

CHAPTER TWENTY ONE

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CHAPTER TWENTY ONE

OBSCENITY CONTROL

SECTION 1 – Purpose

The purpose of this ordinance is to regulate adult entertainment establishments holding licenses to serve alcohol from the City, in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the negative effects of certain adult entertainment establishments within the City. This ordinance is not designed for the purpose of imposing a limitation, or restrictions, on the content, or access to content including communicative materials of a sexual nature. Neither is it the intent of this ordinance to restrict or deny access by adults to sexually orientated materials protected by the First Amendment.

SECTION 2 – Considerations

This ordinance is adopted by the City after consideration of the following factors:

- A. A desire to maintain and improve business growth and community values in the City.
- B. The regulation of adult entertainment establishments is necessary to insure that adverse secondary effects would not contribute to criminal activity in the area, or to the blighting or downgrading of the surrounding property and the lessening of its value.
- C. The nature of adult entertainment establishments is such that they are recognized as having adverse secondary characteristics particularly when they are accessible to minors, and/or are located near residential property or parks or public access facilities frequented by minors.
- D. Certain persons frequent adult entertainment centers or establishments for the purpose of engaging in illicit sexual activities, on or off the premises, or for the purpose of purchasing or selling illegal drugs, all encouraging criminal activity and unsanitary activities which create unhealthy conditions.
- E. Some employees of adult entertainment establishments, which are unregulated by government entities, engage in higher incidents of certain types of illicit sexual behavior than employees of other establishments.
- F. A reasonable licensing procedure is an appropriate mechanism to place the burden of such regulation on the owners and operators of an adult entertainment establishment.

SECTION 3 – Restrictions to Live Performances Permitted on Licensed Premises

- A. No live performances are permitted on a licensed premise which contain any form of dancing. Such prohibition on dancing does not include the incidental movement or choreography of singers or musicians which are made in connection with their singing or playing of a musical instrument, provided the dancing does not include the acts prohibited under this section.
- B. No live performances are permitted on a licensed premise which involve the removal of clothing, garments or any other costume. Such prohibition does not include the removal of headwear or footwear; or the incidental removal of a tie, suitcoat, jacket, sweater or similar outer garments. Incidental removal for purposes of this section shall mean the removal of a garment or article of clothing which is not part of the act or performance.
- C. No entertainment or activity on a licensed premise shall contain:
 1. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law, whether by a paid entertainer or by any patron.
 2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals, whether by a paid entertainer or by any patron.
 3. The actual or simulated displaying of the pubic hair, anus, vulva, or gentials of any person, or the breasts of a female, whether by a paid entertainer or by any person.

SECTION 4 – Penalty Provisions

Any person or business violating any of the provisions of this ordinance shall be deemed uily of a misdemeanor, and upon conviction, shall be subject to a fine, or imprisonment, or both, in accordance with the general penalty provisions of Section 13.0501 of this Code. Each day such a violation is committed, or permitted to continue, shall constitute a separate offense, and shall be punished as a separate offense.

SECTION 5 – Severability Provisions

Should any section, paragraph, sentence, clause, phrase or word of this ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not effect any of the remaining words, phrases, clauses, sentences, paragraphs or sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such invalid or unconstitutional work, phrase, clause, sentence, paragraph or section.

SECTION 6 – Repealer Provisions

It is further declared that should there be an ordinance or portions of ordinances heretofore effective that conflict with this ordinance, that this ordinance does hereby take precedence and any prior ordinance or sections in conflict are repealed.

SECTION 7 – Effective Dates

This ordinance shall be in force and effective from and after its passage, approval and publication.