

the evidence to have occurred, shall be counted towards the total number of violations.

(q) *Appeal.* Within 14 days after the issuance of a denial of a fine dining establishment designation or an order of suspension or revocation of an extension of hours permit, the establishment may request a hearing before the city commission to appeal the suspension, denial, or revocation. The request for a hearing in front of the city commission must be in writing and shall not stay the effect of a denial or a suspension or revocation order. The request must allege findings of fact and conclusions of law supporting the establishment's challenge. The city commission will hear the challenge at its next available regular meeting subject to agenda deadline perimeters and shall conduct a de novo hearing in accordance with its regular rules of evidence and procedure for quasi-judicial hearings.

(r) *Decision on appeal.* Upon conclusion of the hearing, the city commission shall make findings of fact, conclusions of law, and issue an order either upholding the denial of a fine dining establishment designation or the suspension or revocation of the extension of hours permit or quashing the denial, suspension, or revocation. The finding by the city commission shall be the final action by the city.

(s) *Suspension and revocation not exclusive enforcement mechanisms.* Nothing in this section shall be construed or interpreted to prohibit the city from enforcing its codes and ordinances by means other than those provided by this chapter, including without limitation, by summons, notice to appear in court, arrest, issuance of a citation, a civil action, stop work order, statutory code enforcement proceedings, or demolition.

(t) *Exhaustion of administrative remedies.* Judicial review of a permit suspension or revocation is available only after all applicable administrative appeal remedies provided by this chapter have been exhausted. Filing a petition for judicial review or other such pleading shall not stay a suspension or revocation unless so ordered by the circuit court.

(u) *Reapplication for permit.* After an establishment's permit has been revoked for a period of time as provided for in section 6-9(o) above, the establishment may reapply for a permit to sell alcoholic beverages between midnight and 2:00 a.m. In addition to all other required information, an establishment whose permit has previously been revoked shall include information explaining the actions they have taken to prevent the violations that resulted in the past revocation(s).

(v) *Enforcement procedures.* The enforcement procedures contained herein are alternative procedures, and the city reserves the right to arrest, prosecute, or take action utilizing alternative procedures authorized by law.

(Ord. No. 24-40, § 7, 11-14-24)

Chapters 7—9

RESERVED

Chapter 10

AMUSEMENTS AND ENTERTAINMENT*

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Article IV. Prohibition of Commercial Gaming Devices

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ARTICLE I. IN GENERAL**Secs. 10-1—10-25. Reserved.****ARTICLE II. ADULT ENTERTAINMENT****DIVISION 1. GENERALLY****Sec. 10-26. Authority; purpose; area of enforcement.**

This article is enacted under the home rule power of the city and is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of the city and nearby areas to regulate businesses within the city.

(Code 1988, § 2.5-1)

Sec. 10-27. Intent.

It is the intent of the city, in enacting this article, to establish reasonable and uniform regulations of commercial establishments that will reduce the adverse effects of the concentration of adult entertainment establishments upon the morals, manners and property values of citizens of the city and nearby areas.

(Code 1988, § 2.5-2)

Sec. 10-28. Findings of fact.

There is in the Orange County/Seminole County metropolitan area an increasing trend toward the concentration of adult entertainment establishments. Based on evidence and testimony presented at public hearings before the board of county commissioners of Orange County, Florida, and on the findings incorporated in the Orange County Adult Entertainment Code chapter 83; Jacksonville Municipal Code, chapter 410, Ordinance No. 77-257-256, section 1; the Los Angeles Municipal Code, section 12.70, Ordinance No. 156509 (1982); the Detroit Zoning Ordinance, 66,0000, Ordinance No. 742-G, section 1, 10-24-72; and "A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values," conducted by the

Division of Planning, Department of Metropolitan Development, Indianapolis, January 1984, the board finds as follows:

- (1) In the development and adoption of this article, it is recognized that there are some uses which, by their very nature, are recognized as having some serious objectionable operational characteristics, particularly when several such similar uses are concentrated within one area within the city, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods of the city and nearby areas. The primary legislative objective in the passage of this article is for the purpose of preventing a concentration of such uses in any area of the city.
- (2) It is further found that the concentration within a limited area of the city of business operations and activities as described in subsection (1) of this section tends to attract an undesirable number of transients; adversely affects property values; promotes an increase in crime; encourages illegal, immoral or unhealthy behavior; and tends to expose minors to harmful materials and influences.
- (3) Therefore, in order to preserve the public health, peace, safety, general welfare and good order of the community and to safeguard the present and future character of neighborhoods and citizens in the area, the city has an interest in planning, regulating and legislating the use of properties for specified commercial purposes.

(Code 1988, § 2.5-3)

Sec. 10-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult arcade means an establishment where, for any form of consideration, one or more motion

picture projectors, slide projectors or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this article, the term "adult arcade" is included within the definition of adult motion picture theater.

Adult bookstore means an establishment which sells or rents adult material, unless the adult material is accessible only by employees and either the gross income from the sale and rental of the adult material comprises less than ten percent of the gross income from the sale and rental of the goods and services at the establishment, or the individual items of adult material offered for sale or rental comprise less than 25 percent of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter; photographs, films, motion pictures, videocassettes, slides or other visual representations; or recordings or other audio matter. An adult bookstore includes a place with only a portion or section of its area set aside for the display or sale of adult material listed in subsections (1) and (2) of the definition of adult materials, except that any place, otherwise included within this definition, that can prove that it derives not more than ten percent of its gross income from the sale of materials listed in subsections (1) and (2) of the definition of adult materials shall be exempt from this article so long as such material is kept out of the reach of customers and is accessed only by employees.

Adult dancing establishment means:

- (1) An establishment where any employee:
 - a. Displays or exposes any specified anatomical areas to a person other than another employee, regardless of whether the employee actually engages in dancing;
 - b. Wears any covering, tape, pasty, Band-Aid or other device which simulates or otherwise gives the appear-

ance of the display or exposure of any specified anatomical areas, regardless of whether the employee actually engages in dancing;

- c. Offers, solicits or contracts to dance or perform with a person other than another employee in consideration for any tip, remuneration or compensation from or on behalf of that person; or
 - d. Dances or performs with or within three feet of a person other than another employee in consideration for any tip, remuneration or compensation from or on behalf of that person.
- (2) Any provision of subsection (1) of this definition is not intended to apply if the predominant business or attraction of the establishment is not the offering to customers of a product, service or entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and the establishment is not distinguished by an emphasis on or the promotion of matters or persons depicting, describing, displaying, exposing, simulating or relating to specified sexual activities or specified anatomical areas.
 - (3) Consistent with the decision of the Supreme Court of Florida in the case of *Hoffman v. Carson*, 250 So. 2d 891, 893 (Florida 1971), appeal dismissed 404 U.S. 981 (1971), an adult dancing establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of F.S. § 800.03, the state's indecent exposure statute.

Adult entertainment establishment means an adult motion picture theater, a massage establishment, an adult bookstore or an adult dancing establishment.

Adult materials means any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter; photographs, films, mo-