

Ordinance

AHAB-O-0031-19

**COUNTY CODE OF ORDINANCES REGARDING REGULATION OF ADULT
ENTERTAINMENT FACILITIES**

WHEREAS, the Ad Hoc Adult Business Committee (“Committee”) of the County Board of DuPage County, Illinois, in order to promote the health, safety, and general welfare of the citizens of the County, and to combat and, or, alleviate the negative and harmful secondary effects associated with businesses engaged in on-premises, sexually-oriented adult entertainment, desires to establish reasonable and uniform regulations for businesses that: (i) have performances that are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas where there is physical contact, or the opportunity for contact, between patrons and employees of the establishment; (ii) have performances that are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas that involve the use of recorded media (i.e., video viewing booths, movie theaters, movie arcades, etc.); and

WHEREAS, the Committee desires to promote and enhance the health, safety, and general welfare of the citizens of the County, by combating and, or, alleviating negative and harmful secondary effects associated with adult businesses (as defined by the attached Ordinance) including: crime (namely sex crimes, prostitution, violence against women and children, public indecency, public lewdness, drug sales, use and possession and human trafficking); adverse effects on nearby properties (including decreased or stagnated valuations, reduced marketability, declining or stagnated rental rates, high occupancy turnover, the attraction of low quality commercial tenants, and the formation of commercial “dead zones”); blight (including the deterioration of local business districts and residential neighborhood, combating negative public perceptions and resident/business flight); health concerns (unsanitary conditions, spread of sexually transmitted diseases); impacts on public services (increased demand for police, judicial and social service resources); and eliminate the dehumanizing influence that adult businesses might have on their employees; and

WHEREAS, each of the foregoing negative secondary effects enumerated above constitutes a harm which the County has a substantial government interest in preventing, abating and, or, mitigating; and

WHEREAS, the County has received and considered numerous studies, reports and articles including, but not limited to: “Effects of Concentration of Adult Establishments.” City of Los Angeles, CA. (1977); “A Report on Zoning and Other Methods of Regulating Adult Entertainment Uses in Amarillo.” Planning Department, City of Amarillo, TX. (1977); “A Report on Zoning and Other Methods of Regulating Adult Entertainment Uses in Amarillo.” Planning Department, City of Amarillo, TX. (1977); “Effects on Surrounding Area of Adult Entertainment Businesses.” Division of Planning, Department of Economic Development and Planning, City of St. Paul, MN. (1978); “Adult Business Study.” City of Phoenix, AZ. Department of Planning. (1979); “Study and Recommendations for Adult Entertainment Businesses in the Town of Islip, NY.” Town of Islip, NY. (1980); “Commercial Revitalization Plan for the Charlton-Pollard neighborhood.” Planning Department, City of Beaumont, TX. (1981); “Adult Entertainment Businesses in Indianapolis, An Analysis.” Department of Metropolitan Development, Division of Planning, City of Indianapolis, IN. (1984); “Negative Secondary Effects of Sexually Oriented Businesses.” City of El Paso, TX, Department of

Ordinance

AHAB-O-0031-19

Planning Research and Development. (1986); "Adult Entertainment Businesses: Survey of Appraisers" Oklahoma City, OK. (1986); "40-Acre Study on Adult Entertainment," by the St. Paul Department of Planning and Economic Development, Division of Planning, (1987); "Location of Adult Business Uses." Planning Director, City of Bellevue, WA. (1988); "Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses." State of Minnesota Attorney General's Office. (1989); "Police Report and Citizens Report regarding Adult Entertainment Ord." Tucson, AZ. (1990); "Relationship between Crime and Adult Businesses on Garden Grove Boulevard." Garden Grove, CA (1991); "Adult Entertainment Study." Department of City Planning, City of New York, NY. (1994); "Effects of SOBs which Advertise Live, Semi-Nude Entertainment on Surrounding Properties [Dallas, TX]." Milan Group, (1994/1997); "Report on Adult Oriented Businesses in Austin." Office of Land Development Services, City of Austin, TX. (1996); "Adult Use Study." City of Newport News, VA (1996); "Memorandum to the City of Seattle Planning Commission." Planning Department, City of Seattle WA.; "Report on Adult Businesses Studies by the Sexually Oriented Business Ordinance Revision Committee." City of Houston, TX. (1997); "Staff Reports- City of Miami." (2008); "Adult Live Performance Venues Study." City Planning Commission, City of New Orleans, LA. (2016); "Adult Entertainment Zoning & Licensing Committee Report to the City of Mount Vernon [WA]." (2017); "Zoning (and Other Regulation of) Adult Uses." Barbara Gosselar; Environmental Research Group Report. (1996); "Preventing the Secondary Effects of Adult Entertainment Establishments: Is Zoning the Solution?" Dana Tucker. Journal of Land Use and Environmental Law, Vol. 12:2 (1997); "Strip Clubs According to Strippers: Exposing Workplace Sexual Violence" Kelly Holsopple. (1999); "Government Regulation of Adult Businesses Through Zoning and Anti-Nudity Ordinances: Debunking the Legal Myth of Negative Secondary Effects," 6 Comm. Law & Policy 355 (2001)
<<https://advance.lexis.com/document/?pdmfid=1000516&crd=f1eff43e-e86d-4bf3-9058-88ce92534bb3&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pddocid=urn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pdcontentcomponentid=6390&pdshepid=urn%3AcontentItem%3A58TP-3BJ1-DXC8-7165-00000-00&pdteaserkey=sr0&pditab=allpods&ecom=3y9Lk&earg=sr0&prid=e4076936-4ced-41d9-a845-87576d9c3a24>>; "A Methodological Critique of the Linz-Yao Report: Report to the Greensboro City Attorney." Richard McCleary, Ph.D. (2003); "Survey of DFW Appraisers: Land Use Effects on Property Values" Cooper/Kelly, Dallas-Fort Worth, TX. (2004); "Report to the City Attorney [Kennedale, Texas] on Crime-Related Secondary Effects." Dr. Richard McCleary (2005); "Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values." Connie B. Cooper and Eric Damian Kelly (2008); "Crime-Related Secondary Effects: Secondary Effects of 'Off Site' Sexually-Oriented Businesses." Richard McCleary (2008); "Survey of Florida Appraisers: Effects of Land Uses on Surrounding Property Values." Prepared by Duncan Associates and Cooper Consulting for Palm Beach County, FA. (2008); "Rural Hot Spots: The Case of Adult Businesses." Criminal Justice Policy Review, 19(2), pp. 153-163. Duncan Associates. (2008); "Secondary Effects of Sexually Oriented Businesses: Report to the Ohio Attorney General." Drs. Richard McCleary and Wendt Regoeczi (2010); "The Association of Adult Businesses with Secondary Effects: Legal Doctrine, Social Theory, and Empirical Evidence." Alan C. Weinstein and Richard D. McCleary Cardozo Arts & Entertainment Law Journal (29 Cardozo Arts & Ent. L.J. 565, 2011); "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD" by Jacqueline Reuben

Ordinance

AHAB-O-0031-19

<https://www.ncbi.nlm.nih.gov/pubmed/?term=Reuben%20J%5BAuthor%5D&cauthor=true&cauthor_uid=21327548>, Chris Serio-Chapman
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Serio-Chapman%20C%5BAuthor%5D&cauthor=true&cauthor_uid=21327548>, Christopher Welsh
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Welsh%20C%5BAuthor%5D&cauthor=true&cauthor_uid=21327548>, Richard Matens
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Matens%20R%5BAuthor%5D&cauthor=true&cauthor_uid=21327548>, and Susan G. Sherman
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Sherman%20SG%5BAuthor%5D&cauthor=true&cauthor_uid=21327548>, Published April 2011; "More than a dance: The production of sexual health risk in the exotic dance clubs in Baltimore, USA." Susan G. Sherman
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Sherman%20SG%5BAuthor%5D&cauthor=true&cauthor_uid=21724311>, Pamela Lilleston
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Lilleston%20P%5BAuthor%5D&cauthor=true&cauthor_uid=21724311> and Jacqueline Reuben
<https://www.ncbi.nlm.nih.gov/pubmed/?term=Reuben%20J%5BAuthor%5D&cauthor=true&cauthor_uid=21724311>. (August 2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analyses." Eric S. McCord and Richard Tewksbury. (2012); "Regulating Adult Entertainment Business: Zoning and First Amendment Limitations." Kelly/Cooper, Stafford. (2013); "Potential Dangers of Sexually Oriented Businesses." Phillip Martinez; "Strip Clubs, "Secondary Effects," and Residential Property Prices." Taggart Brooks, Brad Humphreys and Adam Nowak, Dept. of Economics, University of West Virginia. (2016); "Effects of Sexual Businesses on Society." Marripedia.org. (2017); and

WHEREAS, the Committee has received and considered numerous court decisions including, but not limited to: Village of Euclid, Ohio v. Amber Realty Co., 272 U.S. 365 (1926); United States v. O'Brien, 391 U.S. 367 (1968); Young v. American Mini Theaters, 427 U.S. 50 (1976); Northend Cinema v. City of Seattle, 585 P.2d 1153 (1978); Schad v. Borough of Mount Ephraim, 452 U.S. 61 (1981)
<<https://advance.lexis.com/document/?pdmfid=1000516&crd=cf473a69-9507-4549-88aa-8849dc0cb97c&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A4MFB-R7F0-TVV9-02XB-00000-00&pddocid=urn%3AcontentItem%3A4MFB-R7F0-TVV9-02XB-00000-00&pdcontentcomponentid=7240&pdshepid=urn%3AcontentItem%3A7XWY-W291-2NSD-N04S-00000-00&pdteaserkey=sr2&pditab=allpods&ecomp=3y9Lk&earg=sr2&prid=ee86115a-6922-450d-9e63-372f69e3d251>>; City of Renton v. Playtime Theaters, 475 U.S. 41 (1986); FW/PBS, Inc. v. City of Dallas, 493 U.S. 216 (1990); Barnes v. Glen Theatre, 501 U.S. 560 (1991); ILQ Investments v. City of Rochester, 25 F.3d 1413 (8th Cir., 1994); Ben Rich Trading, Inc., 126 F.3d 155 (3rd Cir., 1997); Stringfellow's of New York v. City of New York, 91 N.Y.2d 382 (N.Y., 1998); Sammy's of Mobile, Ltd. V. City of Mobile, 140 F.3d 993 (11th Cir. 1998); N.W. Enterprises v. City of Houston, 27 F. Supp. 2d 754 (S.D. Texas, 1998); City of Erie v. Pap's A.M., 529 US 277 (2000); Schultz v. City of Cumberland, 228 F.3d 831 (7th Cir., 2000); Wise Enterprises, Inc. v. Unified Gov't of Athens-Clarke County, 217 F.3d 1360 (11th Cir., 2000); Artistic Entertainment, Inc. v. City of Warner Robbins, 223 F.3d 1306 (11th Cir., 2000); Isbell v. Grand B Emporia, Inc., 258 F.3d 1108 at 1116 (9th Cir. 2001); LLEH, Inc. v. City of Wichita, 289 F.3d 358 (5th Cir., 2002); Jake's, Ltd., Inc. v. City of Coates, 284 F.3d 884 (8th Cir. 2002)

Ordinance

AHAB-O-0031-19

<https://advance.lexis.com/document/?pdmfid=1000516&crd=8e3fe481-740a-4a01-9a2e-9b699f28de8f&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A4H80-VJN0-TVTR-T2F9-00000-00&pddocid=urn%3AcontentItem%3A4H80-VJN0-TVTR-T2F9-00000-00&pdcontentcomponentid=6418&pdshepid=urn%3AcontentItem%3A7XWY-JM51-2NSD-M176-00000-00&pdteaserkey=sr9&pditab=allpods&ecom=3y9Lk&earg=sr9&prid=d9979355-3d69-41fb-916c-4a3ff99283b6>>(cert. denied, 537 U.S. 948 (2002))

<https://advance.lexis.com/document/?pdmfid=1000516&crd=8e3fe481-740a-4a01-9a2e-9b699f28de8f&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A4H80-VJN0-TVTR-T2F9-00000-00&pddocid=urn%3AcontentItem%3A4H80-VJN0-TVTR-T2F9-00000-00&pdcontentcomponentid=6418&pdshepid=urn%3AcontentItem%3A7XWY-JM51-2NSD-M176-00000-00&pdteaserkey=sr9&pditab=allpods&ecom=3y9Lk&earg=sr9&prid=d9979355-3d69-41fb-916c-4a3ff99283b6>>); City of Los Angeles v. Alameda Books, 535 U.S. 425 (2002); Center for Fair Pub. Policy v. Maricopa County, 336 F.3d 1153 (9th Cir., 2003), cert. den. 541 U.S. 973 (2004); G.M. Enterprises, Inc. v. Town of St. Joseph, 350 F.3d 631 (7th Cir., 2003); R.V.S., L.L.C. v. City of Rockford, 361 F.3d 402 (7th Cir., 2004); City of Littleton v. Z.J. Gifts D-4, LLC, 541 U.S. 774 (2004); World Wide Video of Washington v. City of Spokane, 368 F.3d 1186 (9th Cir., 2004); New Albany DVD, Inc. v. City of New Albany, 362 F. Supp.2d 1015 (S.D. Ind., 2005); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir., 2005); Fantasyland Video, Inc. v. County of San Diego, 2005 WL 1429810 (S.D. Cal. 2005); Dr. John's, Inc. v. City of Roy, 465 F.3d 1150 (10th Cir., 2006); Andy's Restaurant and Lounge, Inc. v. City of Gary, 466 F.3d 550 (7th Cir., 2006); 181 South Inc. v. Fischer, 454 F.3d 228 (3rd Cir., 2006); City of Chicago v. Pooh Bah Enterprises, 224 Ill.2d 390 (Ill., 2006); Fantasy Ranch, Inc. v. City of Arlington, 459 F.3d 546 (5th Cir., 2006); Déjà vu of Nashville, Inc. v. Metro. Gov't of Nashville and Davidson County, 466 F.3d 391 (6th Cir., 2006); Buzdum v. Village of Germantown, 2007 WL 3012971 (E.D. Wis., 2007); H & A Land Corp v. City of Kennedale, 480 F.3d 336 (5th Cir. 2007), cert. den. Sub nom. Reliable Consultants, Inc. v. City of Kennedale, 128 S. Ct. 196 (U.S. 2007); 84 Video/Newsstand, Inc. v. Santini, 2007 WL 3047207 (N.D. Ohio, 2007); Bottoms Up Enterprises, Inc. v. Borough of Homestead, 2007 WL 2908762 (W.D. Penn., 2007); Little Mack Entertainment II, Inc. v. City of Marengo, 625 F.Supp.2d 570 (W.D. Mich., 2008); Sensations, Inc. City of Grand Rapids, 526 F.3d 291 (6th Cir., 2008); Richland Bookmart, Inc. v. Knox County, Tenn., 555 F.3d 512 (6th Cir., 2009); Flanigan's Enterprises Inc. v. Fulton County, 596 F.3d 1265 (11th Cir., 2010); Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County, Fla. (Peek-A-Boo II), 630 F.3d 1346 (11th Cir. 2011); Uniontown Retail #36, LLC. v. Board of Commissioners Jackson County, 950 N.E.2d 332 (Ind. App. 2011); Green Valley Investment LLC. v. County of Winnebago, 790 F. Supp.2d 947 (E.D. Wis., 2011); Metro Pony, L.L.C. v. City of Metropolis, Ill., 2012 WL 1389656 (S.D. Ill., 2012); Foster v. City of El Paso, 396 S.W.3d 244 (Texas App., 2013); Entertainment Productions, Inc. Shelby County, TN, 721 F.3d 729 (6th Cir. Ct., 2013)(cert. denied, 2014 U.S. LEXIS 533 (Jan. 13, 2014) <<https://advance.lexis.com/document/?pdmfid=1000516&crd=f1eff43e-e86d-4bf3-9058-88ce92534bb3&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pddocid=urn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pdcontentcomponentid=6390&pdshepid=urn%3AcontentItem%3A58TP-3BJ1-DXC8-7165-00000-00&pdteaserkey=sr0&pditab=allpods&ecom=3y9Lk&earg=sr0&prid=e4076936-4ced-41d9-916c-4a3ff99283b6>>

<https://advance.lexis.com/document/?pdmfid=1000516&crd=f1eff43e-e86d-4bf3-9058-88ce92534bb3&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pddocid=urn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pdcontentcomponentid=6390&pdshepid=urn%3AcontentItem%3A58TP-3BJ1-DXC8-7165-00000-00&pdteaserkey=sr0&pditab=allpods&ecom=3y9Lk&earg=sr0&prid=e4076936-4ced-41d9-916c-4a3ff99283b6>>

<https://advance.lexis.com/document/?pdmfid=1000516&crd=f1eff43e-e86d-4bf3-9058-88ce92534bb3&pddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pddocid=urn%3AcontentItem%3A58VJ-H141-F04K-P051-00000-00&pdcontentcomponentid=6390&pdshepid=urn%3AcontentItem%3A58TP-3BJ1-DXC8-7165-00000-00&pdteaserkey=sr0&pditab=allpods&ecom=3y9Lk&earg=sr0&prid=e4076936-4ced-41d9-916c-4a3ff99283b6>>

Ordinance

AHAB-O-0031-19

a845-87576d9c3a24>); Cricket Stores 17, LLC. v. City of Columbia, 97 F.Supp.3d 737 (S.C. Dist., 2015); BBL, Inc. v. City of Angola, 809 F.3d 317 (7th Cir., 2015); Cornell Restaurant Ventures, LLC. v. City of Oakland Park, 681 Fed.Appx. 859 (11th Cir., 2017); Forbes v. Pierce County, 5 Wa.App.2d 423 (Wash. App., 2018); Maxim Cabaret, Inc. v. City of Sandy Springs, 304 Ga. 187 (GA, 2018); 1407, LLC v. City of Fort Wayne, 2019 U.S. Dist. LEXIS 12781 (N.D. Ind., 2019);and

WHEREAS, the Committee has identified additional studies, reports and articles as being pertinent to the matters under consideration including but not limited to: "Social Change and Crime Rate Trends: A Routine Activity Approach." American Sociological Review, Vol. 44 (August): 588-608. 3 Rural, Small Town and County-Focused Studies McCleary, Richard (1979); "Adult Entertainment, Crime, and Housing Values," Minneapolis, MN, 1980; "Documentation of Secondary Effects of Sexually Oriented Businesses," Fort Worth, TX, 1986; "Adult Entertainment Business Study for Manatee County, FA." Planning and Development Department, County of Manatee, Florida. (1987); "Supplement to the 1978 St. Paul Study," St. Paul, MN, 1987-8; "Quality of Life: A Look at Successful Abatement of Adult Oriented Nuisances in Oklahoma City (Oklahoma 1984-89)"; "Regulation of Adult Entertainment Establishments." Saint Croix County, Wisconsin. Duncan Associates (September 1993); "Summary of Review and Conclusions Regarding St. Cloud's Regulation of Adult Use Businesses." St. Cloud, Minnesota. (December 1994); "Report to the American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses." Weinstein, Alan C. and Richard McCleary. (March 1996); "A Digest of Research: The Evidence of Relationships between Adult-Oriented Businesses and Community Crime and Disorder." St. Mary's, Georgia. (July 1996); "Adult Business Study." Ellicottville [Village of], New York. Duncan Associates and Cooper Consulting (January 1998); "Adult Entertainment - Supplement to 1987 Study," St. Paul, MN (1998); "Secondary Impact of Adult Use Businesses," Denver, CO (1998); "Adult Use Study: Summary and Recommendations," prepared by Eric Damian Kelly and Connie B. Cooper for the City of Kansas City, (April 1998); "Survey of Appraisers in the Rochester and Monroe County, New York, Regarding Effects on Property Values of Proximity of Sexually Oriented Businesses," prepared by Duncan Associates and the City of Rochester, (1999); "Alcohol and Hypermasculinity as Determinants of Men's Empathic Responses To Violent Pornography." By Jeanette Norris <<https://journals.sagepub.com/doi/abs/10.1177/088626099014007001>>, William H. George <<https://journals.sagepub.com/doi/abs/10.1177/088626099014007001>>, (July 1999); "Everything You Always Wanted to Know about Regulating Sex Businesses," Eric Damian Kelly and Connie B. Cooper; Planning Advisory Service Report No. 495-96. Chicago: American Planning Association, (2000); "Field Study of Regulated Uses and Other Uses," prepared for the City of Biloxi, Mississippi, by Eric Damian Kelly and Connie B. Cooper of Duncan Associates, (July 2001); "Survey, Findings and Recommendations on Sexually Oriented Businesses," prepared for the City of Toledo, Ohio, by Eric Damian Kelly and Connie B. Cooper of Duncan Associates, (August 2002); "Regulation of Sexually Oriented Businesses in Alachua County: Field Survey, Analysis and Recommendations." Alachua County, Florida. August 2003. Quest Genetics; and "Analysis Report Conducted by Quest Genetics." Alachua, Florida. October and November 2003. Palumbo, Gary, Town/Village Planner; "Sexually Oriented Entertainment & Related Businesses." Kenton and Campbell Counties, Kentucky. Planning and Development Department. (January 2004); "Crime Risk in the Vicinity of a Sexually Oriented Business: A Report to the Centralia City Attorney's Office." Dr. Richard McCleary. (Revised Report,

Ordinance

AHAB-O-0031-19

February 28, 2004); “Regulating Sexually Oriented Businesses in Detroit,” Eric Damian Kelly and Connie B. Cooper, Detroit, MI (2005); “Regulating Adult Oriented Businesses, Memphis-Shelby County, TN,” Eric Damian Kelly and Connie B. Cooper (2006); “Regulation of Sexually Oriented Businesses: An Analysis for Perry County, Indiana.” Perry County, Indiana. Dahlgren, Shardlow and Uban, Inc. (July 2007); “Do ‘Off-Site’ Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory, and Empirical Evidence.” Law & Policy, Vol. 31, No. 2, Cohen, Lawrence E. and Marcus Felson. (April 2009); “Adult Use Study,” prepared by Duncan Associates, Inc., for the Plan Commission and Common Council, City of Michigan City, IN, (2012-13); and

WHEREAS, the County has received and considered the testimony and written statements from DuPage County residents, business owners, a real estate broker, a real estate appraiser, health officials, school district officials, law enforcement personnel, and representatives of adult businesses; and

WHEREAS, the County has reviewed and analyzed the aforesaid studies, reports, articles, judicial decisions, and the experience and legislative findings of other municipalities and counties throughout the United States, and within DuPage County, concerning the impacts, or “secondary effects,” of adult businesses on the areas in which such businesses are located or take place; and

WHEREAS, among the undesirable secondary effects associated with adult businesses are depression of property values in the surrounding neighborhood, increased expenditure for the allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior, an acceleration of community blight by the concentration of such establishments in particular areas; and

WHEREAS, the County has determined that the above enumerated evidence is relevant to the secondary effects the County seeks to combat and, or, alleviate; and

WHEREAS, there is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, that includes, but is not limited to, causing increased crime and the diminution of property values; and

WHEREAS, the ancillary unlawful and unhealthy activities that are commonly associated with adult business operations are presently uncontrolled or ignored, and occasionally actively promoted, by the operators of adult businesses; and

WHEREAS, it is recognized that adult businesses, as a category of commercial uses, and due to their nature, have serious objectionable operational characteristics, produce negative secondary effects; and

WHEREAS, the County has determined that the experiences of other jurisdictions reported in the above-enumerated documents are relevant to the County’s situation and, thus, may be reasonably relied upon, for several reasons, including, but not limited to: (i) the near universal experience of such communities establishes that as a category of commercial use, adult

Ordinance

AHAB-O-0031-19

businesses consistently produce negative secondary effects (albeit, in some instances, to differing degrees or manifested in different forms); (ii) the experiences of some of the communities are similar in some respect (presence of similar types of adult businesses, prostitution activity associated with adult businesses, etc.) to the experiences of DuPage County; (iii) the majority of studies involve densely populated, urban/suburban areas demographically similar to DuPage County; and (iv) it is reasonable to believe that the experiences of some of the communities that have not yet been observed in this County could be repeated here if the County failed to implement a comprehensive regulatory program; and

WHEREAS, the extensive evidence presented to the County shows that the establishment and locations of adult businesses and their related sexually oriented activities are associated with increased criminal activity, negatively impact nearby properties, generate unsanitary conditions and are antithetical to the public health, welfare, safety, and economic vitality and growth of the community; and

WHEREAS, the evidence presented demonstrates that negative land use impacts including pornographic litter, discarded prophylaxis, noise, glare and traffic problems are directly related to or associated with adult businesses and their related activities; and

WHEREAS, criminal activity is generally higher in areas in close proximity to adult businesses in comparison to areas without adult businesses, including, specifically, reported sex crimes and arrests for sex crimes; and

WHEREAS, the concern over criminal activity is a legitimate and substantial governmental concern of the County which demands reasonable regulation of adult businesses in order to protect the health and well-being of the citizens; and

WHEREAS, the criminological theory of ambient crime risk, known as the “routine activity theory of hotspots,” predicts that adult businesses will generate large, significant crime-related secondary effects as the result of three factors: (i) adult businesses draw patrons from wide catchment areas; (ii) adult business customers are disproportionately male, open to vice overtures, reluctant to report victimizations to the police and, thus, present “soft” targets; and (iii) the high density of “soft” targets at the site attracts predatory criminals, including vice purveyors and criminals who pose as vice purveyor in order to lure or lull potential victims; and

WHEREAS, DuPage County has experienced criminal activity associated with both vice purveyors (prostitution) and criminals who pose as vice purveyors in order to lure or lull potential victims, and

WHEREAS, adult businesses are frequently the site of illegal activities, including the sale and use of illicit drugs, and for unlawful sexual activities, including prostitution, human trafficking and public indecency; and

WHEREAS, studies have shown that adult businesses are a major source of calls for police service and that, specifically, adult businesses with on-site entertainment generate more calls for police service per business than either retail (off-premises) adult businesses or generic restaurants with liquor licenses; and

Ordinance

AHAB-O-0031-19

WHEREAS, certain crimes, such as lewdness, prostitution, or drug use, often involve non-objecting participants and, consequently, such activities rarely result in calls to '911,' or criminal arrests; and

WHEREAS, DuPage County law enforcement investigations have established that prostitution is wide-spread and occurring in the overwhelming majority of the county's encounter spa-type adult businesses, those being businesses offering sexually-oriented entertainment to its patrons performed by nude or minimally attired employees while in secluded, poorly lit rooms involving close proximity and, or, direct physical contact between the employee and patron; and

WHEREAS, DuPage County's experiences are identical to those of nearly every other community in the country that also have encounter spa-type adult businesses operating within their jurisdiction, which experiences include frequent prostitution activity, illicit drug use; and

WHEREAS, surveillance within adult businesses by police agencies around the United States have routinely detect illegal conduct within and around businesses featuring live performance entertainment, including prostitution, public lewdness, public intoxication, illicit drug use and human trafficking; and

WHEREAS, DuPage County law enforcement has expressed concern about suspected human trafficking in DuPage County and that the victims of such trafficking are believed to be used as sex workers in some of the County's adult businesses, especially the encounter spa-type businesses; and

WHEREAS, adult business owners and employees are unlikely to report certain criminal which they are complicit in such as money laundering, tax evasion, human trafficking, illicit drug use by their employees and prostitution; and

WHEREAS, crime analysis which utilizes "calls for service" is more likely to understate the correlation between adult businesses and crimes such as prostitution, lewdness, public indecency, obscenity and illicit drug activity, although "calls for service" do have an impact on police resources; and

WHEREAS, adult businesses generate a large amount of calls for service in which disgruntled customers call '911' claiming to have been defrauded or not having received the services they believed they paid for, and

WHEREAS, adult businesses have employed underage (under 18 years old) females as nude dancers, often with the knowledge of adult business management; and

WHEREAS, in the past, an underage (under 18 years old) female was employed by an adult business in DuPage County as a nude dancer; and

WHEREAS, an adult business employee licensing program is an effective means of preventing the employment of underage persons and the victims of human trafficking by DuPage County adult businesses; and

Ordinance

AHAB-O-0031-19

WHEREAS, an adult business employee licensing program is also an effective means of identifying, monitoring, and imposing limited restrictions on the employment of persons currently involved with the criminal justice system for illicit drug possession, sale or use, prostitution, sex crimes, pandering, human trafficking, and similar offenses; and

WHEREAS, adult businesses under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages on premises, begets criminal behavior and tends to create undesirable community conditions; and

WHEREAS, some communities have reported the prevalence of organized crime in adult businesses which uses such businesses to launder money and further criminal enterprises; and

WHEREAS, for the foregoing reasons, adult businesses increase the costs for law enforcement and the judicial system; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of sexually-oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, numerous communicable diseases, at least 50 types of sexually transmitted diseases, may be spread by activities occurring in adult businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and Shigella infections, chlamydial, myoplasmal and ureaplasma infections, trichomoniasis, and chancroid; and

WHEREAS, some communicable diseases, such as hepatitis C, remain a viable contagion outside the body for up to 24 hours outside the human body and may contaminate surfaces exposed to bodily fluids; and

WHEREAS, police investigations throughout the United States, including investigations in DuPage County, have confirmed illicit sexual activity and unsanitary conditions taking place in adult businesses; and

WHEREAS, sexual acts, including masturbation, and oral and anal sex, occur at unregulated adult businesses, especially those which involve private encounter sessions or provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows; and

WHEREAS, DuPage County law enforcement report that persons arrested for prostitution at DuPage County's encounter-type spas seldom utilize prophylactic measures to prevent the spread of sexually-transmitted diseases; and

WHEREAS, police investigations in other communities have observed booth conditions to be, generally, unsanitary and a public health concern in which, in one community, 81% to 96% of samples obtained from such booths tested positive for semen; and

Ordinance

AHAB-O-0031-19

WHEREAS, numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films; and

WHEREAS, adult businesses with inadequate interior lighting or without clear lines of sight to all parts of the premises encourage lewd behavior and illegal sexual activity; and

WHEREAS, adult businesses enable female employees to engage in sex work by virtue of the businesses' physical characteristics (e.g., poor lighting, secluded areas), economic factors (e.g., high earnings for employees selling sex), and the prevailing social norms condoning sex work; and

WHEREAS, female sex workers have been disproportionately infected with HIV and STDs, and that such diseases are frequently occupational hazards of sex work, facilitated by high rates of unprotected sex, as well as multiple and high-risk sex partners; and

WHEREAS, licensing and operational restrictions are legitimate and reasonable means of accountability to ensure that operators of adult businesses do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, the concern over property values and preservation of the real estate tax base is a legitimate and substantial governmental concern of the County which demands reasonable regulation of adult businesses in order to protect the property interests and expectations of its citizens, and the County's own financial solvency; and

WHEREAS, the evidence presented reflects that the presence of any adult businesses would decrease the market value of any business property located in the vicinity would decrease the rental value of business property, would decrease the rentability/salability of business property nearby, would decrease the annual income of businesses located in the vicinity; and

WHEREAS, the evidence presented reflects that the presence of any adult businesses would both decrease the market value of private residences and decrease the rentability/salability of residential property located in the vicinity of such businesses; and

WHEREAS, the evidence presented reflects that adult businesses have a greater negative impact on properties based on the proximity of the adult business to the affected property, and that as distances increase, the negative effects attributable to adult businesses decrease, and that with respect to residential properties the effect is largely diminished at distances between 1,000 feet and 2,000 feet, and that for commercial properties, the negative effects attributable to adult businesses is largely diminished at the 1,000 foot distance; and

WHEREAS, the evidence presented reflects that differing types of adult businesses have differing degrees of negative impact on nearby properties, that adult businesses featuring on-premises entertainment have a greater effect than strictly off-premises adult businesses; and

WHEREAS, adult businesses in commercial areas have been responsible for creating "dead zones" actively avoided by people who are not interested in patronizing the adult business which is a detriment to the neighboring businesses; and

Ordinance

AHAB-O-0031-19

WHEREAS, adult businesses significantly decrease the property marketability for both residential and commercial properties located within distances of between 500 feet to 2000 feet of the adult businesses; and

WHEREAS, surveys of real estate appraisers repeatedly reveal that respondents believe that an adult business operating after 11:00 pm adversely affects nearby property values, however, such effects on nearby property values appear to be significantly lessened when the adult business is located within zoning districts with primarily industrial and heavy manufacturing uses; and

WHEREAS, studies indicate that adult businesses tended to be magnets for lower quality businesses such as pawnshops, liquor stores, check-cashing establishments; and

WHEREAS, a community's license plate survey of the cars used by patrons of certain adult businesses revealed from the observed, and traceable data, less than 4% of adult business patrons resided within one mile of the business visited, and that 44% of the customers resided outside of the community's city limits; and

WHEREAS, adult business patrons are drawn from a larger regional area (and not local neighborhoods near adult businesses) and, thus, adult business patrons may feel less inhibited in their personal behavior when away from their home community; and

WHEREAS, the notion that adult businesses attract a transient patron-base is further evidenced by the experience of small, rural communities that have too few residents to support such businesses relying upon local customers alone, but which have adult businesses locate therein in proximity to highway interchanges; and

WHEREAS, adult businesses, because they attract a primarily transient customer base and conduct late-night business operations, are out of character and are incompatible uses with the County's residential and business districts and, accordingly, those adult businesses that are not otherwise subject to locational restrictions under the County's existing zoning ordinance and, or, state statute, require additional operational restrictions to ameliorate the negative adverse effects attributable to such businesses; and

WHEREAS, when adult businesses are located in close proximity to each other, such concentration has contributed to accelerating urban blight and downgrading the quality of life in the adjacent areas; and

WHEREAS, the extensive evidence presented establishes that the establishment of adult businesses and their related activities are associated with a degradation of the quality of life within nearby neighborhoods and within the larger community in general; and

WHEREAS, in other communities where adult businesses concentrate, those communities report that pornographic liter is more prevalent and local residents (both male and female, adult and children) report more instances of having been sexually propositioned; and

Ordinance

AHAB-O-0031-19

WHEREAS, in numerous other communities, local residents have testified that adult businesses in their neighborhoods generate other types of offensive litter and potentially unsanitary litter, in addition to pornographic litter, such as condoms, condom wrappers and discarded underwear; and

WHEREAS, in numerous other communities, local residents responded to surveys that they believe adult businesses located close to a residential or commercial property would depreciate that property's value, with the greatest impact being to single-family homes;

WHEREAS, in a phone survey of residents residing near adult businesses, large majorities of the responding residents said they would want to move if an adult business opened in their neighborhood; and

WHEREAS, in a phone survey of residents residing near adult businesses, women commonly expressed fear for themselves and their children because of the problems associated with adult businesses; and

WHEREAS, sexual violence and anti-social conduct directed against women, including acts ranging from verbal harassment, physical and sexual abuse, prostitution solicitation and financial exploitation is prevalent in adult businesses featuring live entertainment; and

WHEREAS conduct which is directed against women but that is prohibited by law or socially eschewed in other settings are a commonplace with adult business entertainers, and such conduct is commonly ignored by the adult businesses' owners, managers, and staff; and

WHEREAS, some studies have reported that, in those jurisdictions, there was a weak or non-existent correlation between adult businesses and certain conditions commonly characterized as adverse secondary effects; and

WHEREAS, studies that purport to refute or minimize the existence of adverse secondary effects associated with adult businesses are at odds with the vast majority of secondary effects literature and, further, such findings are often contrary to reported anecdotal evidence and real-life experiences gathered from communities throughout the United States; and

WHEREAS, the County desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the County has determined that DuPage County Zoning Ordinance's locational criteria alone do not adequately protect the health, safety, and general welfare of the people of this County; and

WHEREAS, the County has determined that its existing prohibition of alcohol sales and consumption on the premises of adult businesses do not adequately protect the health, safety, and general welfare of the people of this County from the occurrence of criminal behavior and other undesirable conditions normally associated with adult businesses; and

Ordinance

AHAB-O-0031-19

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, morals, and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, the County recognizes that some activities which occur in connection with sexually oriented businesses (SOBs) are protected as expression under the First Amendment to the United States Constitution, and the County further recognizes that First Amendment rights are among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the County to condone or legitimize the distribution of obscene material, and the County recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the County, and

WHEREAS, persons often frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex in or near the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs; and

WHEREAS, operational restrictions on video viewing booths can reduce opportunities for, or the likelihood of, customers masturbating privately, or engaging in anonymous sex through the use of "glory holes"; and

WHEREAS, the removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.

WHEREAS, the minimum size requirements on adult peep show booths/adult arcades provide adequate avenue for entrance and egress in the event of emergency, and

WHEREAS, in reference to the testimony regarding the benefits of small sized adult booths with "occupancy" lights, the County believes that such features are insufficient to negate the problems of the booths being used for discrete sexual liaisons insofar as such measures have not proven adequate in the airline industry, and

WHEREAS, in reference to the testimony regarding the benefits of small sized adult booths, the County is concerned about the ability of disabled customers or customers in general to easily enter and exit "airplane bathroom" sized booths, and

WHEREAS, the County is concerned that public safety requires that the booths be sized in a manner which provides for safe and expedient ingress and egress in the event of an

Ordinance

AHAB-O-0031-19

emergency, and

WHEREAS, the County believes that requiring the booth entry be open and the establishment of minimum floor space requirements best balance the important public safety interests in both providing safe routes of ingress and egress and curbing illegal and unsanitary sexual activity occurring in adult theaters, and

WHEREAS, requiring licensees of sexually oriented business to keep information regarding current employees and, or, performers and certain past employees and, or, performers will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments and,

WHEREAS, the fact that an applicant for a license has been convicted of a sexually related crime or crime of moral turpitude leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance, and

WHEREAS, the adoption of adult business licensing ordinance is reasonably expected to, (i) 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 take place and on the persons who are exposed to such activities; (ii) ensure that Sexually Oriented Business Activities are established, managed, and operated in a safe and legal manner at all times; and (iii) ensure that the unnecessary public health risks associated with Sexually Oriented Business Activities are minimized to the greatest extent possible, or eliminated altogether; and

WHEREAS, it has been the experience of DuPage County and the experience of other communities that adult businesses offering on premises entertainment attract individuals who: i) have already been consuming alcohol or illicit substances; ii) are seeking sexual gratification; iii) are not residents of the local communities; and iv) because of their drug or alcohol use and not being in their home community, tend to act with fewer inhibitions, which factors appear to contribute to a significant number of the calls for service, and related criminal activity, at adult businesses ; and

WHEREAS, it has been the experience of DuPage County and the experience of other communities that a disproportionate share of the calls for police service, and related criminal activity, occurs at adult businesses offering on premises entertainment during the overnight hours; and

WHEREAS, the County has a significant interest in seeing that its limited law enforcement resources are better utilized, especially during the overnight hours; and

WHEREAS, as recognized in *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435, 441 (6th Cir.1998), "[i]t is not unreasonable to believe that such regulation of hours of shops selling sex literature would tend to deter prostitution in the neighborhood at night or the creation of drug 'corners' on the surrounding streets," and, thus, the same would hold true for any adult business; and

Ordinance

AHAB-O-0031-19

WHEREAS, a reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses; and

WHEREAS, such a licensing procedure will place a heretofore nonexistent duty on the operators to see that the adult business is run in a manner consistent with the health, safety and welfare of its patrons, employees and performers, as well as the citizens of the County.

NOW, THEREFORE, BE IT HEREBY ORDAINED that the County Board hereby enacts the attached amendments to Chapter 20, Article XV of the DuPage County Code of Ordinances, as set forth in Exhibit A; and

BE IT FURTHER ORDAINED that the aforesaid amendments shall have an effective date of August 1, 2019; and

BE IT FURTHER ORDAINED that the County Clerk publish notice hereof and send copies of the foregoing to: (1) the DuPage County Department of Building and Zoning, (2) the DuPage County Sheriff, (3) the DuPage County State's Attorney, (4) the DuPage County Clerk, (5) the DuPage County Health Department and (6) the Municipal Code Corporation for update of the DuPage County Code; and

BE IT FURTHER ORDAINED that the Municipal Code Corporation is authorized only to make such typographical changes as are necessary to properly codify this ordinance into the DuPage County Code.

Enacted and approved this 25th day of June, 2019 at Wheaton, Illinois.



DANIEL J. CRONIN, CHAIRMAN
DU PAGE COUNTY BOARD

Attest:


JEAN KACZMAREK, COUNTY CLERK

EXHIBIT A#1

Article XV – REGULATION OF ADULT ENTERTAINMENT FACILITIES

20-250: SHORT TITLE:

This Article may be cited as the “DuPage County Adult Entertainment Ordinance”

20-251: PURPOSE & FINDINGS:

- A. The County Board finds that the General Assembly has specifically empowered counties to adopt reasonable regulations concerning the operation of adult entertainment facilities, roadhouses, or any business that offers or provides activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities in view of any patron, client, or customer of the business.
- B. The purpose of this ordinance is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of adult business uses and sexually oriented businesses within the County of DuPage in order to promote the health, safety and welfare of the citizens of the County. The provisions of this ordinance shall have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials or communication, including sexually- oriented entertainment. Similarly, it is not the purpose or effect of this Ordinance to restrict or deny access by adults to sexually-oriented entertainment protected by the First Amendment or to deny access by distributors and exhibitors of sexually-oriented entertainment to their intended market. Furthermore, it is not the intent or effect of this Ordinance to condone or legitimize the distribution or exhibition of entertainment which is obscene in nature.

DuPage County previously undertook combating the adverse secondary effects of adult business uses by adopting locational restrictions and mandatory separation requirements as part of the County’s Zoning Ordinance.

Although the County’s Zoning Ordinance regulations have ameliorated much of the adverse secondary effects caused by the proximity of adult business uses to other land uses, those zoning regulations are not well-suited for addressing the multitude of adverse secondary effects associated with certain operational characteristics of adult businesses.

Rather than minimizing or eliminating such negative effects, the County’s zoning regulations merely concentrated problems caused by adult business operations within the County’s industrial zoning districts, where “adult business uses” are currently permitted.

- C. *Findings.* The County of DuPage Adopts and Incorporates by Reference the findings and recitals set forth in Ordinance AHAB-O-0031-19 adopting this ordinance.

20-252 - DEFINITIONS:

As used in this Article:

- A. "Adult business employee," means any person employed by an adult entertainment facility on a full-time, part-time, or contractual basis, in any capacity including, but not limited, to any adult entertainer, bouncer, doorman, floor staff, private security officer or detective, manager, general manager, partner, director, owner, bartender, or wait staff member.
- B. "Adult entertainment facility," means; (i) a striptease club; (ii) an adult bookstore, adult video store, or pornographic movie theater which permits the consumption or viewing of sexually explicit material, shows, or exhibitions on the premises; (iii) any business which offers or provides activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities in view of any patron, client, or customer of the business; or (iv) any business which provides "private encounter sessions" as herein defined, and (v) any business defined as an "Adult Business Use" pursuant to Section 37-3.2 of the DuPage County Zoning Ordinance. A business that provides services described in (iv) above, which are conducted by a licensed medical professional including a doctor, nurse, therapist, or other health care professional, for medical purposes, shall be excluded from this definition. This definition shall not include an establishment which only conducts retail sales of sexually explicit materials and does not permit any on-premises use or viewing of such materials.
- C. "Adult entertainer," means any person who, at an adult entertainment facility, conducts or engages in any performance, presentation, act, demonstration or display distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities. It includes persons who perform dances such as "stage dances," "lap dances," "table dances," and "couch dances," whether or not the entertainer is exposing a specified anatomical area. It further includes persons who perform or conduct private encounter sessions. Adult Entertainer shall also include persons who provide "out-call" services including any of the above identified activities.
- D. "Customer" shall be synonymous with patron, client, guest, invitee and, where the adult entertainment facility restricts entry or service based upon any form of membership, members. "Customer" and "patron" may be used interchangeably in this ordinance.
- E. "Out-call" services shall mean the performance of any of the specified activities: (i) at a location other than at an adult entertainment facility; or (ii) in a motorized vehicle, such as a party bus or limousine.
- F. "Private encounter session" shall mean any commercial establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two (2) or more persons (one of whom must be an employee or contractor for the establishment) may congregate, consort, or associate in connection with; (1) the performance of or discussion of specified sexual activities, (2) the exposure of specified anatomical areas, (3) the giving or receiving of massages or bathing, or (4) the taking of photographs characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities. Private Encounter Session is further defined as any business in which the employee, independent contractor, entertainer, customer, patron or client is permitted to expose his or her specified anatomical areas or perform

specified sexual activities, in view of any person. This definition does not include venues which are licensed to serve alcohol.

- G. "Revocation" means an order to cease operating under any license granted under this ordinance for a period of greater than a year.
- H. "Security Employee" means any adult entertainment facility employee or contractor whose job description includes protecting the staff or customers of an establishment and enforcing internal rules and policies with regard to customer conduct.
- I. "Specified anatomical area" means human genitals or pubic region, buttocks, anus, or the female breast below a point immediately above the top the areola that is less than completely or opaquely covered, or human male genitals in a discernibly turgid state even if completely or opaquely covered.
- J. "Specified sexual activities" means (i) human genitals in a state of sexual stimulation or excitement; (ii) acts of human masturbation, sexual intercourse, fellatio, or sodomy; (iii) fondling, kissing, or erotic touching of specified anatomical areas; (iv) flagellation or torture in the context of a sexual relationship; (v) masochism, erotic or sexually oriented torture, beating, or the infliction of pain; (vi) erotic touching, fondling, or other such contact with an animal by a human being; or (vii) human excretion, urination, menstruation, or vaginal or anal irrigation as part of or in connection with any of the activities set forth in items (i) through (vi).
- K. "Suspension" means an order to cease operating under any license granted under this ordinance for a period of less than a year.

20-253: Adult Entertainment Facility; License Required

- A. It shall be unlawful to operate any adult entertainment facility, as defined by section 20-250.5(b) of this ordinance, without an adult business license issued by the County of DuPage.
- B. It shall be unlawful for any adult entertainment facility to employ or engage the services of any person who is not in possession of either a valid adult business employee license or an adult entertainer license.
- C. There shall be two categories of licenses under this ordinance:
 - a. On Premises Entertainment (Massage, Photography Studio, Peep Show Booths, etc.)
 - b. Other

20-254: Application for an adult business license

- A. Adult Business Licenses (ABL) shall be limited to adult entertainment facilities, as defined by this ordinance, which offer on-premises use of adult materials or on-premises adult entertainment. Retail only establishments which only sell or provide for the commercial sale, distribution, or dissemination of pornographic material for off-premises consumption or use are not required to obtain an Adult Business License.
- B. License Application

1. Filing: All applications for an adult business license shall be submitted in the name of the person proposing to own or operate such a business. All applications shall be signed by such person and sworn under penalty of perjury and shall be submitted on a form provided by the DuPage County Clerk.
2. Contents: The contents of such application shall include the following information and shall be accompanied by the following documents:
 - a. If the applicant is an individual, his legal name, any aliases, date of birth, address of current residence or mailing address, if different from residence.
 - b. If the applicant is a partnership, the full and complete name of the partnership, the legal names of all partners, and for each partner, the same information required for individuals by this ordinance.
 - c. If the applicant is a corporation, the exact and complete corporate name, the date of incorporation, the state of incorporation, evidence that the corporation is in good standing, tax identification number, the legal names of all officers, members and principal stockholders of the corporation, dates of birth, mailing addresses and all aliases used by each officer, member and principal stockholder, the name of the registered corporate agent and the address of the registered agent for service of process. In the event that a principal stockholder is a corporate or other legal entity, the application must trace back the ownership through any layers of corporate organization to the eventual principal stockholder who is a person.
 - d. In the event the applicant intends to conduct the adult business under a different name than that of the applicant, the applicant shall state the establishment's fictitious name and the county of registration, all legal names, dates of birth, and all aliases used by interested persons.
 - e. Whether the applicant or any other interested individual listed pursuant to any subsection above holds any other licenses required to be engaged in an adult business in any jurisdiction and if so, the names and locations of other licensed establishments.
 - f. The single classification of license for which the applicant is filing.
 - g. A description of the adult entertainment or similar business history of the applicant; whether such person or entity, in previously operating in another city, county or state, has had a business license revoked or suspended, the reason therefore and complete information regarding the criminal records of all partners, corporate officers, directors, key employees, including arrests, pending charges and convictions.
 - h. The location of the proposed establishment.
 - i. A site plan and survey drawn to appropriate scale of the proposed establishment indicating, but not limited to, all property lines, rights-of-way, the location of buildings, parking areas, spaces and driveways.
 - j. A floorplan drawn to appropriate scale of the establishment, proposed or existing, including, but not limited to, all windows, doors, entrances and exits, fixed structural interior features, improvements to be made which shall be indicated or calculated in terms of percentage of increase of floor size.

- k. The name and telephone number for a contact point for the representatives of the Building and Zoning department to contact to schedule required inspections.
 - l. The primary business telephone number for the existing or proposed establishment.
 - m. The name, address and phone number of the owner(s) of the land, building or premises, if not the applicant. The owner(s) shall also sign the application acknowledging the application of these regulations to him, her, them or it as owner(s) of the premises.
 - n. Whether preceding the date of the application, the applicant or any other individuals listed pursuant to Subsections i, ii, or iii above have ever been: (1) the subject of an order of protection, or (2) convicted of a felony crime involving moral turpitude, prostitution, obscenity, or any other crime of a sexual nature, and if so, identify the act involved, the date of conviction, and the place of conviction.
 - o. Authorization for DuPage County, its agents and employees, to seek information to confirm the statements set forth in the application.
 - p. In the event needed, follow up information which DuPage County requires to confirm the statements made in the application, the identity of any applicant, or any prior convictions of any applicant.
3. Copies: The Applicant shall submit four (4) copies of the application, or more as may be required, to the County Clerk. The Clerk shall distribute a copy of the application to the Department of Building and Zoning and the DuPage County Sheriff.
 4. Prior to the issuance or renewal of an adult business license, all owners and applicants must complete a course conducted by the DuPage County Sheriff designed to inform the applicants of signs of human trafficking, potential punishments for human trafficking, how to report suspected human trafficking, and services available for victims of human trafficking.
 5. Completeness: An application shall not be considered complete until the application satisfies all the requirements set out above.

Application Fee: Each application for a new license or a renewal of any license shall be accompanied by the non-refundable fee of two hundred dollars (\$200.00).

20-255: Grounds for denial of Adult Business License

- A. In the event that the applicant has not satisfied the application requirements, the applicant shall be notified within ten (10) days of filing the application of such fact with a detailed list of reasons for denial and the application shall be automatically denied.
- B. If any owner or operator of the adult business has been convicted of a crime involving moral turpitude, prostitution, obscenity, or a crime of any sexual nature within five (5) years preceding the application, the license will be denied.
- C. If any owner or operator of the adult business has participated in diversion, supervision or other similar programs as a result of a violation of laws involving moral turpitude,

prostitution, obscenity, or a crime of any sexual nature within five (5) years preceding the application, the license will be denied.

- D. If the applicant, or other interested parties as listed above are not over the age of eighteen (18), the license will be denied.
- E. If the applicant, his agent, representatives or manager has made any false or misleading statements in the application, the license will be denied.
- F. If the application has satisfied the requirements of this Ordinance, the County Clerk shall notify the applicant and shall issue the license to the applicant, by mail, within fifteen (15) business days of receipt of the application.
- G. With regards to applications for annual renewal of a license, if the applicant, his agent, representative or managers have had three (3) or more violations of this ordinance in the past two calendar years, the renewal of the license will be denied.

20-256: Grounds for Revocation of an Adult Business License

A. The following shall be grounds for the immediate revocation of an Adult Business License

- 1. The owner or operator employed a person under the age of 18 in any capacity at an adult entertainment facility; or
- 2. The owner or operator knowingly engaged in human trafficking by employing persons being human trafficked or forced to be employed by the owner or operator against the employee's will, in any capacity at an adult entertainment facility;
- 3. Any grounds which would have caused the denial of any license under this Article.

20-257: Licensing of Adult Business Employees; Job Requirements

- A. It shall be unlawful to act as an adult business employee, as defined by section 20-250.5(a) of this ordinance, without a valid adult business employee license.
- B. Adult Business Employees shall, at all times when present on the premises for which an adult business license has been issued, display or otherwise be in physical possession of their Adult Business Employee License.
- C. Adult Business Employees shall wear footwear and clothing sufficient to cover that employee's Specified Anatomical Areas at all times while within an adult entertainment facility. An adult business employee shall not expose a Specified Anatomical Area to any other person, or perform a Specified Sexual Act, or permit another person to perform a Specified Sexual Act while within an adult entertainment facility.

20-258: Applications for Adult Business Employee & Entertainer Licenses

- A. License Classifications: Applications for Adult Business Employee and Entertainer Licenses shall be limited to the following classifications:
 - 1. Adult Business Employee
 - 2. Adult Entertainer
 - 3. Adult Business Security

B. License Application:

1. All applications for any Adult Business Employee or Entertainer License shall be submitted in the name of the applicant employee or entertainer. All applications shall be signed by the applicant and sworn under penalty of perjury and shall be submitted on a form provided by the County Clerk.

C. Contents: The contents of such application shall include the following information and shall be accompanied by the following documents:

1. The full true name and any other names ever used by the applicant.
2. The current mailing address and telephone number of the applicant.
3. Written proof that the applicant is at least eighteen (18) years of age such as a government issued photo ID.
4. Applicant's height, weight, color of eyes and hair.
5. A recent color photograph of the applicant.
6. A statement of whether the applicant has ever had any adult entertainment establishment license or permit, or any adult entertainment establishment employee license or permit, or any similar license or permit from any agency or board, or any city, county, state or federal agency, suspended or revoked within five years immediately preceding the date of application, and the reason for the suspension or revocation.
7. A list of all Criminal Convictions and orders of protection, including those where the applicant received a sentence of supervision or probation, except minor traffic violations, including the dates and places of the convictions.
8. A description of the applicant's principal activities or services to be rendered.
9. Authorization for the County, its agents, and employees to investigate and confirm any statements included in the application or supporting materials.

D. Applications for an Adult Business Security Employee License shall include all the above referenced requirements in addition to:

1. A copy of a license issued by the Illinois Department of Financial and Professional Regulation, and/or
2. A copy of a valid PERC card, and
3. Proof that the applicant has completed unarmed security training, and
4. Proof of security guard insurance with a coverage amount of not less than one million dollars (\$1,000,000.00).

E. Prior to the issuance or renewal of an adult business license, all employees, entertainers, and security employees must complete a course conducted by the DuPage County Sheriff designed to inform the applicants of signs of human trafficking, potential punishments for human trafficking, how to report suspected human trafficking, and services available for victims of human trafficking.

F. Completeness: An application shall not be considered complete until the application satisfies all the requirements set out above.

G. Application Fee: Each new application shall be accompanied by the non-refundable fee of three hundred dollars (\$300).

H. Form of License:

The DuPage County Clerk shall issue any Adult Business Employee or Adult Entertainer license in the form of an ID card. Such a license shall include the following information:

- 1.A Control Number,
- 2.The individual's sex,
- 3.The individual's year of birth,
- 4.The individual's height, weight, eye color, and hair color,
- 5.The date of the issuance of the license,
- 6.The date of expiration of the license,
- 7.The classification or type of the license.
- 8.The Individual's photo

20-259: Licensing of Adult Entertainers; Job Requirements

- A. It shall be unlawful for any adult entertainer, as defined by section 20-250.5(c) of this ordinance, to perform within the County of DuPage without a valid Adult Entertainer License. Any violation of this ordinance shall be punishable by a fine of no less than one thousand dollars (\$1000) per day, for each day the adult entertainer has performed without a license. An adult entertainer with a valid Adult Entertainer License is not required to obtain an adult business employee license but shall comply with all provisions of this ordinance applicable to Adult Business Employees and shall be subject to the same fines and licensing suspension/revocation penalties for any violation of those provisions.
- B. Adult entertainers shall, at all times during any performance, or during their presence in an adult entertainment facility which has been issued an adult business license, display or otherwise be in possession of their Adult Entertainer License. An Adult Entertainer shall be deemed in possession of their Adult Entertainer License if such license has been removed from that person's body for a performance and is stored within ten (10) feet of the performance area.
- C. Adult entertainers shall wear clothing sufficient to completely cover their Specified Anatomical Areas whenever the adult entertainer is not performing and will be closer than six feet (6') to any customer. Clothing shall be deemed sufficient to cover an adult entertainer's Specified Anatomical Areas when a non-opaque material completely encloses the entertainer's genitalia, anus and more than fifty (50) percent of the pubic area and buttocks and, further, completely conceals the areola of the female breast, such that the boundaries between the breast, areola and nipple are not visible. Adult entertainers shall wait ten (10) minutes following each performance before coming closer than six feet (6') to any customer. When the adult entertainment facility does not utilize a physical barrier, the six-foot distance shall be clearly marked and signage shall be conspicuously posted informing customers to not enter the separation zone, not to touch the adult entertainers, and not hand the entertainers any object.
- D. Adult entertainers shall not accept any object, including specifically any gratuity, messages, notes or gifts directly from any customer. An adult entertainment facility may establish a system or device for customers to leave tips for adult entertainers or other adult business employees provided, however, that an on-duty manager or manager-designated security personnel shall first screen such items to ensure that no customer is attempting to

pass illicit drugs or any solicitation for prostitution or any other illegal act to the adult entertainer.

20-260: Grounds for denial of Adult Business Employee or Adult Entertainer or Adult Business Security Licenses

- A. In the event that the applicant has not satisfied the application requirements, the applicant shall be notified within ten (10) days of filing the application of such fact with a detailed list of reasons for denial and the application shall be automatically denied.
- B. An applicant shall be disqualified from holding an Adult Business Employee License or Adult Entertainer License for the following grounds:
 - 1. If the applicant, within five (5) years preceding the application, has been convicted of a crime involving moral turpitude, prostitution, obscenity, sexual offenses, or any felony, the license will be denied.
 - 2. If the applicant, within five (5) years preceding the application, has participated in diversion, supervision or other similar programs as a result of a violation of any law involving moral turpitude, prostitution, obscenity, sexual offenses, or any felony, the license will be denied.
 - 3. If the applicant is a registered sex offender in any jurisdiction.
 - 4. If the applicant is not over the age of eighteen (18), the license will be denied.
 - 5. If the applicant made any false or misleading statements in the application, or provided falsified documents with the application, the license will be denied.
 - 6. If the applicant has previously been issued an Adult Business Employee License or Adult Entertainer License by the County, or has previously been issued any similar form of license or permit by any other jurisdiction authorizing employment by an adult business or sexually-oriented business, and has had that license revoked, or where that license is currently suspended, or where such license has been suspended within three (3) years preceding the application, the license will be denied.
 - 7. With regard to applications for annual renewal of a license, if the applicant, has had three (3) or more violations of this ordinance in the past two (2) calendar years, the renewal of the license will be denied.

20-261 Grounds for revocation or suspension of an Adult Business Employee, Entertainer or Security license

- A. The following shall be grounds for revocation of an adult business employee license:

- 1. The employee knows, or should reasonably know, that another person acting as an adult entertainer or adult business employee is under the age of eighteen, and fails to report such matter to the DuPage County Sheriff; or
- 2. The employee conceals the identity or actual age of another person acting as an adult entertainer or adult business employee who is under the age of eighteen; or

3. The employee knowingly engages in, facilitates, conceals, or fails to report human trafficking, or
4. The employee commits three (3) or more violations of this ordinance in the past two (2) calendar years; or
5. The employee commits any act while on the premises of an Adult entertainment facility that would violate the Illinois Criminal Code; or
6. Subsequent to the issuance of a license, the employee is involved in any event that would have caused the denial of that employee's license under Section 20-260 of this ordinance.

B. The following shall be grounds for the automatic suspension of an adult business employee license:

1. The employee commits three (3) or more violations of this ordinance in the preceding calendar year; or
2. The employee has violated the same provision of this ordinance on at least one (1) prior occasion in the preceding calendar year; or
3. The employee violates any provision of this ordinance in any manner that jeopardizes the life, health, or safety of any other person; or
4. The employee does any act or fails to perform any act mandated by this ordinance which causes, or allows, a person under the age of eighteen (18) years to enter upon the Adult entertainment facility premises.

C. For all other violations of this ordinance, an adult business employee license, adult entertainer license or adult security personnel license may be suspended or revoked by the adjudicating tribunal where the nature, frequency and severity of the violation(s) warrant suspension or revocation in addition to the assessment of fines.

20-262: License Fees; No Proration; Expiration

- A. From time to time, the County Board shall institute a schedule of license fees designed to recoup the costs of the administration, implementation, inspection and enforcement of this ordinance, including the costs of mitigation the criminal negative secondary impacts attendant to adult entertainment facilities and uses.
- B. In the event that a license is revoked, suspended, or otherwise impaired due to violation of this ordinance or any other ordinance, no fee or portion thereof shall be refunded or prorated.
- C. All licenses shall expire annually on January 1st.

20-263 – Adult Entertainment Facility Operating Requirements

- A. An adult entertainment facility shall display its validly issued adult business license in a conspicuous location, readily accessible to the general public, upon the licensed premises.
- B. While performing, an adult entertainer shall either; (i) not be within six feet of a patron with a clearly demarked separation zone; or (ii) shall be physically separated from each patron by a solid barrier (i.e., glass or plastic) of sufficient construction to prevent a person from passing any object to, or making physical contact with, any person on the other side of the barrier.
- C. An adult entertainer shall not intentionally touch any patron during any performance or allow any patron to touch the entertainer (whether the entertainer is nude or not) or allow a patron to touch or stimulate the patron's or the entertainer's specified anatomical areas.
- D. It shall be unlawful for any person below the age of eighteen (18) years to be on the premises of any adult entertainment facility.
- E. There shall be posted and conspicuously displayed in entry or at the place of payment in each adult entertainment facility, a list of any and all entertainment or services provided on the premises. Said list shall further indicate the specific fee or charge in dollar amounts for each entertainment or service listed.
- F. All owners and interest holders in any adult entertainment facility must be over the age of eighteen (18) years.
- G. In the event any customer: (i) exposes the customer's specified anatomical area to any adult business employee; (ii) solicits the employee to engage in any criminal activity; (iii) touches or attempts to touch an adult entertainer during a performance; or (iv) hands or attempts to hand any object to an adult entertainer during a performance, an adult business employee observing such conduct shall immediately notify the adult entertainment facility's on-duty manager or security personnel. The on-duty manager or security personnel shall immediately take measures to have the offending customer removed from the premises and barred from re-entering that adult entertainment facility for a period of not less than thirty (30) days.
- H. Adult entertainment facilities shall have the following hours of operation:

1) An adult entertainment facility providing live entertainment by adult entertainers shall not be open to the public or, otherwise, conduct business between the hours of 2:00 a.m. and 6:00 a.m.

2) An adult entertainment facility that provides on premises entertainment in a recorded form or format only, shall not permit the on premises display, showing, presentation, consumption or viewing of such recorded entertainment between the hours of 2:00 a.m. and 6:00 a.m., but may remain open to the public and conduct retail sales of materials intended for off premises consumption or viewing only.

20-264 – Adult Businesses; Internal Configuration Requirements; Signage; Sanitation, Lighting

- A. Each application for an adult entertainment establishment license for on premises entertainment in the form of a "Adult Arcade/Peep Show" shall contain a diagram of the

premises showing the location of all managers stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the license or permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The County may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- B. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. A managers station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager's stations designated, then 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 managers stations. The view required in this paragraph must be by direct line of sight from the manager's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each managers station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the viewing area specified in this paragraph remains unobstructed by any doors, curtains, or walls at all times that any patron is present on the premises. In the event that it is impossible to configure the interior of the structure to provide for direct line of sight view by the managers station, security cameras shall be used to provide real time observation of the peep show booth/adult arcade or any other area of the premises to which any patron shall have access, except restrooms. The operator shall maintain a copy of the security camera footage for a period of no less than seven (7) days and upon request of an inspector, shall permit the inspector to review the footage to ensure that the store is complying with the requirements of this or any other law or ordinance.
- C. Two Points of Entry or Egress to Peep Show Booth areas. No person shall operate an "Adult Arcade/Peep Show" unless there are no fewer than two doorways of a width not less than 36 inches which provide ingress or egress from any room in which the peep show booth is located. Doorways shall be unlocked during business hours in order to provide adequate exit routes in the event of an emergency.
- D. Peep Show Booth Construction. The walls of such a booth shall be solid, without holes or other apertures, excluding the open doorway, permitting interaction between the occupant and the occupant of other booths.
- E. Open Doorway. No door, curtain, or obstruction of any kind shall be installed within the entrance to a peep show booth/adult arcade. No more than one person shall be permitted to occupy a peep show booth/adult arcade at a time.

- F. Aisle Required. There shall be one continuous lighted main aisle alongside the adult booths provided in any adult store. Each person situated in a booth shall be visible at all times from the aisle.
- G. Minimum Square Footage. No peep show booth/adult arcade booth shall be smaller than 24 square feet in floor size.
- H. A sign shall be maintained in a conspicuous location in each peep show booth which reads as follows: "This booth is subject to inspection at any time. Patrons have no expectation of privacy while using these booths." All such signs shall be at least six (6) by eight (8) inches in size and printed with dark ink upon a light contrasting background with letters at least one-quarter inch (1/4") in height.
- I. A sign shall be placed above the entrance to each peep show booth which reads as follows: "Only one person may be present in a peep show booth at any one time. Sexual activity on these premises is prohibited." All such signs shall be at least six (6) by eight (8) inches in size and printed with dark ink upon a light contrasting background with letters at least one-quarter inch (1/4") in height.
- J. It shall be the duty of the operator or any employee that discovers any kind of opening between viewing booths to immediately cure such a violation by preventing entry into them until such time as the wall between the booths has been repaired. Removal and repairing openings between viewing rooms shall be in a manner that is structurally substantial and in keeping with the original wall construction.
- K. Every hour, or between each patron who uses such a booth, whichever is shorter, it shall be the duty of the operator to ensure that the viewing booths are sanitary and clean. The operator shall provide an employee to check all booths for garbage, trash, fluids, excrement, and to remove and clean all areas of the booth with disinfectant, including walls, doors, floors, seating, monitors, video cameras, windows and other surfaces within the booth.
- L. All off-street parking areas and premise entries of the adult entertainment facility shall be illuminated from dusk to two hours after closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways, but which does not otherwise violate the DuPage County Zoning Ordinance's "Performance Standards" applicable to each zoning district and use. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- M. All interior areas of an adult entertainment facility shall be illuminated at a minimum of 5 foot-candles, minimally maintained, and evenly distributed at ground level, except as noted below. An adult entertainment facility that provides performances or exhibitions may, during such performances or exhibitions, reduce the performance area lighting to not less than 2 foot-candles minimally maintained and evenly distributed at ground level. An adult entertainment facility that displays recorded presentations may reduce lighting during such shows provided that the aisles and exits remain illuminated at a minimum of 1 foot-candle, minimally maintained, and evenly distributed at ground level.

- N. All Adult Entertainment Facilities governed by this Ordinance shall be required to comply with the notice posting requirements of 775 ILCS 50/5 and 775 ILCS 50/10.

20-265- No Minors Permitted on Premises

- A. It shall be unlawful for any licensee, adult business employee, or other person in charge of any adult entertainment facility to employ or provide any service for which it requires such license or permit, to any person who is not at least eighteen (18) years of age.
- B. It shall be unlawful for any licensee, adult business employee, or other person in charge of any adult entertainment facility to permit to enter, or remain within the adult entertainment facility, any person who is not at least eighteen (18) years of age.

20-266: Phase In Period; Provisionary License

- A. All Adult Entertainment Facilities existing at the time of adoption of this Ordinance shall apply for and become licensed within one hundred eighty (180) days of the adoption of this ordinance. Until licensed under this ordinance, any existing sexually oriented business may not be increased, enlarged, extended or altered, including any increase or change in the nature of products or services provided to customers, except that the use may be changed to another use conforming with the DuPage County Code, or except as necessary to bring the premises of such Adult Entertainment Facility and any improvements thereto into compliance with this Ordinance.
- B. In the event that the County is unable to comply with the time periods established above for the granting or denial of a license, the County shall issue a provisional license which grants the applicant the ability to operate under this ordinance during the pendency of the County's review of the application.
- C. In the event that an existing Adult Entertainment Facility is required to alter, modify, change, repair, build or reconstruct any part of the premises housing such adult entertainment facility, or any improvements therein, to comply with the requirements of this Ordinance, such alterations, modifications, changes, repairs, buildouts or reconstruction shall be commenced and completed within one hundred eighty (180) days of the adoption of this Ordinance. In all instances, such work shall further comply with all other applicable provisions of the DuPage County Code. Where an Adult Entertainment Facility has applied for a license within one hundred eighty (180) days of the adoption of this Ordinance but has not completed the work necessary to render the premises' housing such adult entertainment facility, or any improvements therein, compliant with this Ordinance, the County shall issue a provisional license which grants the applicant the ability to operate under this Ordinance during the pendency of the work, but such provisional licenses shall expire one hundred eighty (180) days from the date of adoption of this Ordinance.

20-267: Inspections; access, purpose, form, manner

- A. During the normal business hours for any adult entertainment facility, the County Sheriff, Building and Zoning Department, local fire department, DuPage County Health

Department or any department charged with the implementation of this ordinance may conduct an inspection of the premises for which the adult business license is granted.

- B. The purpose for inspections conducted under this section shall be to ensure compliance with the terms of this ordinance and any other relevant county ordinances pertaining to public health and safety.
- C. Inspections under this ordinance shall be conducted in the same fashion as other inspections under any other building, zoning, health, fire, or public safety code by the respective enforcing department(s). Inspections shall be conducted in a manner which is designed to not interfere, where possible, with the operations of the adult entertainment facility.
- D. Inspections under this ordinance may include any necessary examinations or surveys required to ensure compliance with zoning or building codes, (2) examinations, inspections, or tests of equipment or facilities to ensure compliance with fire codes; or (3) examinations or inspections to ensure compliance with this ordinance or any other law.

20-268: NON-EXCLUSIVE APPLICATION.

The provisions of this Ordinance regulating Adult Entertainment Facilities are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other ordinance or code as adopted by the DuPage County Board.

20-269: PROHIBITION OF ALCOHOLIC BEVERAGES:

- A. It shall be unlawful for any person to consume or be in possession of any open alcoholic beverages while on the premises of any adult entertainment facility. It shall be unlawful for any adult business employee to permit the consumption or possession of alcoholic beverages on the premises of any adult entertainment facility under their ownership, management, or control. The prohibition provided herein is intended to regulate the use of adult entertainment facilities pursuant to Section 5-1097.7 of the Counties Code and shall be independent of any criminal statutes or other laws regulating conduct related to the use, consumption or possession of alcohol. A person who violates this section shall be assessed a minimum fine of one thousand dollars (\$1000).

20-270: INJUNCTIVE RELIEF:

The State's Attorney may in his or her discretion institute civil actions to restrain violations of this Article. In that proceeding, the court shall enter such orders as it considers necessary to abate the violation and to prevent the violation from continuing or from being renewed in the future. In addition to any injunctive relief granted, the court is authorized to assess fines of up to one thousand dollars (\$1,000) per day for each violation of the ordinance, with each day in violation constituting a new and separate offense.

20-271: Penalties; Fines

A. Any violation of this Article shall be considered in determining whether or not to renew any license under this Article.

B. Any violation of this Article shall be punished by a fine of no less than \$500 dollars and no more than \$1,000 dollars, unless a higher fine is provided for in an individual section of this Article or this section.

C. Any violation of this Article which involves employing a person under the age of eighteen (18), serving a person under the age of eighteen (18), or permitting a person under the age of eighteen (18) access to any licensed business, shall be punished by a fine of not less than \$1,000 and not more than \$2,000.

D. Any fine or penalty referenced in this section shall not be the exclusive punishment or penalty. Any fine or penalty assessed under this section shall not prevent or prohibit the suspension or revocation of a license under another provision of this Article.

20-272: Judicial Review

- A. Appeal of the County's final administrative decision under this Article issuing, denying, suspending or revoking, or imposing other discipline upon, an adult-entertainment business license, adult performer license may be had by filing an appeal to be heard by the DuPage County Board within 15 days of the initial denial of the application.
- B. Judicial review of the decision of the DuPage County Board may be had pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101, et seq.) by filing a petition for administrative review and issuing a summons within 35 days of the final administrative decision by the DuPage County Board.
- C. A final administrative decision by the DuPage County Board issuing, denying, suspending or revoking, or imposing other discipline upon any license holder shall be stayed during the period of time in which an administrative appeal may be filed.

20-273: RULES OF CONSTRUCTION:

The following rules of construction apply to the text of this article:

- (1) Words used in the present tense shall include the future, and the words used in the singular number shall include the plural number, and the plural the singular.
- (2) The word "shall" is mandatory and not discretionary.
- (3) The word "may" is permissive.
- (4) The masculine gender includes the feminine and neuter.
- (5) The word "person" includes individual, partnership, firm corporation or association.
- (6) In the case of any difference of meaning or application between the text of this article and any caption or illustration, the text shall control.
- (7) Terms not herein defined shall have the meaning customarily assigned.

- (8) In the event that a term of art or defined term is defined using capital letters, the use of lowercase letters shall not be used to imply any different definition than the definition expressly stated in this ordinance.

20-274: SEVERABILITY:

The provisions of this Article are severable. If any section, sentence, subsection, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance.