

(b) *Purpose.* The license fees collected under this division are fees paid for the purpose of examination and inspection of licensed premises under this article and are declared to be regulatory fees in addition to and not in lieu of the occupational license taxes imposed by other sections of this Code. The payment of a license fee under this division shall not relieve any licensee or other person of liability for and the responsibility of paying an occupational license tax where such is required by other sections of this Code and for doing such acts and providing such information as may be required by this Code.

(Code 1988, § 2.5-35)

Sec. 10-76. Records and reports; consent by licensee.

Each person issued a license under this division shall keep such records and make such reports as may be required by the city clerk, the police chief, the public health department, the building department, the zoning department and the fire chief to implement this article and carry out its purpose. By applying for a license under this division, an individual, partnership or corporation shall be deemed to have consented to the provisions of this article and to the exercise by the city clerk and other interested agencies of the powers given by this article and in the manner therein specified.

(Code 1988, § 2.5-36)

Secs. 10-77—10-100. Reserved.

**DIVISION 3. REQUIREMENTS FOR
LICENSED PREMISES**

Sec. 10-101. General requirements.

(a) Each premises licensed under this article shall conform to all applicable building statutes, codes or ordinances, whether federal, state, county or city.

(b) Each premises licensed under this article shall conform to all applicable fire statutes, codes or ordinances, whether federal, state or local.

(c) Each premises licensed under this article shall conform to all applicable health statutes, codes or ordinances, whether federal, state or local.

(d) Each premises licensed under this article shall have each and every glass area that faces a public thoroughfare, through which a casual passerby can see the materials or activity inside the licensed premises, covered over by black paint or other opaque covering. This subsection shall not apply if the uncovered glass area exposes to public view only a lobby or anteroom containing no material or activity other than a reception counter or desk and chairs or couches for customers to use while waiting.

(e) Each premises licensed under this article shall conform to the requirements of F.S. ch. 381, and the rules and regulations of the state department of health made pursuant thereto. Each licensed premises shall be deemed to be a "place serving the public" for the purpose of sanitary facilities. When more than one license is issued for a single location, they shall collectively be considered as one licensed premises if customers may circulate freely throughout the entire area of the licensed premises.

(f) Each premises licensed under this article shall not have any of the exterior walls of the establishment, excluding signs, to be any color other than a single achromatic or pastel color and shall not have any of the awnings, canopies, window shutters, or other trim or window treatment to be any color other than a different shade of the single achromatic or pastel color of the walls. The trim color shall not exceed 20 percent of the entire exterior surface of the building. However, nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of the establishment.

(g) Notwithstanding chapter 102 pertaining to signs or any other ordinance, provision or regulation to the contrary, the establishment shall not erect, construct, keep or maintain any sign for the establishment which contains flashing lights, photographs, silhouettes, drawings or pictorial representations of any manner except for the logo of the establishment, provided the logo shall not

contain any specified anatomical areas or any male or female forms at or below the clavicle, and the sign shall contain only the following:

- (1) The name of the establishment; and
- (2) One or more of the following applicable phrases:
 - a. Adult bookstore.
 - b. Adult theater.
 - c. Adult dancing establishment.
 - d. Adult motel.
 - e. Adult entertainment.
 - f. Movie titles posted within premises.

(h) Sanitary facilities shall be required as follows:

- (1) *Water supply.* The water supply must be adequate, of safe, sanitary quality and from an approved source in accordance with F.A.C. ch. 17-22.
- (2) *Plumbing.* Plumbing shall be sized, installed and maintained in accordance with F.A.C. ch. 10D-9.
- (3) *Restrooms.* All toilet facilities must be of readily cleanable design and must be kept clean, in good repair, and free from objectionable odors. Restrooms must be vented to the outside of any building, must be equipped with mechanical exhaust systems and must be well lighted. Floors shall be of impervious, easily cleanable materials. Walls shall be smooth, nonabsorbent and easily cleanable.

(Code 1988, § 2.5-51)

Sec. 10-102. Advertising.

No adult bookstore, massage establishment, adult motion picture theater, or adult dancing establishment shall:

- (1) Display a sign advertising the presentation of any activity prohibited by a state statute, an ordinance of the county, or any applicable municipal ordinance.
- (2) Display a sign capable of leading a reasonable person to believe that the establishment engages in an activity prohib-

ited by a state statute, an ordinance of the county, or any applicable municipal ordinance of the city.

- (3) Erect, install, maintain, alter or operate any sign in violation of any ordinance or resolution of the county or the city.
- (4) Engage in, encourage or permit any form of personal advertising for the commercial benefit of the establishment or for the commercial benefit of any individual who displays or exhibits specified anatomical areas within the establishment.
- (5) Permit or require any employee of the establishment, regardless of whether the establishment is licensed under this article, to loiter outside any structure on the establishment or to engage in advertising on behalf of the employee, any other employee, or the establishment while situated outside any structure on the establishment, including but not limited to sitting or standing outside any structure on the establishment or waving to or otherwise enticing potential customers beyond the establishment to enter the establishment. For purposes of this subsection, the term "outside any structure" shall be construed to mean the employee is situated at a place at the establishment where the employee is visible from any public right-of-way or sidewalk.

(Code 1988, § 2.5-52)

Sec. 10-103. Use of loudspeakers or sound equipment.

No loudspeakers or sound equipment shall be used to describe or discuss specified anatomical areas of the human body or specified sexual activities which can be discerned by the public from public and semipublic areas.

(Code 1988, § 2.5-53)

Cross reference—Noise generally, § 38-151 et seq.

Sec. 10-104. Prohibited activities.

- (a) No employee, as defined in this article, shall engage in specified sexual activities on the licensed premises in the presence of patrons or

spectators or for any form of consideration. Notwithstanding any section of this article to the contrary, it shall not be lawful for any person or employee of a commercial establishment or adult entertainment establishment to expose specified anatomical areas in connection with the use of approved sanitary facilities commonly known as restrooms. However, specified anatomical areas shall be exposed or displayed only in connection with excretory functions.

(b) It shall be unlawful for any employee, customer or patron of a licensed premises to participate in a straddle dance, as defined in this article, on the licensed premises.

(c) No employee, while on the licensed premises or within the scope of his employment, shall contract or agree to perform, for any form of consideration, a straddle dance and actually perform the straddle dance, regardless of where such performance takes place.

(d) It shall be unlawful for a customer or patron of the licensed premises to touch with the hands an employee's pubic area or genitals, whether the employee is clothed or not.

(Code 1988, § 2.5-54)

Sec. 10-105. Adult bookstore.

In addition to the general requirements contained in this article, an adult bookstore shall observe the following special requirements:

- (1) All materials, devices and novelties shall be so displayed that they cannot be seen by anyone other than customers who have entered the licensed premises.
- (2) If recordings are offered for sale and customers may listen to them while on the licensed premises, soundproof booths or rooms shall be available for use by customers who desire to listen, and each such booth or room shall have:
 - a. One clear window, facing the major portion of the licensed premises, covering not less than one-fourth of the wall area into which the window is

set, which window shall not be covered or obscured in any manner while the booth or room is in use.

- b. Sufficient chairs or couches shall be provided to accommodate the expected number of persons who will occupy the booth or room at one time.
- c. The number of persons who may occupy the booth or room at one time shall be clearly stated on or near the door to the booth or room, and only that number of persons shall be permitted.
- d. The door opening into the booth or room shall be incapable of being locked or otherwise fastened, so that it will freely open from either side.
- e. All areas where a patron or customer is to be positioned shall be visible from a continuous main aisle and not obscured by a curtain, door, wall or other enclosure.

(Code 1988, § 2.5-55)

Sec. 10-106. Massage establishments.

In addition to the general requirements contained in this article, a massage establishment shall observe the following special requirements:

- (1) Any person who applies for a massage establishment license under this article shall present to the city clerk a state license issued pursuant to F.S. ch. 480 at the time a license is to be issued. No license under this article shall be issued if the applicant fails to present the state license.
- (2) Dressing rooms shall be proportioned to the maximum number of persons who are expected to be in them at one time, excluding attendants and assistants, and separate dressing rooms shall be provided for men and women. Floors shall be of a smooth, impervious material with a non-slip surface and shall be covered at the wall junction for thorough cleaning. Partition walls shall terminate at least six

inches above the floor or shall be placed on continuous raised masonry or concrete bases at least four inches high.

- (3) One shower shall be provided for each 40 men or women or fraction thereof, based upon the maximum number of persons who are expected to be using shower facilities at one time, and separate shower facilities shall be provided for men and women. Floors and partition walls shall be constructed as required in subsection (2) of this section for dressing rooms, and duckboards or wooden gratings may be used on shower floors if duplicate sets are provided and rotated in use.
- (4) One locker shall be provided for each patron who is expected to be on the licensed premises at one time, which locker shall be sufficient size to hold clothing and other articles of wearing apparel. Each locker shall be capable of being locked by the patron, with no one else having the key so long as the patron is using the locker, or the locker shall be under the constant attention and supervision of an attendant.
- (5) Massages of a person by another person who displays or exhibits specified anatomical areas are prohibited.
- (6) No person shall massage the genitals or pubic area of another person.

(Code 1988, § 2.5-56)

Sec. 10-107. Adult motion picture theaters.

In addition to the general requirements contained in this article, an adult motion picture theater shall observe the following special requirements:

- (1) Each adult motion picture booth shall be open or shall have a rectangular-shaped entranceway not less than two feet wide or less than six feet high.
- (2) Each adult motion picture theater or booth shall have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons expected to use the booth or theater.

- (3) An adult motion picture theater shall have sufficient illumination so that persons in all areas of the auditorium can be seen from the main aisle. If the adult theater contains adult booths, each adult booth must be illuminated by a lightbulb of no less than 25 watts.
- (4) In addition to the sanitary facilities required by section 10-101, there shall be provided within or adjacent to the common corridor, passageway or area in an adult motion picture theater having adult motion picture booths adequate lavatories equipped with running water, hand-cleansing soap or detergent and sanitary towels or hand-drying devices. Common towels are prohibited.
- (5) An adult motion picture theater designed to permit viewing by patrons seated in automobiles shall have the motion picture screen so situated or the perimeter of the licensed premises so screened that the projected film material may not be seen from any public right-of-way or residential property.

(Code 1988, § 2.5-57)

Sec. 10-108. Adult dancing establishment.

In addition to the general requirements contained in this article, an adult dancing establishment shall observe the following requirements:

- (1) Persons engaged in displaying or exposing specified anatomical areas are prohibited from simulating sexual activity with any patron, spectator, employee or other person on the premises of an adult dancing establishment.
- (2) No person in an adult dancing establishment shall engage in the display or exhibition of the human genital or pubic region, the human buttocks, or the areola of the human female breast, except while the person is positioned in an entertainment area consisting of a platform or other structure raised 18 inches above the immediately surrounding area and encompassing an area of at least 100 square

- feet, and while the person is positioned at least three feet from a patron or spectator.
- (3) No spectator or patron shall be present in the entertainment area, defined in subsection (2) of this section, during the course of any performance involving the display or exhibition of the human genital or pubic region, the cleavage of the human buttocks, or the areola of the human female breast.
- (4) No person maintaining, owning or operating an adult dancing establishment shall suffer or permit the construction, maintenance or use of areas partitioned or screened from public view that are designed to be occupied or are commonly occupied alone by any person or together by any persons on the premises of such establishment for a private performance involving the display or exhibition of specified anatomical areas.
- (5) No person on the premises of an adult dancing establishment shall be permitted to use or to be present in areas partitioned or screened from public view that are designed to be occupied together by any persons or alone by any person on the premises of such establishment for the display or exhibition of specified anatomical areas.
- (6) Nothing in this article pertaining to adult dancing establishments shall be construed to permit or authorize any acts or activities therein that are prohibited by state law.
- (Code 1988, § 2.5-58)

Sec. 10-109. Operation of unlicensed premises.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, massage establishment or adult dancing establishment unless such business shall have a currently valid license issued under this article, which license shall not be under suspension or permanently or conditionally revoked.

(Code 1988, § 2.5-71)

Sec. 10-110. Alcoholic beverages.

No portion of the human genital or pubic region, the cleavage of the human buttocks, or the areola of the human female breast shall be displayed or exposed on a licensed premises where alcoholic beverages are sold, dispensed or permitted.

(Code 1988, § 2.5-73)

Cross reference—Alcoholic beverages, ch. 6.

Sec. 10-111. Admission of minors.

It shall be unlawful for a licensee to admit or to permit the admission of minors within a premises licensed under this article. This article shall not apply to conduct the regulation of which has been preempted to the state under F.S. ch. 847.

(Code 1988, § 2.5-74)

Sec. 10-112. Sale to minors.

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

(Code 1988, § 2.5-75)

Sec. 10-113. Violation of article or illegal acts prohibited.

Under this article, no licensee, owner or employer shall permit, suffer or allow violations of this article or illegal acts to take place on the licensed premises, if the licensee or employee knows or has reason to know that such violations or illegal acts are taking place.

(Code 1988, § 2.5-76)

Secs. 10-114—10-140. Reserved.

DIVISION 4. PERMITS FOR EMPLOYEES

Sec. 10-141. Required.

(a) Unless specifically excluded in subsection (b) of this section, it shall be unlawful for any person to obtain employment in an establishment licensed under this article, for any form of consideration, or to exhibit or display specified anatom-

ical areas in an adult bookstore, massage establishment, adult motion picture theater or adult dancing establishment unless and until such person shall have first obtained an adult entertainment permit or a temporary permit from the city.

(b) This division shall not apply to employees engaged exclusively in performing janitorial or maintenance services.

(Code 1988, § 2.5-77(a))

Sec. 10-142. Qualifications of employees.

Employees of a licensee on a premises licensed under this article shall not be less than 18 years of age.

(Code 1988, § 2.5-77(b))

Sec. 10-143. Application and issuance.

(a) Every employee of an adult entertainment establishment shall file an application for an adult entertainment permit with the city clerk. The fingerprints and a photograph of the applicant names of establishments where the applicant is to work or perform shall be furnished by the applicant at the time of filing his application. There shall be submitted with each application for a permit proof of the applicant's age. Such proof may be provided by production of the applicant's driver's license, passport or a certified copy of his birth certificate. If the applicant is unable to furnish any of such documents, a certificate from the public school authorities as to the age of the applicant upon entering school as required by F.S. § 232.03 or the school authorities of the state where the applicant enrolled in school shall be submitted. Upon inability of applicant to establish a birth date, the birth date may be established in the order of preference as provided by F.S. § 232.03. However, uncertified copies of such documents shall not be accepted. The city clerk may request an applicant to provide such information as is necessary to effect other purposes of this article.

(b) All applications shall be accompanied by a nonrefundable fee of \$50.00.

(c) The city clerk shall submit the names of all applicants for an adult entertainment permit who intend to work in an adult dancing establishment

or a massage establishment to the health department. If, in the 30 days immediately preceding submission of an application, such applicant was a known carrier of any notifiable communicable disease, as defined in F.A.C. ch. 10D-3, the health department shall notify the city clerk, and no permit shall be issued unless and until the applicant presents a statement from a licensed physician certifying that the applicant is free of all notifiable communicable diseases.

(d) At the time an applicant applies for a permit and completes all requirements for the issuance of a permit, he shall be issued a temporary permit valid for seven days. No later than seven days from the filing of an application and, if applicable, upon presentation of the statement of a licensed physician as required in subsection (c) of this section, the city clerk shall issue a permit.

(e) It shall be the duty of the city clerk to issue the applicant a written permit, which shall be signed by the city clerk and shall bear the name, address, sex, age, signature and photograph of the applicant. The city clerk shall procure the fingerprints and a photograph of the applicant and the names of all entertainment establishments where the applicant is to work or perform and shall keep the fingerprints, photograph and names of establishments on permanent file in his office. Upon delivery of the permit to the applicant, the applicant may begin working on the licensed premises as a permanent employee. Any applicant who does not possess a driver's license, passport or certified copy of his birth certificate may obtain a temporary permit upon completion of all other requirements for an application and submission of a written request to the appropriate authority in his state of birth that certified evidence of his date of birth be sent to the city clerk.

(f) No permit shall be issued when its issuance would violate a statute, ordinance, law or when an order from a court of law prohibits the applicant from obtaining an adult entertainment permit in the city.

(g) Any adult entertainment establishment holding a valid adult entertainment license issued pursuant to this article shall be permitted to provide its employees with current permit appli-

cation forms approved by the city clerk and to take the photograph of the applicant in a manner and with equipment approved by the city clerk on the express condition that the establishment:

- (1) Require the employee to complete the application form and be photographed within one working day after the time the employee begins to work or perform in the establishment.
- (2) Mail a notice in writing to the city clerk within one working day after the employee has begun to work or perform at the establishment.
- (3) Make the employee available for finger-printing at a time and location to be determined by an agent appointed by the city clerk at which time and place the employee shall present to the agent the employee's completed application form and photograph.
- (4) On the first Monday of every month provide the city clerk with a current listing of all employees and their positions.
- (5) In exchange for acceptance of the benefits provided by this section, waive any and all rights to challenge the permit requirements of this article.
- (6) Reimburse the city for reasonable additional expenses incurred pursuant to this section.

(Code 1988, § 2.5-77(c))

Sec. 10-144. Revocation.

If a permit required by this division is issued as a result of false information, misrepresentations of fact or mistake of fact, it shall be revoked.
(Code 1988, § 2.5-77(d))

Sec. 10-145. Expiration and renewal.

A permit issued under this division shall expire one year from the date of issuance. A permittee shall be entitled to a renewal of his permit as a matter of course, except when the permit has been suspended or revoked, upon presentation of

his previous permit or presentation of an affidavit as to its loss or destruction to the department of general services and payment of a fee of \$50.00. (Code 1988, § 2.5-77(e))

Sec. 10-146. Possession required.

(a) It shall be unlawful for an employee, as defined in this article, to work, perform or to exhibit or display specified anatomical areas in an adult entertainment establishment without an adult entertainment permit in his immediate possession at all times.

(b) No person charged with violating this division shall be convicted if he produces to the city clerk or police chief within 72 hours of detention or incarceration a valid adult entertainment permit.

(c) Upon receipt of a properly authenticated notification from the city clerk or police chief verifying issuance of a valid permit, the clerk of the court is authorized to dismiss such case at any time prior to the defendant's appearance in court. (Code 1988, § 2.5-77(f))

Sec. 10-147. Violations.

Any person who violates this division or who otherwise fails to secure a permit as required by this division shall be prosecuted and punished in accordance with general law.
(Code 1988, § 2.5-77(g))

Sec. 10-148. Suspension.

(a) *Procedure.* Upon receiving notice that a jury or other trier of fact in a court of law has found that a permittee violated any section of this article, whether or not an adjudication of guilt has been entered, the city clerk shall suspend the permit issued pursuant to this division and shall notify the permittee of his action. Notification shall be by certified mail and shall be sent to the address on the permit application, which shall be considered the correct address.

(b) *Periods of suspensions.* A single violation of this article shall result in the suspension of the adult entertainment permit for 30 days. Upon a second violation of this article within a period of two years from the date of a prior violation of this

article, but not including any time during which the permit was suspended, the permit shall be suspended for 90 days. Upon a third violation of this article within a period of two years from the first of three violations, the permit shall be revoked. All periods of suspension shall begin on the 15th day after the date the city clerk mails a notice of suspension to the permittee or on the date the permittee delivers his permit to the city clerk, whichever comes first.

(c) *Surrender of permit required.* If a permittee, after having been mailed notice of suspension of his permit in the manner provided in this section, fails to surrender his permit to the city clerk within 15 days, the period of suspension of the permit shall be extended and shall not expire until a period has elapsed after the date of surrender of the permit or after the date of expiration of the permit, whichever comes first, which is identical in length with the original period of suspension.

(Code 1988, § 2.5-77(h))

Sec. 10-149. Appeal.

Under this division, if an application for a permit is denied or if a permit is suspended or revoked, the procedures specified in this division shall be available to the applicant or permittee, in the manner specified in this article. If the applicant or permittee does not appeal the denial, suspension or revocation of a permit, the applicant or permittee shall be deemed to have failed to have exhausted his administrative remedies.

(Code 1988, § 2.5-77(i))

Sec. 10-150. Replacement of lost permits.

Replacements for lost permits shall be obtained by completing an application as required in this division. All applications for replacement permits shall be accompanied by a fee of \$10.00.

(Code 1988, § 2.5-77(j))

Sec. 10-151. Change of address, name or place of employment.

Whenever any person, after applying for or receiving an adult entertainment permit, shall move from the residential address named in such application or in the permit issued to him or when

the name of the permittee is changed by marriage or otherwise or when the permittee takes on employment or begins to perform at an adult entertainment establishment not indicated in his application, such person shall within ten days thereafter notify the city clerk in writing of his old and new address or of such former and new names.

(Code 1988, § 2.5-77(k))

Secs. 10-152—10-175. Reserved.

DIVISION 5. LOCATION REQUIREMENTS*

Sec. 10-176. Prohibited locations.

(a) Notwithstanding any other section of this article or any section of this Code, no person shall cause or permit the establishment or substantial enlargement of an adult bookstore, adult motion picture theater, massage establishment or an adult dancing establishment within 1,000 feet of another such business; within 1,000 feet of any preexisting religious institution or school; within 1,000 feet of an area zoned for a school; within 1,000 feet of an area zoned for residential use within the city; within 500 feet of either side of the right-of-way of Highway 50 and East Plant Street (that part of S.R. 438 east of Dillard Street in the city); and within 500 feet of any preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption.

(b) The distance requirements of subsection (a) of this section are independent of and do not supersede the distance requirements for alcoholic beverage establishments contained in section 6-3.

(Code 1988, § 2.5-101)

Sec. 10-177. Districts.

Adult entertainment establishments shall be special exception uses within C-1 and C-2 zoning districts within the city and subject to all restrictions enumerated in this article. The special exception uses, permitted or licensed, shall be sup-

*Cross reference—Zoning, ch. 118.