

## TITLE 5: BUSINESS REGULATIONS

### CHAPTER 3 - ADULT BUSINESSES

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#### SECTION 5-3-1 DEFINITIONS

- **Adult Bookstore** - Any establishment that has as its stock in trade, or any significant or substantial portion thereof, books, magazines, films, records, recording tapes, video tapes, or other periodicals, for sale or for viewing either on or off the premises, which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or any establishment that holds itself out to the public as a purveyor of such based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusions of minors from the establishment's premises, or any other factors showing the establishment's primary purpose is to purvey such material.
- **Adult Device Store** – An establishment having as a substantial portion of its stock in trade any device, appliance, instrument, or object which is represented either by the operator of the establishment or by its packaging, advertising, or other literature furnished therewith as enhancing, assisting, representing, depicting, or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material, or any establishment that holds itself out to the public as a purveyor of such based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusions of minors from the establishment's premises, or any other factors showing the establishment's primary purpose is to purvey such material.
- **Adult Entertainment Cabaret** – A public or private establishment which is licensed to serve food and/or alcoholic beverages, which features entertainers, dancers, waitresses, waiters, or any other employees acting in such a way as to display, depict, describe, or relate to specified sexual activities or specified anatomical areas for observation by patrons therein.
- **Adult Mini Motion Picture Theater** - An enclosed building or drive-in theater with a capacity of less than fifty (50) persons used regularly and routinely for presenting motion pictures having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.
- **Adult Use** – Adult bookstores, adult device stores, adult entertainment cabarets, adult mini motion picture theaters, adult motion picture theaters, body shops, model studios, and massage establishments.
- **Body Shop or Model Studio** – Any public or private establishment which describes itself as a body shop or model studio, or where for any form of consideration or gratuity figure models who display specific anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of

consideration or gratuity nude or semi-nude dancing, readings, counseling sessions, body painting, and other activities that present materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity.

- **Building Structure** – Any structure or group of structures housing two (2) or more businesses which share a common entry, exit, wall or frontage wall, including, but not limited to, shopping centers, shopping plazas, or shopping squares.
- **Massage** – Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or other parts of the human body or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice.
- **Massage Establishment** – An establishment having a fixed place of business where any person, firm, association, or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned in the definition of massage in this Section; provided, however, that the term massage establishment shall not apply to the following:
  - a. Hospitals, nursing homes, or sanitarium; or
  - b. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid, unrevoked masseur permit issued by the City of West Peoria, administers a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business; or
  - c. Barber shops or cosmetology establishments, not operated as a home occupation as defined under the West Peoria Zoning Regulations, where a barber or cosmetologist, holding a valid, unrevoked license or certificate of registration issued by the State of Illinois, allows a person holding a valid, unrevoked license or certificate of registration issued by the State of Illinois and a valid, unrevoked masseur permit issued by the City of West Peoria and working under the direction of the barber or cosmetologist, to administer a massage in conjunction with and incidental to the lawful performance of the barber's or cosmetologist's particular profession or business.
- **Nudity** – The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.
- **Specified Anatomical Areas** – Any of the following:
  - a. Less than completely and opaquely covered:
    - i. Human genitals, pubic region, or pubic hair; or
    - ii. Buttock; or
    - iii. Female breast below a point immediately above the top of the areola; and
  - b. Human male genitals in a discernibly turgid state, even if completely covered and opaquely covered.
- **Specified Sexual Activities** – Any of the following conditions:
  - a. 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.
  - b. The actual or simulated touching, caressing, or fondling of the breast, buttocks, anus, or genitals.

- c. The actual or simulated display of the breasts, buttocks, pubic hair, anus, vulva, or genitals.
- d. Excretory or urinary function as part of or in conjunction with any activities set forth in Paragraphs a through c of this Subsection.

**SECTION 5-3-2 REQUIRED AND CONDITIONS FOR LICENSE LIMITATIONS ON ADULT USES**

Adult uses shall be permitted subject to the following restrictions:

1. An adult use shall not feature:
  - a. A person who knowingly or intentionally, in a public place:
  - b. Engages in sexual intercourse; or
  - c. Engages in deviant sexual conduct; or
  - a. Appears in a state of nudity; or
  - b. Fondles the genitals of himself or another person.
2. All adult uses shall be located only in B-1, General Business District, with a special use permit, and B-2, Highway And Service Business District, with a special use permit, and within such districts an adult use shall not be located within seven hundred fifty (750) feet of another pre-existing adult use.
3. An adult use shall not be located within five hundred (500) feet of a pre-existing school or place of worship.
4. An adult use shall not be located in a building structure which contains another business that sells or dispenses in some manner alcoholic beverages.
5. Any adult use doing business at the time this chapter takes effect shall have one (1) year from the effective date hereof to comply with the provisions of Subsections A through D of this Section.
6. Any adult use doing business at the time this Chapter takes effect shall have thirty (30) days from the effective date hereof for the issuance of an adult use license.

No adult use shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from any public way or from any property not registered in the license as the location where the adult use is to be operated.

**SECTION 5-3-3 REQUIRED AND CONDITIONS FOR LICENSE MEASURE OF DISTANCE**

For the purposes of this Chapter, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the lot or parcel containing the adult use to the property line of the lot or parcel containing the nearest adult use, school or place of worship.

**SECTION 5-3-4 REQUIRED AND CONDITIONS FOR LICENSE LICENSE REQUIRED; FILING OF APPLICATION; FILING FEES**

It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises in the City of West Peoria, the operation of an adult use as herein defined without first having obtained a separate license for such adult use from the Mayor.

Every applicant for a license to maintain, operate, or conduct an adult use shall file an application in duplicate under oath with the Mayor upon a form provided by the City Clerk and pay a non-refundable filing fee, which shall be set by the City Council by resolution as it shall deem necessary from time to time, to the City Clerk, who shall issue a receipt, which shall be attached to the application filed with the Mayor.

Within thirty (30) days after receiving the application, the Mayor shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Mayor shall advise the applicant in writing whether the application is granted or denied.

When an application is denied or held for further investigation, the Mayor shall advise the applicant in writing of the reason for such action.

Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any inspection or investigation required by this Chapter shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the Mayor.

#### SECTION 5-3-5 REQUIRED AND CONDITIONS FOR LICENSE CONTENTS OF APPLICATION FOR LICENSE

The term applicant as used in this Chapter shall include any partner or limited partner of a partnership applicant and any officer or director of a corporate applicant and any stockholder holding more than ten (10) percent of the stock of a corporate applicant and any manager or member of a limited liability company or any other person who is interested directly in the ownership or operation of the business. An applicant for a license shall furnish the following information under oath:

- A. Name and address; and
- B. Written proof that the individual is at least eighteen (18) years of age; and
- C. Location of where the adult business is to be operated.

#### SECTION 5-3-6 REQUIRED AND CONDITIONS FOR LICENSE ISSUANCE OF ADULT LICENSE

The Mayor shall issue a license to maintain, operate, or conduct an adult use unless he finds:

- A. That the applicant is under the age of eighteen (18) years or under any legal disability; or
- B. The location where the adult business is proposed to be operated does not comply with the limitations set forth in Section 5-3-2 of this Chapter.

Every adult use license issued pursuant to this Chapter will terminate at the expiration of one (1) year from the date of its issuance, unless sooner revoked.

#### SECTION 5-3-7 REQUIRED AND CONDITIONS FOR LICENSE SUSPENSION OR REVOCATION OF LICENSE FOR ADULT USE

Any license issued for an adult use may be revoked or suspended by the Mayor if the Mayor shall find:

- a. That the licensee has violated any of the provisions of this Chapter regulating adult uses; or

- b. That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for any license or permit required by this Chapter or knowingly caused or suffered another to furnish or withhold such information on his or her behalf.

The licensee shall be responsible for the acts of his agents, servants, and employees; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Mayor shall find that the licensee had no actual or constructive knowledge of such violation and could not in the exercise of due diligence have had such actual or constructive knowledge.

The Mayor, before revoking or suspending any license, shall give the licensee at least ten (10) days written notice of the charges against him or her. The licensee may, within five (5) days of receipt of said notice, request a public hearing before the Mayor at which time the licensee may present evidence bearing upon the question. Any notice by the Mayor may be delivered personally to the licensee or be posted on the premises where the adult use is located.

#### SECTION 5-3-8 REQUIRED AND CONDITIONS FOR LICENSE DISPLAY OF LICENSE AND PERMIT

Every licensee shall display a valid license in a conspicuous place within the premises where the adult use is operated so that it may be readily seen by persons entering the premises.

#### SECTION 5-3-9 REQUIRED AND CONDITIONS FOR LICENSE EMPLOYMENT OF PERSONS UNDER 18 PROHIBITED

It shall be unlawful for any adult use licensee or his manager or employee to employ in any capacity within the adult business any person who is not at least eighteen (18) years of age.

#### SECTION 5-3-10 REQUIRED AND CONDITIONS FOR LICENSE ILLEGAL ACTIVITIES ON PREMISES

No licensee or any officer, associate, member, representative, agent, or employee of such licensee shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by an ordinance of the City of West Peoria or laws of the State of Illinois or of the United States.

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