

## Chapter 10

### AMUSEMENTS AND ENTERTAINMENT\*

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\*Cross reference—Businesses, ch. 22.

**ARTICLE I. IN GENERAL**

**Secs. 10-1—10-30. Reserved.**

**ARTICLE II. POOL AND BILLIARDS\*****Sec. 10-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Billiard room* means any public place where a person is permitted to play the game of billiards (pool) and for which a charge is made for use of equipment.

*Billiards* means any of the several games played on a table surrounded by an elastic ledge of cushions with balls which are impelled by a cue and shall include all forms of the game known as "carom billiards," "pocket billiards," and "English billiards," and any of the games commonly referred to as pool.

(Ord. of 12-2-1991, § 1)

**Cross reference**—Definitions generally, § 1-2.

**Sec. 10-32. Operating hours.**

All billiard rooms located within the city shall close and be prohibited from operating Monday, Tuesday, Wednesday and Thursday from 12:00 midnight until 6:00 a.m. the following morning. Billiard rooms shall close on Saturday morning at 2:00 a.m. and remain closed until 6:00 a.m. Saturday morning. Billiard rooms shall close Saturday evening at 12:00 midnight and remain closed until 1:00 p.m. Sunday afternoon. Billiard rooms shall close Sunday evening at 12:00 midnight and remain closed until 6:00 a.m. Monday morning.

(Ord. of 12-2-1991, § 2)

**Sec. 10-33. Alcoholic beverages restricted.**

No alcoholic beverages shall be stored on the premises of any billiard room unless the owner has a beer and wine license issued by the city. No alcoholic beverages shall be consumed, carried on or possessed on the premises of any billiard room.

(Ord. of 12-2-1991, § 3)

**Cross reference**—Alcoholic beverages, ch. 6.

**\*State law references**—Exchange of free replay for anything of value unlawful, O.C.G.A. § 16-12-35(c); authority to license, tax and regulate billiard rooms, O.C.G.A. § 43-8-2; state licensing of coin-operated amusement machines, O.C.G.A. § 48-17-1 et seq.

reduced criminal activity and protection of the surrounding neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

(Ord. of 4-4-1994, § 1)

**Sec. 10-57. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adult bookstore* means an establishment having as a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such materials or five percent of its net sales consisting of printed materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Adult dancing establishment* means a business that features dancers displaying or exposing specified anatomical areas.

*Adult mini-motion picture theater* means an enclosed building with a capacity of less than 50 persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons.

*Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theater* means an enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

*Adult video store* means an establishment having as a substantial or significant portion of its stock in trade, videotapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**Sec. 10-58. Erotic dance establishment regulations.**

(a) No person shall advertise or cause to be advertised an erotic dance establishment in the city without a valid adult entertainment establishment license issued pursuant to this article.

(b) No later than March 1 of each year, an erotic dance establishment licensee shall file a verified report with the license officer showing the licensee's gross receipts and amounts paid to dancers for the preceding calendar year.

(c) The license officer may inspect the licensee's establishment to assess compliance with the requirements of this article and all applicable sections of appendix A to this Code at any time after providing written notice of the intended date of the inspection at least one week (seven calendar days) prior to the investigation.

(d) An erotic dance establishment licensee shall maintain and retain for a period of two years the names, addresses and ages of all persons employed as dancers.

(e) No adult entertainment establishment licensee shall employ or contract with as a dancer a person under the age of 18 years or a person not licensed pursuant to this article.

(f) No person under the age of 18 years shall be admitted to an erotic dance establishment.

(g) An erotic dance establishment may be open only between the hours of 8:00 a.m. and 12:00 midnight, Monday through Saturday, and closed on Sunday. No licensee shall permit his place of business to be open on Christmas Day.

(h) No erotic dance establishment licensee shall serve, sell, distribute, or suffer the consumption or possession of any alcoholic beverage or controlled substance upon the premises of the licensee.

(i) An erotic dance establishment licensee shall conspicuously display all licenses required by this article within the primary structure of the establishment.

(j) No dancer shall fondle or caress any patron, and no patron shall fondle or caress any dancer.

(k) No patron shall directly pay or give any gratuity to any dancer.

(l) No dancer shall solicit any pay or gratuity from any patron.

(m) Private dancing sessions or other erotic exhibitions on the erotic dance establishment premises shall be prohibited.

(n) All areas of an establishment licensed under this section shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to 3.5 footcandles per square foot.

(Ord. of 4-4-1994, § 3)

charged with a crime, and the terms "employed on the licensed premises" and "work on any licensed premises" shall include as well work done or services performed while in the scope of employment elsewhere than on the licensed premises.

(b) *Approval for employment.* Before any person may work on a licensed premises, he must file a notice with the licensing officer of his intended employment on forms supplied by the licensing officer and shall receive approval of such employment from the licensing officer. The prospective employee shall supply such information as the licensing officer requires, including a set of fingerprints on regular city or United States Department of Justice forms. Upon approval, the employee may begin working on the licensed premises. If approval is denied, the prospective employee may, within ten days of denial, apply to the licensing officer for a hearing. The decision of the licensing officer after hearing may be appealed to the mayor and council, which may issue such order as is proper on the premises. An investigation fee of \$50.00 shall accompany the notice of intended employment or a receipt of the licensing officer evidencing the payment of such fee at the time the notice is filed.

(c) *Suspension, revocation of license.* Violation of the provisions of this article, the ordinances of the city, laws and regulations of the state, or the rules and regulations of the city shall subject an employee to suspension or revocation of license.

(d) *Independent contractors.* For the purpose of this article, independent contractors shall be considered as employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

(Ord. of 4-4-1994, § 9)

#### **Sec. 10-65. Application for permit.**

(a) Any person desiring to obtain a permit to operate, engage in, conduct, or carry on any adult entertainment establishment shall make application to the mayor and council or its designated representative. Prior to submitting such application, a nonrefundable fee, established by resolution of the mayor and council, shall be paid to the city clerk to defray, in part, the cost of investigation and report required by this article. The city clerk shall issue a receipt showing that such application fee has been paid in full. The receipt or a copy shall be supplied to the mayor and council at the time the application is submitted.

(b) The application for permit does not authorize the engaging in, operation of, conduct of, or carrying on of any adult entertainment establishment.

(Ord. of 4-4-1994, § 10)

#### **Sec. 10-66. Permit application contents.**

(a) Each application for an adult entertainment establishment permit shall contain the following information:

- (1) The full true name and any other names used by the applicant.

- (13) The age and date of birth of the applicant, of any partners, or of any and all officers, of any stockholders of more than five percent of the shares of the corporation stock outstanding on the date of application, directors of the applicant if the applicant is a corporation.
  - (14) If the applicant, any partners or any of the officers or stockholders holding more than five percent of the outstanding shares of the corporation on the date of application, or the directors of the applicant if the applicant is a corporation, have ever been convicted of any crime constituting a felony, or any crime not a felony involving moral turpitude, in the past five years and, if so, a complete description of any such crime, including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.
  - (15) The furnishing of fingerprints of the individual applicant.
  - (16) If the applicant is a person doing business under a trade name, a copy of the trade name properly recorded; if the applicant is a corporation, a copy of authority to do business in this state, including articles of incorporation, trade name affidavit, if any, and last annual report, if any.
  - (17) At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the license is granted and who have not been convicted of any felony or a violation of this Code involving moral turpitude in the past five years. The licensing officer shall prepare forms consistent with the provisions of this subsection for the applicant, who shall submit all character references on such forms.
  - (18) Address of the premises to be licensed.
  - (19) Whether the premises are owned or rented and, if the applicant has a right to legal possession of the premises, copies of those documents giving such legal right.
  - (20) A plat by a registered engineer, licensed by the state, showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any protected use property identified in section 99.4 of the zoning ordinance or other business regulated under this article.
- (b) Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by the following:
- (1) If the applicant is an individual, the individual.
  - (2) If by a partnership, the manager or general partner.
  - (3) If a corporation, by the president of the corporation.
  - (4) If any other organization or association, by the chief administrative official.
- (Ord. of 4-4-1994, § 11)

**Sec. 10-67. Applicant to appear.**

The applicant for an adult entertainment establishment permit, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally

- (12) That the grant of such license will not cause a violation of this article or any other ordinance or regulation of the city, the state, or the United States.
- (13) Any other inquiry deemed necessary or desirable by the city to ensure the health, safety and welfare of the citizens of the city or the preservation of its neighborhoods.
- (Ord. of 4-4-1994, § 13)

**Sec. 10-69. Persons prohibited as licensees.**

- (a) No license provided for by this article shall be issued to or held by:
- (1) An applicant who has not paid all required fees and taxes for a business at that location or property taxes.
  - (2) Any person who is not of good moral character.
  - (3) Any corporation any of whose officers, directors or stockholders holding over five percent of the outstanding shares of capital stock on the date of application are not of good moral character.
  - (4) Any partnership or association any of whose officers or members holding five percent interest therein on the date of application are not of good moral character.
  - (5) Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character.
  - (6) Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, the state, or the city.
- (b) Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the city, no new licenses shall be issued. In determining the needs and desires of the inhabitants, the standard of review shall be that the market is virtually unrestrained as defined in *Young v. American Mini Theaters, Inc.* (427 U.S. 50, 81).
- (Ord. of 4-4-1994, § 14)

**Sec. 10-70. Refusal of permit; appeal.**

If the city, following investigation of an applicant for an adult entertainment establishment permit, deems that the applicant does not fulfill the requirements as set forth in this article, it shall notify the city clerk of such opinion and, within 30 days of the date of application, provide copies of the investigation report to the city clerk. The city clerk shall, within ten days, notify the applicant by certified mail of such denial. Any applicant who is denied a permit may appeal such denial to the mayor and council.

(Ord. of 4-4-1994, § 15)

**Sec. 10-71. Renewal of permit.**

Permits for adult entertainment establishments may be renewed on a year-to-year basis, provided that the permittees continue to meet the requirements set out in this article. The renewal fees for the adult entertainment establishment permits shall be established by resolution of the mayor and council.

(Ord. of 4-4-1994, § 16)

**Sec. 10-76. Action on hearing officer's report by mayor and council.**

The mayor and council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the mayor and council does not adopt the hearing officer's recommendation, it may:

- (1) Refer the matter to the same or another hearing officer for a completely new hearing or for the taking of additional evidence on specific points. In either of such cases, the hearing officer shall proceed as provided in this article.
  - (2) Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.
- (Ord. of 4-4-1994, § 21)

**Sec. 10-77. Violations; penalty.**

Violators of this chapter shall, upon conviction, be punished as provided in section 1-12. In addition to such punishment, violation of this article shall also be grounds for immediate suspension or revocation of the license issued under this article.

(Ord. of 4-4-1994, § 22)

**Sec. 10-78. Unlawful operation declared nuisance.**

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this article is unlawful and a public nuisance. The city may, in addition to or in lieu of prosecuting a criminal action under this article, commence an action or proceeding for abatement, removal or enjoinder of such nuisance in the manner provided by law. It shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting or maintaining an adult entertainment establishment contrary to the provisions of this article. In addition, violation of the provisions of this article shall be per se grounds for suspension or revocation of a license granted under this article.

(Ord. of 4-4-1994, § 23)

**Sec. 10-79. Cleaning of licensed premises.**

Each licensed premises shall be maintained in a clean and sanitary condition and shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the licensed premises. There shall be provided adequate facilities, equipment and supplies on the licensed premises to meet this requirement; and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or as often as collections permit.

(Ord. of 4-4-1994, § 24)



Chapters 11—13

**RESERVED**