

**AN ORDINANCE OF THE CITY OF WILDWOOD, MISSOURI, AMENDING SECTIONS 210.310, 210.340, AND 415.590 OF THE CITY OF WILDWOOD, MISSOURI, MUNICIPAL CODE BY DELETING THEM IN THEIR ENTIRETY AND ENACTING, IN LIEU THEREOF, NEW SECTIONS 210.310, 210.340, AND 415.590; AMENDING SECTION 415.200.C OF THE MUNICIPAL CODE BY ENACTING A NEW SUBSECTION 17; AMENDING SECTION 415.210.E OF THE MUNICIPAL CODE BY ENACTING A NEW SUBSECTION 2; AMENDING SECTION 600.070 OF THE MUNICIPAL CODE BY ENACTING A NEW SUBSECTION J AMENDING TITLE VI OF THE MUNICIPAL CODE BY ENACTING A NEW CHAPTER 645; PROHIBITING SEXUAL MISCONDUCT; PROVIDING REGULATIONS PERTAINING TO THE LOCATION OF SEXUALLY ORIENTED BUSINESSES IN THE ZONING DISTRICTS OF THE CITY; LICENSING AND REGULATING SEXUALLY ORIENTED BUSINESSES; AND OTHER MATTERS PERTAINING THERETO**

**WHEREAS**, the purpose of this ordinance is to prohibit indecent exposure and regulate sexually oriented businesses in the City of Wildwood in order to protect the health, safety and general welfare and property values of the residents of the City through reasonable and uniform regulation thereof. It is not the intent or purpose of this ordinance to prohibit sexually oriented businesses from having a reasonable opportunity to locate in this City; and

**WHEREAS**, reports of the Minnesota Attorney General’s Working Group on Sexually Oriented Businesses Reports and reports completed for the cities of Minneapolis, St. Paul, Indianapolis, Phoenix and Los Angeles have concluded that:

- 1) Studies have concluded that sexually oriented businesses may have adverse impacts on the surrounding properties and neighborhoods;
- 2) The adverse effects caused by sexually oriented businesses tend to diminish if sexually oriented businesses are governed by local requirements;
- 3) The public health, safety, and general welfare will be promoted by this City adopting regulations governing sexually oriented businesses; and

**WHEREAS**, the City Council finds, based upon the studies described above, that:

- 1) Studies have shown a close association between sexually oriented businesses, high crime rates and low property values in a neighborhood;
- 2) Arrests for sexual crimes and the location of sexually oriented businesses were directly related;
- 3) A concentration of sexually oriented businesses has serious impacts upon the surrounding neighborhood;
- 4) Community impacts of sexually oriented businesses are primarily a function of two variables, proximity to residential areas and concentration. Property values are directly affected within a small radius of the location of an sexually oriented business. Concentration may compound depression of property values and may lead to an increase

in crime sufficient to change the quality of life and perceived desirability of property in a neighborhood;

5) When sexually oriented businesses have multiple uses (i.e., theater, bookstore, nude dancing, peep booths), one building can have the impact of several separate businesses;

6) The presence of bars in the immediate vicinity of sexually oriented businesses also compounds impacts upon the neighborhood;

7) Evidence on a national level highlights the vulnerability of sexually oriented businesses to criminal control; and

8) The limitation on the hours of operation and the regulation of exterior appearance, including signage, of sexually oriented business activities is necessary to protect and secure neighboring uses, to control adverse noise and traffic impacts associated with those activities, and otherwise address, mitigate, and if possible, eliminate the adverse impacts and secondary effects of sexually oriented business activities on the areas in which such activities are located or taking place; and

**WHEREAS**, the City Council of the City of Wildwood finds and determines that sexually oriented businesses, as a category of commercial enterprises, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation; and

**WHEREAS**, the City Council finds and determines that sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area; and

**WHEREAS**, the City Council finds and determines that the foregoing negative secondary effects constitute a harm which the City has a substantial interest in preventing or abating, or both. Such substantial government interest in preventing secondary effects exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses; and

**WHEREAS**, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of current or future sexually oriented businesses that may locate in the City; and

**WHEREAS**, the City Council finds and determines that this Bill leaves more than reasonable alternative avenues of communication for sexually oriented businesses; and

**WHEREAS**, the Planning and Zoning Commission of the City of Wildwood, Missouri, considered and recommended revisions to Sections 415.200, 415.210 and 415.590 of the Municipal Code; and

**WHEREAS**, after publishing notice, the City Council and the Planning and Zoning Commission held Public Hearings on the proposed revisions to Sections 415.200, 415.210 and 415.590 of the Municipal Code; and

**WHEREAS**, at such Public Hearings all persons-in-interest and other citizens were given an opportunity to be heard; and

**WHEREAS**, the City Council desires to prohibit sexual misconduct and regulate sexually oriented businesses in the City;

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

**Section One.** That Section 210.310 of the Municipal Code is hereby amended by deleting it in its entirety, and there is hereby enacted, in lieu thereof, a new Section 210.310 to read as follows:

**SECTION 210.310: PROSTITUTION, PROFITING FROM PROSTITUTION — PROHIBITED.**

A. A person shall not engage in prostitution or profiting from prostitution.

B. Definitions. For the purposes of this Article the following terms shall be deemed to have the meanings indicated below:

**NUDITY OR STATE OF NUDITY:** The showing of the human genitals, pubic area, vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any part of the nipple or areola.

**OPAQUE COVERING:** Non-transparent clothing or other similar object or substance. This term does not include body paint, body dyes, tattoos, liquid latex, whether wet or dried, and other similar substances.

**PERSON:** Any natural person, firm, partnership, co-partnership, association, corporation or organization of any kind.

**PROFITING FROM PROSTITUTION:** Occurs when a person, acting other than as a prostitute receiving compensation for personally rendered prostitution services, knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he/she participates or is to participate in the proceeds of prostitution activity.

**PROSTITUTION:** A person commits "prostitution" if he/she engages or offers or agrees to engage in sexual conduct in return for something of value to be received by the person or a third (3rd) person.

**SEMI-NUDE OR STATE OF SEMI-NUDITY:** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such

point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**SEXUAL CONDUCT:** Means sexual intercourse or sexual contact.

**SEXUAL CONTACT:** Any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUAL INTERCOURSE:** Any penetration, however slight, of the female genitalia by the penis, or any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SOMETHING OF VALUE:** Any money or property, or any token, object or article exchangeable for money or property.

**Section Two.** That Section 210.340 of the Municipal Code is hereby amended by deleting it in its entirety, and there is hereby enacted, in lieu thereof, a new Section 210.340 to read as follows:

**SECTION 210.340: SEXUAL MISCONDUCT.**

A. A person commits the offense of sexual misconduct if such person:

- (1) Any person who appears in a state of nudity or semi-nudity in a public place under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm;
- (2) Has sexual contact in the presence of a third person or persons under circumstances in which he or she knows that such conduct is likely to cause affront or alarm; or
- (3) Has sexual intercourse in a public place in the presence of a third person.

B. Notwithstanding any other provision of this Section 210.340 to the contrary, a mother may breast-feed her child or express breast milk in any public or private location where the mother is otherwise authorized to be. The act of a mother breast-feeding a child or expressing breast milk in a public or private location where the mother and child are otherwise authorized to be shall not constitute sexual misconduct under this Section.

C. Any person who knowingly or intentionally does or engages in any of the actions described in Subsection A, Subparagraph 1 shall not be guilty of sexual misconduct if the actions take place in a “sexually oriented business” as defined in Section 415.590 and that is operated in accordance with Section 415.590, Chapter 645, and other applicable laws and ordinances of the City.

**Section Three.** Section 415.200.C of the Municipal Code is hereby amended by enacting a new Subsection 17, to read as follows:

17. Sexually oriented businesses.

**Section Four.** Section 415.210.E of the Municipal Code is hereby amended by enacting a new Subsection 2, to read as follows:

2. Sexually oriented businesses.

**Section Five.** That Section 415.590 of the Municipal Code is hereby amended by deleting it in its entirety, and there is hereby enacted, in lieu thereof, a new Section 415.590 to read as follows:

**SECTION 415.590: SEXUALLY-ORIENTED BUSINESSES.**

A. Purpose And Findings. It is the purpose of this Section to regulate sexually oriented businesses in order to promote the health, safety and general welfare of the residents of the City and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution or Article I, Section 8 of the Missouri Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.

B. Definitions. As used in this Section, the following terms shall have these prescribed meanings:

**ADULT ARCADE:** Means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

**ADULT BOOKSTORE OR ADULT VIDEO STORE:** Means a commercial establishment which, as one of its principal business activities, offers sexually oriented materials for sale or rental for any form of consideration. A principal business activity exists where the commercial establishment:

- (1) Has a substantial portion of its displayed merchandise which consists of such items;
- or

- (2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or
- (3) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or
- (4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or
- (5) Maintains a substantial section of its interior business space for the sale or rental of such items; or
- (6) Maintains an adult arcade.

**ADULT CABARET:** A nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

**ADULT ENTERTAINMENT:** Any live exhibition, performance or dance characterized by the exposure of any specified anatomical areas even if covered by translucent clothing or by specified sexual activities or by appearance of persons in attire, costume or clothing so as to emphasize or expose, even through opaque covering, the view to specified anatomical areas.

**ADULT MOTION PICTURE THEATER:** A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration

**CHARACTERIZED BY:** Describing the essential character or dominant theme of an item.

**CHILD:** see "Minor."

**EMPLOY, EMPLOYEE OR EMPLOYMENT:** Any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, manager, entertainer or otherwise,. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

**ENTERTAINER:** Any person who provides adult entertainment at a sexually oriented business described herein, whether or not a fee is accepted for the entertainment.

**ESTABLISH OR ESTABLISHMENT:** Includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(3) The addition of any sexually oriented business to any other existing sexually oriented business.

**MAINSTREAM MEDIA OUTLETS:** Any video store, bookstore or a newsstand that carries more than ten percent (10%) sexually oriented material but less than thirty percent (30%).

**MANAGER:** Any person who manages, directs, administers or is in charge of the affairs and for conduct of any portion of any activity involving adult entertainment occurring at any sexually oriented business.

**MATERIAL:** Anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects.

**MEDIA OUTLETS:** Any video store, bookstore or a newsstand that carries ten percent (10%) sexually oriented material or less.

**MINOR:** Any person less than eighteen (18) years of age.

**NUDITY OR STATE OF NUDITY:** The showing of the human genitals, pubic area, vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any part of the nipple or areola.

**OBSCENITY OR OBSCENE:** Any material or performance is obscene if, taken as a whole:

1. Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
2. The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
3. A reasonable person would find the material lacks serious literary, artistic, political or scientific value.

**OPAQUE COVERING:** Non-transparent clothing or other similar object or substance. This term does not include body paint, body dyes, tattoos, liquid latex, whether wet or dried, and other similar substances.

**OPERATOR:** Any person on the premises of a sexually oriented business who causes the business to function, puts or keeps the business in operation, or is authorized to manage the

business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business.

**PERFORMANCE:** Any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more.

**PREMISES:** The real property upon which a sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages or both.

**REGULARLY:** The consistent and repeated doing of the act so described.

**SADOMASOCHISTIC ABUSE:** Flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

**SEMI-NUDE OR STATE OF SEMI-NUDITY:** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

**SEMI-NUDE MODEL STUDIO:** Means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

- (1) By a college, junior college, or university supported entirely or partly by taxation;
- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
- (3) In a structure:
  - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
  - b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class.

**SEXUAL CONDUCT:** Actual or simulated, normal or perverted acts of human masturbation; 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.

**SEXUAL ENCOUNTER CENTER:** Means a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is semi-nude.

**SEXUAL INTERCOURSE:** Any penetration, however slight, of the female genitalia by the penis. Sexual intercourse also includes any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the penis, female genitalia, or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person or for the purpose of terrorizing the victim.

**SEXUALLY ORIENTED BUSINESS:**

- (1) An adult bookstore or adult video store.
- (2) An adult cabaret.
- (3) An adult motion picture theater.
- (4) A semi-nude model studio.
- (5) A sexual encounter center.

**SEXUALLY ORIENTED MATERIALS:** Magazines, books, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, other visual representations, or other devices used to record computer images or other media which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas.

**SPECIFIED ANATOMICAL AREA:**

1. Less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITY:** Includes any of the following:

- (1) Intercourse, oral copulation, masturbation, or sodomy; or

(2) Excretory functions as a part of or in connection with any of the activities described in subparagraph (1) above.

**SUBSTANTIAL:** At least thirty percent (30%) of the item or items so modified.

**VIEWING ROOM:** The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching sexually oriented materials.

**C. Massage Businesses.** Only massage businesses that are defined in and regulated by Chapter 324, RSMo., will be allowed in the City.

**D. Location Of Sexually Oriented Businesses.** No sexually oriented business shall be located or situated at a distance of less than one thousand (1,000) feet of any preexisting primary or secondary school, state-licensed day care facility , church or house of worship, public library, hospital, public park, any property used for residential purposes, or other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the preexisting primary or secondary school, state-licensed day care facility , church or house of worship, public library, hospital, public park, any property used for residential purposes, or other sexually oriented business .

**E. Standards For Physical Design Of The Premises.**

1. The premises of all sexually oriented businesses will be so constructed as to include a foyer, partition or other physical barrier on all customer entrances that will ensure 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.

2. There must be continuous physical, video or window surveillance of the premises.

3. Lighting required. The premises of all sexually oriented business 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 (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 upon the premises. All exterior lighting shall comply with Section 415.450 of the Municipal Code.

4. The business must provide restrooms for customer use.

**F. Signage And Parking Requirements.** Sign regulations are set forth in Section 415.420 Sign Regulation of the zoning ordinance and off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 415.280 of the Municipal Code.

**Section Six.** Section 600.070 of the Municipal Code is hereby amended by enacting a new Subsection J, to read as follows:

J. No retail licensee or his/her employee shall permit in or upon his/her licensed premises:

1. The performance of acts, or simulated acts of sexual conduct as defined in Section 415.590;
2. The displaying of any portion of the areola of the female breast even if covered by body paint, body dyes, tattoos, liquid latex, whether wet or dried, and other similar substances;
3. The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
4. The actual or simulated displaying of nudity, as defined in Section 415.590;
5. Any nude person as defined in Section 415.590, to remain in or upon the licensed premises who is to public view; or
6. The displaying of films, video programs or pictures depicting acts, the live performances of which are prohibited by State law or City ordinance.

**Section Seven.** Title VI of the Municipal Code is hereby amended by enacting a new Chapter 645, to read as follows:

## **CHAPTER 645: SEXUALLY ORIENTED BUSINESSES**

### **SECTION 645.010: LICENSE REQUIRED**

A. The terms used in this Chapter shall have the meaning set forth in Section 415.590 of the Municipal Code, except as otherwise defined in this Section:

**INFLUENTIAL INTEREST:** Includes any of the following:

- (1) The actual power to operate a sexually oriented business or control the operation, management, or policies of a sexually oriented business or legal entity which operates a sexually oriented business;
- (2) Ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business; or
- (3) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates a sexually oriented business.

## B. License Required And Posting Of Licenses.

1. It shall be unlawful for any person to operate or maintain a sexually oriented business within the City without a license or to operate such establishment after such license has been revoked, suspended or expired.
2. It shall be unlawful for any employee to knowingly perform any work, service or entertainment directly related to the operation of a sexually oriented business that does not have a sexually oriented business license or which had such license revoked or suspended.
3. Every sexually oriented business, manager, or entertainer required to be licensed by this Chapter shall post such license in a conspicuous place on the licensed premises so it is readily available for inspection by City authorities responsible for enforcement of this Chapter.

## C. License, Classification And Fees.

1. The license year for all fees required under this Chapter shall be from July first (1st) through June thirtieth (30th). The application for a license shall be accompanied by payment in full of the fee stated in this Section by certified check, cashier's check or money order; and no application shall be considered until such fee is paid.
2. The classification of licenses and fees for each shall be as follows:
  - a. Sexually oriented business license fee, one thousand dollars (\$1,000.00) for initial application; five hundred dollars (\$500.00) for renewal;
  - b. Sexually oriented business manager's license fee, two hundred fifty dollars (\$250.00) for initial application; one hundred twenty-five dollars (\$125.00) for renewal;
  - c. Sexually oriented business entertainer's license fee, two hundred fifty dollars (\$250.00) for initial application, one hundred twenty-five dollars (\$125.00) for renewal.

## **SECTION 645.020: APPLICATION FOR LICENSE**

A. Sexually oriented business license. An application for a sexually oriented business license shall be submitted on a form obtained from the City Clerk. A notarized application shall be submitted in the name of the person proposing to operate the sexually oriented business. All applications shall contain the following information:

1. The business name, address and telephone number of the establishment, a description of the sexually oriented business and the name or names of the owner(s) of the premises where the sexually oriented business will be located.

2. The name, address, home telephone number, occupation, social security number, date and place of birth and social security number of all persons with an influential interest in the sexually oriented business.
3. The addresses of all persons with an influential interest in the sexually oriented business for the five (5) years immediately prior to the date of the application.
4. A description of the sexually oriented business and similar business history of all persons with an influential interest in the sexually oriented business in in the City, or any other City, County or State, and whether any such person has had a business license revoked or suspended, the reason therefore and the activity or occupation subjected to such suspension or revocation.
5. A statement of each and every business, occupation or employment of all persons with an influential interest in the sexually oriented business for the three (3) years immediately preceding the date of the application.
6. A statement from all persons with an influential interest in the sexually oriented business that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
  - a. Any of the following specified offenses for which less than eight (8) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:
    - (i) Rape and sexual assault offenses;
    - (ii) Sexual offenses involving minors;
    - (iii) Offenses involving prostitution;
    - (iv) Obscenity offenses;
    - (v) Offenses involving money laundering;
    - (vi) Offenses involving tax evasion;
    - (vii) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in subdivisions (i) to (vi) of this Subsection; or
    - (viii) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in Subdivisions (i) to (vii) of this Subsection.

b. The statement shall also indicate that the persons with an influential interest in the sexually oriented business have not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or the sale of controlled substances or illegal drugs or narcotics.

7. A full set of fingerprints and a photograph, to be taken by the Police Department, of all persons with an influential interest in the sexually oriented business.

8. If applicable, proof that the applicant is in good standing with the Missouri Secretary of State.

9. A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provision of this Chapter.

Failure to provide the information and documentation required by this Subsection shall constitute an incomplete application which shall not be processed.

B. Sexually oriented business manager or entertainer's license. An application for a sexually oriented business manager or entertainer license for work at a sexually oriented business in the City shall be submitted on a form obtained from the City Clerk. A notarized application shall be submitted in the name of the person proposing to be a sexually oriented business manager or entertainer. All applications shall contain the following information:

1. The home telephone number, occupation, date and place of birth and social security number of the applicant.

2. The business name, address and telephone number of the business where the applicant intends to work and intent to hire statement from the sexually oriented business that is licensed or that has applied for a license under the provisions of this Chapter.

3. A statement from the applicant that the applicant has not been convicted of, released from confinement of, or diverted from prosecution on:

a. Any of the following specified offenses for which less than eight (8) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

(i) Rape and sexual assault offenses;

(ii) Sexual offenses involving minors;

(iii) Offenses involving prostitution;

- (iv) Obscenity offenses;
- (v) Offenses involving money laundering;
- (vi) Offenses involving tax evasion;
- (vii) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in subdivisions (i) to (vi) of this Subsection; or
- (viii) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in Subdivisions (i) to (vii) of this Subsection.

4. Documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted.
5. A full set of fingerprints and a photograph of the applicant to be taken by the Police Department.
6. A statement signed under oath that the applicant has personal knowledge of the information contained within the application and that the information contained therein is true and correct and that the applicant has read the provisions of this Chapter.

Failure to provide the information and documentation required by this Subsection shall constitute an incomplete application which shall not be processed.

#### **SECTION 645.030: APPLICATION PROCESSING.**

Upon submission of a complete application for a sexually oriented business license or a sexually oriented business manager or entertainer license, the City Clerk will transmit one (1) copy of the application to the Police Chief and one (1) copy to the Director of Planning. The Police Department shall review the information contained therein, perform a background check and verify the qualification of the applicant. Additionally, the Director of Planning will determine whether the structure of the sexually oriented business complies with the requirements and meets the standards of the applicable health, zoning, building, fire and property maintenance ordinances of the City. The Police Department and the Director of Planning shall report results to the City Clerk no later than fifteen (15) working days from the date the completed application is received by the City Clerk.

#### **SECTION 645.040: ISSUANCE OF DENIAL OF LICENSE**

##### **A. Examination Of Application—Issuance Of License.**

1. If the application for a license of a sexually oriented business or for a manager or entertainer of a sexually oriented business is in proper form, accompanied by the appropriate license fee, the City Clerk shall examine the application. If after such

examination the City Clerk determines that the applicant has met the requirements of the Police Department and the Director of Planning and has met all requirements set forth in this Chapter, the City Clerk will approve the license. The City Clerk must provide the applicant with a response within sixty (60) days of the submission of the completed application for the sexually oriented business or a license for a manager or entertainer of a sexually oriented business. No incomplete application will be processed.

2. If an application for a license is not approved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address and the notification shall state the bases for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

3. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the sexually oriented business.

4. A single license will authorize the operation of only one (1) sexually oriented business; more than one (1) business use within a licensed sexually oriented business premises is prohibited.

5. No person is eligible nor shall licenses be issued to a sexually oriented business or manager or entertainer if the applicant does not meet the requirements set forth in this Chapter or if one (1) of the following requirements is not met:

a. The applicant failed to supply all of the information requested on the application;

b. The applicant gave false, fraudulent or untruthful information on the application;

c. The applicant's proposed sexually oriented business does not comply with or meet the ordinances of the City, provided, that upon a showing that the premises meet said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the City.

d. 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 in this Section.

e. The applicant or applicant's spouse has had any license relating to a sexually oriented business revoked or suspended in this or any other City during the past five (5) years.

#### **B. Renewal Of A Sexually Oriented Business License Or A License For A Manager Or Entertainer Of A Sexually Oriented Business.**



1. A sexually oriented business license or a license for a manager or entertainer of a sexually oriented business may be renewed by making application to the City Clerk on the application forms provided. Such licenses shall expire on June thirtieth (30th) of each year and renewal application for such licenses shall be submitted by June first (1st) of each year.

2. Upon payment of the license fee and review of the application by the City Clerk, the City Clerk shall renew the license for an additional license year if conditions under which the original license was issued have not changed. If the application for renewal of a license is not made during the time provided in Subdivision (1) of this Subsection, a new application shall be required.

3. A license will not be renewed if the applicant is overdue in the payment to the City of taxes, fees, fines or penalties assessed against the business or imposed upon the business in relation to the sexually oriented business.

## **SECTION 645.050: REVOCATION/SUSPENSION OF LICENSE**

### **A. Transferability—Revocation And/Or Suspension Of License.**

1. Licenses issued under this Chapter shall not be transferable, either to any person, persons or other entities.

2. The City Clerk may suspend a license for a period not to exceed thirty (30) days upon a determination that a licensee or employee has violated any part of this Chapter or Section 415.590. Said suspension shall be issued in writing mailed by certified mail, return receipt requested, to the licensee at the address of the establishment or at the home of the licensee or served by process server at the usual place of abode of the licensee or at the address of the establishment. If a suspension is issued for a correctable violation, said suspension shall be terminated upon verification by inspection that the correction has been made which shall be determined no later than forty-eight (48) hours after receipt of written notice of correction by the City Clerk.

3. The City Clerk shall revoke any license where any of the following occur:

a. The sexually oriented business license or the sexually oriented business manager or entertainer license was obtained through false statements in the application for such license or renewal thereof; or

b. The sexually oriented business license or sexually oriented business manager or entertainer licensee failed to make a complete disclosure of all information required in the application for such license or renewal thereof; or

c. All persons with an influential interest in the licensed sexually oriented business or any licensed manager or entertainer has become disqualified from having a license under this Chapter; or

d. All persons with an influential interest in the licensed sexually oriented business or any licensed manager or entertainer has been convicted of two (2) or more violations of this Chapter within a license year.

B. Appeal From Denial, Suspension Or Revocation Of License. An applicant who has been denied either an initial license or a renewal license or whose license has been suspended or revoked may appeal the City Clerk's decision by filing a written notice of appeal to the City Council within ten (10) days of the City Clerk's decision. The City Council shall schedule a public hearing of such appeal within twenty-one (21) days of filing of the written notice of appeal. The City Council shall affirm the decision of the City Clerk if it finds that the conditions pertinent to issuance or maintenance of a license have not been met. An applicant aggrieved by any decision shall have the right to seek judicial review as is permitted by applicable State law.

## **SECTION 645.060: REGULATIONS ON LICENSEE**

### **A. Manager Responsibility.**

1. At least one (1) licensed sexually oriented business manager shall be on duty during all hours of operation of a sexually oriented business. The name and license number of the manager on duty shall be prominently posted on the premises at all times.
2. It shall be the responsibility of the manager on duty to verify that any employee who provides adult entertainment within the premises possesses a current and valid entertainer's license issued by the City.
3. It shall be the responsibility of the manager to ensure all standards and obligations of the license are maintained.
4. The licensed sexually oriented business must notify the City within seventy-two (72) hours of the termination or resignation of any licensed manager.

### **B. Unlawful Activities.**

1. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
2. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six (6) feet from all patrons and at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
3. No employee, who appears in a semi-nude condition in a sexually oriented business, shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

4. No employee shall perform any specified sexual activities, engage in sexual conduct, wear or use any device or covering exposed to view which simulates any specified anatomical area, or participate in any act of prostitution.
5. No employee shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this Section.
6. It is unlawful for an employee to be visible from the exterior of the sexually oriented business while such person is in a state of nudity or semi-nudity.
7. It is unlawful to operate a sexually oriented business in a manner that permits the observation of employees in a state of nudity or semi-nudity from the exterior of the sexually oriented business by display, decoration, sign, show window or other opening.

#### C. Regulation Of Mainstream Media Outlets.

1. In all mainstream media outlets, all sexually oriented materials shall be kept in a separate room or section of the outlet that:
  - a. Is not open to any child;
  - b. Is physically and visually separated from the rest of the outlet by an opaque wall of durable material, reaching at least eight (8) feet high or to the ceiling, whichever is less;
  - c. Is located so that the entrance to it is as far as reasonably practical from media or other inventory in the store advertised for sale to children;
  - d. Has access controlled by electronic or other means to provide assurance that children will not gain admission;
  - e. Has continuous video or window surveillance by store personnel; and
  - f. Has signage at the entrance stipulating that children are not permitted inside the room or section.
2. Media outlets that contain less than ten percent (10%) of the stock-in-trade which involves sexually oriented materials are not regulated by this Subsection. However, no obscene material may be publicly displayed in such media outlets.

#### D. Operational Criteria.

1. No sexually oriented business may be open or in use between the hours of 12:00 midnight and 10:00 A.M. on any day.

2. No operator, manager or employee shall knowingly allow a person under of eighteen (18) years on the premises of a sexually oriented business.

3. A sexually oriented business, which exhibits sexually oriented materials on the premises through any mechanical or electronic image-producing device, shall comply with the following requirements:

a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

b. An operator's station shall not exceed thirty-two (32) square feet of floor area;

c. If the premises has two (2) or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;

d. The view required under this subsection shall be by direct line of sight from the operator's station;

e. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and

f. It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

4. Ventilation and sanitation requirements. The premises of all sexually oriented businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

5. No operator, manager or employee of a sexually oriented business shall:

a. Knowingly permit alcoholic beverages to be brought upon, sold, used or consumed on the premises;

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 act of prostitution or patronizing prostitution on the premises; or

d. Knowingly allow or permit a violation of this Section or any other City ordinance or provision of State law.

6. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

7. There must be continuous physical, video or window surveillance of the premises upon which a sexually oriented business is located.

8. The sexually oriented business must provide restrooms for customer use.

E. Compliance With Code Requirements. Any sexually oriented business licensed under this Chapter shall comply with all other requirements of the codes of the City as now or in the future may be adopted.

F. Inspections. An applicant or licensee shall permit representatives of the Police Department, Fire Department or Planning Department to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law at any time it is occupied or open for business. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or hinder such officer in any manner.

#### **SECTION 645.070: PENALTIES.**

Any violation of any part of this Chapter is subject to the penalty provided in Section 100.140 of the Municipal Code. This Chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of this Chapter. Notwithstanding any other provision of law to the contrary, for purposes of this Section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this Chapter only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

**Section Eight.** Effective Date. This Ordinance shall be in full force and effect after its passage and approval.

**Section Nine.** Savings. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in manner connected with the subject matter hereof.

**Section Ten.** Severability. If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the City Council that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the

event of a subsequent change in applicable law so that the provision which had been held invalid is no longer valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

This Bill was passed and approved this \_\_\_\_ day of \_\_\_\_\_, 2016 by the City Council of the City of Wildwood, Missouri after having been read by title two (2) times prior to its passage.

\_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
JAMES R. BOWLIN, MAYOR

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk