disapproved, the Director shall notify the applicant in person or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.~~

- B. No adult business shall be allowed to locate or expand within 1,000 feet of any other adult business or of any business licensed to sell or serve alcoholic beverages. Measurements shall be made in a straight line, without regard to intervening structures or objects from the premises from which an adult business would be operated to the nearest point on the property line of such other adult business located within the City or any business licensed to sell or serve alcoholic beverages. The application for a manager's or entertainer's permit shall be approved or disapproved within 30 days from the date of filing a completed application which complies with the requirements of this article, unless the applicant agrees in writing to an extension of such time period. Pending the approval or disapproval of a completed permit application, the manager or entertainer shall be provided a temporary permit to be a manager or entertainer. Such permit shall automatically expire and become null and void upon the approval or disapproval of a permit. Any manager or entertainer issued a temporary permit shall comply with the provisions of this article and such permit shall be withdrawn by the Director in the event the permittee violates any provisions of this article. Additionally, any manager or entertainer issued a temporary permit shall be subject to the penalty provisions provided in this article. It shall be the duty of the Director to request criminal records and to investigate other information required by the permit application. If a permit application is disapproved, the Director shall notify the applicant, in person, or by registered or certified mail to the applicant's last known address, and shall state the basis for such disapproval.
- C. The applicant failed to supply all of the information requested on the application; Any applicant aggrieved by the refusal of the Director to issue a license or permit under the provisions of this article may seek judicial review in a manner provided by law.
- D. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
- E. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Community Development Director;
- F. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in this chapter during the time period set forth herein;
- G. The applicant has had an adult business license or comparable license revoked or suspended in this or any other city during the past five (5) years;
- H. If the applicant is applying for a license to operate a bath house or body painting studio and applicant has not produced a health certificate as required herein for all persons working on the premises;
- I. No person is eligible nor shall a license be issued to an applicant for a manager, server or entertainer license if one or more of the following conditions exist:
 - 1. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in this chapter during the time period set forth herein;
 - 2. The applicant knowingly failed to provide all of the information required on the application;
 - 3. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;
 - 4. The applicant has had a manager, server or entertainer license revoked or suspended in this or any other city during the past five (5) years; or

- 5. The applicant is applying for a license for a manager, server or entertainer in a bath house or body painting studio and has not produced a health certificate as required herein.**

Sec. 5.17.009. Compliance with other city ordinances required.

It shall be the duty of an adult ~~business entertainment facility~~ licensee to comply with the building codes, zoning, fire, health and property maintenance ordinances of the City and with regulations of such departments of the City. Knowing failure to continue compliance with such ordinances or regulations may be a basis for suspension, revocation, or non-renewal of the license.

Sec. 5.17.010. Special conditions.

- ~~A. No adult entertainment facility shall be permitted within 1,200 feet of any religious institution, school, or public park or any property zoned for residential use. Such distance shall be measured in a straight line without regard to intervening properties from the closest exterior structural wall of the adult entertainment facility to the closest property line of the religious institution, school, or public park, or the property zoned for residential use.~~
- ~~B. No adult entertainment facility shall be allowed to locate or expand within 1,000 feet of any other adult entertainment facility, bathhouse, massage shop, or of any business licensed to sell or serve alcoholic beverages. The distance between any two adult entertainment facility, bathhouse, massage shop, or between an adult entertainment facility or a business selling or serving alcoholic beverages shall be measured in a straight line without regard to intervening structures from the closest exterior structural wall of each business.~~
- A. C.** The adult ~~business entertainment~~ facility in which such a use is located shall be limited to one wall-mounted sign no greater than one square foot of sign per linear foot of wall length, not to exceed a total of 50 square feet; said sign shall not flash; blink or move by mechanical means and shall not extend above the roof line of the building. Further, no merchandise or pictures of products or entertainment on the premises shall be displayed in window areas or any area where such merchandise or pictures can be viewed from the sidewalk in front of the building. No flashing lights and/or lighting which leaves the impression of motion or movement shall be permitted.
- ~~B. D.~~ Lighting the parking area must provide a minimum light level of 0.25 footcandles over the entire parking area. but in no point shall the light level exceed 3.0 footcandles, nor shall any increase in light levels or visible glare be permitted at the lot line.

Sec. 5.17.011. Standards of conduct and operation—~~Adult arcade.~~

- ~~A. The following standards of conduct must be adhered to by employees of any adult entertainment arcade while on the adult entertainment facility premises:~~ **The following standards of conduct shall be adhered to by all adult businesses, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:**
- 1.. Identification cards.** All or any manager, server or entertainer issued a license by the Chief of Police under the provisions contained herein shall, at all times when working in an adult business, have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.
 - 2. Age restriction.** Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult business.

3. Exterior observation. The premises of all adult businesses will be so constructed as to ensure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
4. Exterior display. No adult business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.
5. Nudity prohibited. No manager, employee, server, entertainer or patron in an adult business other than a licensed bath house shall be nude, or clothed in less than opaque attire.
6. Certain acts prohibited.
 - a. No manager, employee, server, entertainer or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities or participate in any act of prostitution as prohibited by State law or municipal ordinance while on the premises of an adult business.
 - b. All dancing or other live entertainment on the licensed premises that is intended to provide sexual stimulation or to appeal to, arouse or excite the sexual desire or interests of the patrons shall occur and be performed solely on a platform or stage which is raised at least two (2) feet above the primary level of the customer floor area. In order to insure the performance area of the stage or performance platform is not within the reach of patrons and to further insure patrons are unable to touch the performers during their performances, the licensee, owner, operator or manager shall either erect a physical barrier between the performers and the patrons that effectively eliminates the touching of the performers by the patrons or they shall paint a clearly discernible boundary line on the stage surface beyond which the performers shall not perform and which is sufficiently distant from the forward edge of the stage to insure the patrons cannot touch the performers. Further, it shall be unlawful for any patron to be upon any portion of the stage during a performance or for an owner, operator or manager to permit a patron to be upon any portion of the stage during the performance.
 - c. No employee, server, entertainer or patron of an adult business while on the premises of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.
 - d. No entertainer shall solicit, demand or receive any payment or gratuity from any patron for any act prohibited herein and while on the premises of an adult business and no entertainer shall receive any payment or gratuity from any patron for any entertainment except as follows:
 - i. While such entertainer is on the stage, a patron may place such payment or gratuity into a container affixed to the stage; or
 - ii. While such entertainer is not on the stage but while on the premises of an adult business and is clothed so as to not expose to view any specified anatomical area, a patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.
7. [Additional prohibited acts.] No owner, operator, manager or other person in charge of the premises of an adult business shall:

- a. Knowingly permit alcoholic liquor or malt beverages to be brought upon the premises unless authorized to do so by a properly issued and current drinking establishment or malt beverage license;
- b. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
- c. Knowingly allow or permit any person under the age of eighteen (18) to be in or upon the premises of an adult entertainment business;
- d. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, as prohibited by State law or municipal ordinance; or
- e. Knowingly allow or permit a violation of this chapter or any other city ordinance provision or State law.

8. Signs required.

1. All adult businesses shall conspicuously display on the principal entrance to the premises, a sign, visible from the exterior of the premises, on which uppercase letters shall be at least two (2) inches high, and lowercase letters at least one inch high, which shall read as follows:

| |
|---|
| <p><u>THIS BUSINESS IS AN ADULT BUSINESS. ONLY PERSONS EIGHTEEN (18) YEARS OF AGE OR OLDER SHALL BE PERMITTED ON THE PREMISES.</u></p> |
|---|

2. All adult entertainment businesses that provide live entertainment shall conspicuously display in the common area at the principal entrance to the premises, a sign, on which uppercase letters shall be at least two (2) inches high, and lowercase letters at least one inch high, which shall read as follows:

| <u>THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF INDEPENDENCE</u> | | |
|---|--|--|
| <u>ENTERTAINERS ARE:</u> | | |
| <input type="checkbox"/> | | <u>Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.</u> |
| <input type="checkbox"/> | | <u>Not permitted to be nude.</u> |
| <input type="checkbox"/> | | <u>Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:</u> |
| | | <u>While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage; or</u> |
| | | <u>While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.</u> |
| <u>CUSTOMERS ARE:</u> | | |
| <input type="checkbox"/> | | <u>Not permitted to be upon the stage at any time.</u> |
| <input type="checkbox"/> | | <u>Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server, entertainer or patron or engage in solicitation for prostitution.</u> |

- I. Lighting required. The premises of all adult businesses shall be equipped with overhead lighting of every place to which customers are permitted access, at an illumination of not less than one (1) foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

J. *Closed booths or rooms prohibited.* The premises of all adult businesses shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. *Adult video viewing booths* are prohibited whether or not the booth is visible from a common area of the premises.

K. *Ventilation and sanitation requirements.* The premises of all adult businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.

- ~~1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area.~~
- ~~2. No employee or entertainer shall perform:~~
 - ~~a. Specified sexual activities; or~~
 - ~~b. The displaying of specified anatomical area, except as provided for in subdivision 1 of this subsection.~~
- ~~3. No employee or entertainer who is either not separated from any and all customers as provided in subdivision 1 of this subsection, or in an area of the premises not open to customers, shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection.~~
- ~~4. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.~~
- ~~5. No entertainer of any adult arcade shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.~~
- ~~6. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this article.~~
- ~~7. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in subdivision 1 of this subsection.~~

~~B. At any adult entertainer arcade, the following are required:~~

- ~~1. A sign, on which upper case letters shall be at least two inches high, and lower case letters shall be at least one inch high, shall be conspicuously displayed in the common area at the principal entrance to the adult entertainer arcade and shall read as follows:~~

~~THIS ADULT ENTERTAINMENT FACILITY
IS REGULATED BY THE CITY OF INDEPENDENCE
ENTERTAINERS ARE:~~

- ~~a. Not permitted to engage in any type of sexual conduct on the premises, or in prostitution;~~
 - ~~b. Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, any portion of the pubic region, buttocks, and/or genitals, except when separated from customers by a window or partition between the entertainer and customers.~~
- ~~C. Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.~~
 - ~~1. Neither any entertainment, nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.~~
 - ~~2. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.~~

Sec. 5.17.012. Standards of conduct and operation—Adult cabaret.

- ~~A. The following standards of conduct must be adhered to by employees of any adult cabaret while on the adult entertainment facility premises:~~
 - ~~1. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, unless separated at least six feet from the nearest customer and upon a stage at least 18 inches above the immediate floor level.~~
 - ~~2. No employee or entertainer shall perform:~~
 - ~~a. Specified sexual activities; or~~
 - ~~b. The displaying of any specified anatomical area; except as provided for in subdivision 1 of this subsection.~~
 - ~~3. No employee or entertainer who is not separated from any and all customers as provided in subdivision 1 of this subsection shall be unclothed or in less than opaque and complete attire, costume or clothing as described in subdivision 1 of this subsection, except in an area of the premises not open to customers.~~
 - ~~4. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.~~
 - ~~5. No employee or entertainer shall wear or use any device or covering exposed to view which simulates any anatomical area.~~
 - ~~6. No employee or entertainer shall use artificial devices or inanimate objects to depict any of the prohibited activities described in this subsection.~~
 - ~~7. No entertainer of any adult cabaret shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area, or while performing any entertainment, either while clothed or unclothed.~~

8. ~~No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this article.~~

9. ~~No entertainer shall receive any payment or gratuity from any customer for entertainment.~~

B. ~~At any adult cabaret, the following are required:~~

1. ~~A sign, on which upper case letters shall be at least two inches high, and lower case letters shall be at least one inch high, shall be conspicuously displayed in the common area at the principal entrance of the premises, and shall read as follows:~~

**THIS ADULT ENTERTAINMENT FACILITY
IS REGULATED BY THE CITY OF INDEPENDENCE
ENTERTAINERS ARE:**

a. ~~Not permitted to engage in any type of sexual conduct on the premises, or in prostitution;~~

b. ~~Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, any portion of the pubic region, buttocks, and/or genitals, unless separated at least six feet from the nearest customer and upon a stage at least 18 inches from the immediate floor level; and~~

c. ~~Not permitted to demand or collect any payment or gratuity from any customer for entertainment.~~

2. ~~Neither any entertainment, nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.~~

3. ~~The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.~~

Sec. 5.17.013. Standards of conduct and operation—All adult entertainment facilities.

It shall be unlawful for:

1. ~~Any person under the age of 18 years to be in or upon any premises for which an adult entertainment facility license is required.~~

2. ~~Any owner, operator, manager, or other person in charge of a premises for which an adult entertainment facility license is required, to~~

a. ~~knowingly permit or allow any person under the age of 18 years to be in or upon such premises,~~

b. ~~knowingly allow, sell, or permit alcoholic beverages, as defined in Chapter 2, to be brought onto or consumed on the premises,~~

c. ~~knowingly allow or permit the sale, distribution, or delivery of any controlled substance or illegal drug or narcotic on the premises,~~

d. ~~knowingly allow or permit any act of prostitution, or patronizing prostitution, on the premises.~~

Sec. 5.17.014. License or permit—Posting and display.

- A. Every person holding a server, manager or entertainer license shall post his license in his work area on the adult business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this chapter. ~~Every adult entertainer or adult entertainment manager shall post his or her permit in his or her work area on the licensed premises so it is readily available for inspection by City authorities responsible for enforcement of this article or chapter. If the permit is a temporary permit, the form of identification presented as part of the application for such permit shall be stated by the Director on the face of such permit, and such identification must be on file with the adult entertainment manager on duty at any time such temporary permittee shall be working on the premises.~~
- B. Every person duly licensed to operate as an adult business shall post such license in a conspicuous place and manner on the adult business premises. ~~Every person, corporation, partnership, or association licensed under this article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.~~

Sec. 5.17.015. Manager on premises.

- A. A manager shall be on duty at all adult businesses at all times while the premises are open for business. ~~An adult entertainment manager shall be on duty at an adult entertainment business at all times adult entertainment is being provided or that customers are on the premises.~~ The name of the manager on duty shall be prominently posted during business hours.
- B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid entertainer or server's license and that such licenses are prominently posted. It shall also be the responsibility of the manager to insure minors do not enter upon the premises of an adult entertainment business. ~~It shall be the responsibility of the manager to verify that any person who provides adult entertainment within the premises possesses a current and valid adult entertainer's permit, and that such permit is posted in the manner required by this article.~~

Sec. 5.17.016. Hours of operation.

It is unlawful for any adult ~~business cabaret~~ to be conducted, operated, or otherwise open to the public, customers or members between the hours of 1:00 a.m. and 6:00 a.m.

Sec. 5.17.017. Inspectors and inspections.

All adult businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws. ~~The Director is hereby empowered to appoint inspectors of adult entertainment businesses and all such businesses shall be open to the inspections of the Director or inspectors so appointed or to any member of the Police Department at any time during the hours allowed for business and at other reasonable times.~~

Sec. 5.17.018. Suspension, revocation, or non-renewal—License.

A. Whenever the Director has information that:

1. The owner or operator of an adult ~~entertainment~~ business ~~or a holder of a manager, server or entertainer license~~ has violated, or knowingly allowed or permitted the violation of, any of the provisions of this article, or

2. There have been recurrent violations of provisions of this article that have occurred under such circumstances that the owner or operator of an adult ~~entertainment~~ business knew or should have known that such violations were committed; or
3. The adult ~~entertainment~~ business license or the manager, server or entertainer license was obtained through false statements in the application for such license ~~or permit~~, or renewal thereof; or
4. The adult ~~entertainment~~ business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license ~~or permit~~, or renewal thereof;
5. The owner or operator, or any partner, or any corporate officer or director, holding an adult business license has become disqualified from having a license by a conviction as provided herein; or in Section 5.17.008.
6. If the owner or operator of an adult business or the holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided herein.

B. ~~Then the Director shall conduct a hearing to determine whether the license should be suspended or revoked. Then the Director shall hold a hearing in the manner provided in this article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last known address. In the event that the Director is not able to serve notice upon the licensee in person, and any notice sent by mail is returned by the postal service, the Director shall cause such notice to be posted at the principal entrance of the adult entertainment business or facility, and such posting shall be a valid means of service.~~

C. ~~Based on the evidence produced at the hearing, the Director may take any of the following actions: If the Director finds and concludes from the evidence that licensee has violated any of the above provisions, the Director may suspend for a period not to exceed 90 days, or revoke the license issued hereunder, or in the case of a renewal application, refuse to renew such license.~~

1. Suspend the license for up to ninety (90) days;
2. Revoke the license for the remainder of the license year; or
3. Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of this chapter occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

Sec. 5.17.019. Suspension, revocation, or non renewal—Permit.

~~Whenever the Director has information that:~~

1. ~~An adult entertainment manager has violated, or knowingly allowed or permitted the violation of, any of the provisions of this article; or~~
2. ~~While acting as an adult entertainment manager, there have been recurrent violations of provisions of this article that such adult entertainment manager knew or should have known that such violations were committed; or~~
3. ~~An adult entertainer has violated any of the provisions of this article; or~~
4. ~~A permit received by any person under the provisions of this article was obtained through false statements in the application for such permit, or renewal thereof, or~~

~~5. A permittee under the provisions of this article failed to make a complete disclosure of all information in the application for such permit, or renewal thereof; or~~

~~6. A permittee has become disqualified from having a permit by a conviction as provided in Section 5.17.008;~~

~~then the Director shall hold a hearing in the manner provided in this article to ascertain all facts in the matter. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the permittee and shall be served upon the permittee in person or by registered or certified mail to the permittee's last-known address. If the Director finds and concludes from the evidence that the permittee has violated any of the above provisions, the Director may suspend, for a period not to exceed 90 days, or revoke the permit issued hereunder, or in the case of a renewal application, refuse to renew such permit.~~

Sec. 5.17.020. Hearing procedure.

A. In any instance in this article wherein a hearing is required, the Director shall, after no less than ten days written notice to the applicant, or licensee ~~or permittee~~, hold such hearing to ascertain all facts in the matter.

B. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last-known address. In the event that the Director is not able to serve notice upon the licensee in person, and any notice sent by mail is returned by the postal service, the Director shall cause such notice to be posted at the principal entrance of the adult entertainment business or facility, and such posting shall be a valid means of service.

~~C.B.~~ An applicant, or licensee, ~~or permittee~~ shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross-examine all witnesses who appear against him or her. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The Director may receive evidence relevant to the issues from the applicant, licensee or from other sources. Witnesses may be subpoenaed, and upon request of any party, the Director shall issue subpoenas, and in a proper case, subpoenas duces tecum, which shall be served and returned as in civil actions in the circuit court.

~~D.C.~~ The Director shall issue findings of fact and conclusions of law, and an order wherein he or she dismiss the complaint, or suspend or revoke a license ~~or permit~~, previously issued, or renew or refuse to renew a license ~~or permit~~ previously issued. The Director's order shall be served upon the applicant or licensee, ~~or permittee~~ in person or by registered or certified mail to the applicant's, or licensee's, ~~or permittee's~~ last-known address. In the event that the Director is not able to serve such order upon the licensee; or applicant for renewal license, in the manner stated above, such order may be served by posting such order at the principal entrance of the adult business and such posting shall be a valid means of service. ~~in the manner provided in Section 5.17.018.~~

Sec. 5.17.021. Renewal.

A. A license ~~or permit~~ may be renewed by making application to the Director on application forms provided for that purpose. Licenses ~~and permits~~ shall expire on December 31 of each calendar year, and renewal applications for such licenses or permits shall be submitted between December 16 and December 31.

B. Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter. ~~Upon timely application therefore, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided by Sections 5.17.007 and 5.17.008, unless the Director~~

~~disapproves such renewal application in the manner provided by Section 5.17.018. However, an applicant for a renewal license shall have no duty to request confirmation of compliance with other City ordinances as required in Section 5.17.008, and no inspections by other City departments shall be required unless requested by the Director.~~

~~C. Upon timely application therefore, a permit issued under the provisions of this article shall be renewed by issuance of a new permit in the manner provided by Sections 5.17.007 and 5.17.008, unless the Director disapproves such renewal application in the manner provided by Section 5.17.019.~~

~~D. Upon the filing of a timely application for renewal of a license or permit issued under the provisions of this article, the Director shall issue a temporary license or permit to the applicant, which temporary license or permit shall remain in effect until the Director has approved the application. If a hearing is held as required by Section 5.17.018 or Section 5.17.019, the temporary license or permit shall remain in effect until the Director has issued an order following such hearing. However, if the hearing required by Section 5.17.018 or Section 5.17.019 is delayed at the request of the applicant, the temporary license or permit issued under the provisions of this subsection shall expire as of the date such hearing was scheduled by the Director, unless the applicant shows good cause for such delay.~~

~~E. Any applicant issued a temporary license or permit under the provisions of this section shall comply, or continue to comply, with the provisions of this article. Additionally, an applicant issued a temporary license or permit under the provisions of this section shall be subject to the penalty provisions provided in this article.~~

~~C. F.~~ If the application for renewal of a license ~~or permit~~ is not made during the time provided in subsection "A" of this section, the expiration of such license ~~or permit~~ shall not be affected, and a new application shall be required.

Sec. 5.17.022. Judicial review—Stay of enforcement of orders.

Following the entry of an order by the Director suspending or revoking a license issued pursuant to this chapter or permit, or disapproving the renewal application for a license ~~or permit~~, such licensee, ~~permittee~~ or applicant may seek judicial review in a manner provided by law. The Director may stay enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for judicial review.

Sec. 5.17.023. Informal disposition of case.

Nothing contained in this article shall preclude the informal disposition of contested cases by stipulation, consent order, or default, or by agreed settlement.

Sec. 5.17.024. Penalty.

It shall be unlawful for any person to own or operate an adult entertainment business as defined in this article without having secured a license as provided herein, or to violate any of the other provisions of this article. Upon conviction thereof, such person shall be fined not less than \$1.00 nor more than \$500.00, or be punished by imprisonment not to exceed six months, or by both such fine and imprisonment. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this article shall constitute a separate and distinct offense.

Sec. 5.17.025. Regulations.

The Director shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his or her office and which are not inconsistent with the provisions of this article.

Secs. 5.17.026. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

Secs. 5.17.027. Application to existing businesses.

- A. The provisions of this chapter shall apply to all adult businesses existing on (Insert Ordinance Approval Date), the effective date of Ordinance No. (Insert Ordinance No.), as well as to all adult businesses established after the effective date of Ordinance No. (Insert Ordinance No.).**
- B. Any adult business lawfully operating on the effective date of Ordinance No. (Insert Ordinance No.) that is ineligible for licensing solely as a result of the locational restrictions set forth in Section 5.17.008 herein shall be deemed a lawful nonconforming business.**
- C. Each of the following adult businesses, as defined in this chapter, shall be considered a unique and separate adult business: adult media outlet; adult newsrack; adult retail establishment; adult motion picture theater; adult theater; adult entertainment cabaret; adult entertainment studio; adult encounter parlor; body painting studio; bath house; adult motel.**
- D. The classification of each adult business shall be determined at the time a license is issued for the business. Where an adult business is considered a lawful nonconforming business under this section, the right to continue such nonconforming business shall be limited to that specific business, as defined herein, and shall not include other adult businesses listed herein.**
- E. The extension of a lawful nonconforming business to any portion of a building, which portion was constructed expressly for such nonconforming business prior to the effective date of Ordinance No. (Insert Ordinance No.), shall be permitted, provided that no structural alterations shall be made thereafter.**
- F. An adult business lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to grant or renewal of the adult business license, of a school, church, licensed child care center or child care center that has been inspected by the City, public park or properties owned or used for residential purposes located within the City limits and within one thousand two hundred (1,200) feet of the adult business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or has been revoked.**

Sec. 5.17.28—5.17.999. Reserved.

SECTION 2. That all other parts and provisions of the City Code shall be in full force and effect unless previously or subsequently amended or repealed.

SECTION 3. That correction of any scriveners' errors identified within these articles are hereby authorized by this ordinance.

PASSED THIS _____ DAY OF _____, 2023, BY THE CITY COUNCIL OF
THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council
of the City of Independence, Missouri

ATTEST:

City Clerk

APPROVED - FORM AND LEGALITY:

City Counselor

REVIEWED BY

City Manager

NOTE: Words struck through are being removed by this ordinance and words underscored and bolded are being added by this ordinance.