

**ADDITION TO CHAPTER 17 OF THE
JACKSONVILLE, ILLINOIS CODE OF ORDINANCES**

ARTICLE IX – ADULT-ORIENTED BUSINESSES

Sec. 17-110 – Intent.

The intent of this Article is to regulate adult-oriented businesses which, because of their very nature, may have many of the recognized significant secondary effects on the community which include, but are not limited to: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of the adult-oriented businesses; and blighting conditions such as low level maintenance of commercial premises and parking lots which thereby have a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the adult-oriented businesses. It is neither the intent nor effect of this chapter to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials or merchandise protected by the First Amendment of the U.S. Constitution, or to deny access by the distributors or exhibitors of adult-oriented business to their intended market. Nothing in this Article is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any city ordinance or any statute of the state of Illinois regarding public nuisances, unlawful exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

Sec. 17-111 – Definitions.

Definitions for Adult-Oriented Businesses shall be as defined in Article 2 of the City of Jacksonville Zoning Ordinance #1765 as amended.

Sec. 17-112 – Application for adult-oriented business license.

An applicant for a license under this Article shall file a written, signed application with the City Clerk showing:

- (1) The name, date of birth, valid driver's license number or social security number, and address of the applicant;
- (2) The location where the applicant proposes to operate said adult-oriented business;
- (3) Proof of obtaining any special use permit or other permit required to comply with the Jacksonville Zoning Ordinance and Chapter 6 of the Jacksonville Code of Ordinances.
- (4) Certifications by the applicant that the premises and operations of the business complies with the requirements of **Sec. 17-118** hereof; and
- (5) Payment of an application fee of twenty-five dollars (\$25.00).

Sec. 17-113 - Permit duration.

An adult-oriented business license shall be valid for a period of one year from the date of issuance.

Sec. 17-114 - Permit renewal.

An adult-oriented business permit shall be renewed on a year-to-year basis provided that the permittee and the adult-oriented business continue to meet the requirements set forth in this Article. A request for permit renewal must be accompanied by a completed adult-oriented business permit application pursuant to **Sec. 17-112** herein. If the renewal application conforms to the previously approved application and the adult-oriented business, permittee and owner have not changed, and the permittee and the adult-oriented business have satisfied the requirements set forth in this Article, the city clerk shall renew the permit for another year. Any change or alteration in that nature or operation of the adult-oriented business will require the renewal to be processed pursuant to the special use permit

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procedures of the Jacksonville Zoning Ordinance. If a permit renewal is denied, the applicant may appeal the decision to the city council pursuant to **Sec. 17-117**.

Sec. 17-115 - Permits non-transferable; use specific.

No adult-oriented business permit may be sold, transferred, or assigned by any permittee or by operation of law, to any other person, group, partnership, corporation or any other entity. Any such sale, transfer, or assignment or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of the permit and the permit shall be thereafter null and void. An adult-oriented business permit held by a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the adult-oriented business from one element of an adult-oriented business to another element of an adult-oriented business or any increase of ten percent or more of the floor area of the adult-oriented business shall also render the permit null and void. An adult-oriented business permit shall only be valid for the exact location specified on the permit. No off-site presentations of entertainment shall be permitted. An adult-oriented business permit may be transferred to a new or different person, group, partnership, corporation or other entity or to a different location only pursuant to a new application filed and approved under this Article.

Sec. 17-116 - Enforcement, revocation and suspension.

(1) **Inspections.** The adult-oriented business shall permit officers of the city of Jacksonville to conduct unscheduled inspections of the premises of the adult-oriented business for the purpose of ensuring compliance with the law at any time the adult oriented business is open for business or occupied.

(2) **Revocation Grounds.** The city may revoke or suspend an adult-oriented business permit for any of the following causes or reasons:

- a. The adult-oriented business has been operated in violation of, or there has been a violation of or failure to comply with, any of the requirements of this chapter, including, but not limited to, **Sec. 17-118**
- b. It is discovered that the application contains incorrect, false or misleading information;
- c. Any person has been convicted of a sex-related offense as a result of his or her activity on the premises of the adult-oriented business;
- d. The permittee has ceased to meet the requirements for issuance of permit;
- e. The permittee holder is convicted of a felony or misdemeanor which offense is classified by the State as an offense involving sexual crime against children, sexual abuse, rape, distribution of obscene material or material harmful to minors, prostitution or pandering, including, but not necessarily limited to the violation of any crime requiring registration under the Illinois Criminal Code.
- f. If, on two or more occasions within a twenty-four month period, a person or persons has (have) been convicted of a felony or misdemeanor for an offense set forth in subsection (2)(e) as a result of such person's activity on the adult-oriented business premises, and the person or persons were employees, contractors or agents of the adult-oriented business at the time the offenses were committed; and
- g. If the permittee or an employee, contractor or agents of the adult-oriented business has knowingly allowed prostitution, or solicitation for prostitution, on the premises.

(3) **Revocation/Suspension Notice.** On determining that grounds for permit suspension or revocation exist, the city attorney shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent authority for the ground(s), and a brief statement of the factual matters in support of the proposed suspension or revocation. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be delivered to the permittee personally, at least ten days prior to the hearing date.

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(4) **Revocation/Suspension Hearings.** Hearings shall be conducted by the plan commission. All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this section may be continued for a reasonable time for the convenience of a party or a witness. After holding the hearing in accordance with the provisions of this section, if the plan commission finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the plan commission shall impose one of the following: (1) a warning, (2) suspension of the permit for a specified period not to exceed one year; or (3) revocation of the permit. These remedies are not exclusive, and instead are in addition to any other remedy or proceeding permitted by state law or city ordinance. The plan commission's decision shall be in writing. Any permittee aggrieved by a decision of the plan commission may appeal the decision pursuant to **Sec. 17-117**.

(5) In addition to the foregoing, an adult-oriented business permit shall be deemed revoked and terminated if the use for which the permit was granted has ceased, been abandoned or been suspended for a period of twelve or more consecutive months. The city administrator may determine whether or not an adult-oriented business has ceased operation, been abandoned or been suspended within the meaning of this subsection. The city administrator may mail notice of such a determination to the permittee, who may appeal the determination in the same manner as a permit revocation

(6) If a permittee aggrieved by a suspension or revocation decision of the plan commission (or a determination under subsection (5) fails to timely file an appeal with the city council within ten days as provided by **Sec. 17-117**, then the suspension or revocation decision or city administrator determination shall take effect upon expiration of the ten-day period.

(7) Any business established, operated, conducted or maintained contrary to the provisions of this chapter is unlawful and hereby declared to constitute a public nuisance. The city may commence an appropriate civil action(s) or proceeding(s) for the abatement, removal and enjoinder of the nuisance in the manner provided by law, to enforce any permit suspension, revocation or non-renewal, and/or for such other relief as will abate or remove the adult-oriented business and restrain and enjoin any person from operating, conducting or maintaining such a business contrary to the provisions of this chapter. Notwithstanding any other provision of this code, a violation of any provision of this chapter shall not constitute a felony, misdemeanor, infraction or other crime, but rather shall be enforced by appropriate civil action.

Sec. 17.117 - Appeal of denial, suspension and revocation decisions; judicial review.

(1) After denial of an application for an adult-oriented business permit, after denial of renewal of such a permit, or after suspension or revocation of such a permit, the aggrieved applicant or permittee may appeal such administrative action or decision to the city council by filing a notice of appeal with the city clerk within ten days of the date of the challenged action or decision. The city council shall hear the appeal in accordance with the same hearing procedures and standards set forth in **Sec. 17-116 (4)**. The city council may affirm, reverse or modify the decision of the plan commission or city clerk. The city council's appeal hearing shall be held and a decision rendered by resolution adopted within thirty days of the filing of the notice of appeal, unless this time is extended by mutual agreement of the city and appellant.

(2) The denial, suspension and revocation of permits under this Article shall be subject to de novo judicial review and decision pursuant to the Illinois Municipal Code (65 ILCS 5/11-13-25). If a permit denial, suspension or revocation decision is affirmed on review by the city council, the applicant or permittee may seek judicial review of the council's decision pursuant to the Illinois Municipal Code (65 ILCS 5/11-13-25). *[Editor's Note: Please have the City Attorney confirm is this is the appropriate reference. We are assuming that it is since this is, in essence a zoning or land use issue.]*

Sec. 17-118 – Adult-oriented business standards.

(1) The adult-oriented business is not located completely or partially within any mobile structure or pushcart.

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(2) The adult-oriented business shall not stage any special events, promotions, festivals, concerts or similar events that would increase the demand for parking beyond the approved number of spaces for the particular use.

(3) The adult-oriented business provides a security system that visually records and monitors all parking lot areas. All indoor areas of the adult-oriented business shall be open to public view at all times with the exception of restroom facilities. "Accessible to the public" shall include but not be limited to those areas that are only accessible to members of the public who pay a fee and/or join a private club or organization.

(4) No residential structure or any other non-conforming structure shall be converted for use as an adult-oriented business.

(5) The adult-oriented business complies with the development and design requirements of the zone in which it is to be located for the specific underlying use.

(6) The adult-oriented business shall not display any sexually oriented material or sexually oriented merchandise that would be visible from any location outside the adult-oriented business.

(7) The adult-oriented business shall not allow admittance to any person under the age of eighteen if no liquor is served, or under the age of twenty-one if liquor is served. All entrances shall be clearly and legibly posted by a notice that minors are prohibited from entering the premises.

(8) The adult-oriented business will not operate between the hours of 1:00 a.m. and 8:00 a.m. the following day and additionally from 8:01 to noon on Sunday.

(9) Neither the applicant, if an individual, nor any of the officers or general partners, if a corporation or partnership, of the adult-oriented business have been found guilty within the past two years of a misdemeanor or felony classified by the state as a sex-related offense and have not violated any of the provisions of an adult-oriented business permit or similar permit or license in any city, county, territory or state.

(10) The adult-oriented business shall provide separate restroom facilities for male and female patrons. The restrooms will be free from sexually oriented materials and sexually oriented merchandise.

(11) The interior of the adult-oriented business is configured such that there is an unobstructed view of every public area of the premises, including but not limited to, the interior of all individual viewing areas, from a fixed manager's station within the premises. No public area, including but not limited to, the interior of any individual viewing area, shall be obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the interior of the individual viewing area from the manager's station. A manager shall be stationed in the manager's station at all times the business is in operation or open to the public in order to enforce all rules and regulations. No individual viewing area shall be designed or operated to permit occupancy of more than one person at a time. To the extent this provision is inconsistent with any other provision of this code regulating the interior arrangement of adult-oriented businesses, this provision shall control.

(12) All areas of the adult-oriented business shall be illuminated at a minimum of two foot-candles, minimally maintained and evenly distributed at ground level.

(13) The individual viewing areas of the adult-oriented business shall be operated and maintained with no holes, openings or other means of direct visual or physical access between the interior spaces of two or more individual viewing areas.

(14) No individual viewing area may be occupied by more than one person at any one time.

(15) Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance/exit to the business. No exterior door or window shall be propped or

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kept open at any time during hours of operation; any exterior windows shall be covered with opaque covering at all times.

(16) No operator, entertainer, employee or agent shall show or display his or her human male or female genitals, pubic area or buttocks with less than a fully opaque covering, and/or the female breasts with less than a fully opaque covering over any part of the nipple or areola. No permittee, owner or other person with managerial control over an adult-oriented business shall permit any person on the premises of the adult-oriented business to show or display his or her human male or female genitals, pubic area or buttocks with less than a fully opaque covering, and/or the female breasts with less than a fully opaque covering over any part of the nipple or areola. This provision may not be complied with by applying an opaque covering simulating the appearance of the specific anatomical part required to be covered.