Chapter 6 - ADULT ENTERTAINMENT ESTABLISHMENTS

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5-6-1: - Definitions.

For the purposes of this Chapter the following definitions apply:

Adult Arcade: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore: A place where books, magazines, motion pictures, prints, photographs, periodicals, recordings, novelties and devices, or any of these things, which have as their primary or dominant theme matters depicting, illustrating, describing or relating to specified sexual activities are sold or offered for sale to adults and includes a place with only a portion or section of its area set aside for the display or sale of such material to adults, except that any place, otherwise included within this definition, that derives not more than ten percent (10%) of its gross income from the sale of such material shall be exempt from the provisions of this Chapter so long as such material is kept in a location where it is not visible and shall not be a self-service item for the customers of such place.

Adult Cabaret: A nightclub, bar, restaurant or similar establishment which regularly features live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Dancing Establishment: A business that features dancers displaying or exposing specified anatomical areas.

Adult Entertainment: Includes adult arcade, adult establishment bookstore, adult cabaret, adult dancing establishment, adult modeling, adult motion picture booth, or adult motion picture theater.

Adult Modeling: An adult business activity that features models displaying or exposing specified anatomical areas.

Adult Motion Picture Booth: An enclosed building, or a portion or part of an enclosed building, or an open-air theater designed to permit viewing by patrons seated in automobiles, used for presenting on a regular basis film material which has as its primary or dominant theme matters depicting, illustrating or relating to specified sexual activities for observation by adult patrons thereof, and includes any hotel or motel, boardinghouse, rooming house or other lodging for transient customers which advertises the presentation of such film material.

Adult Motion Picture Theater: An enclosed area within an adult entertainment establishment designed or used for the viewing by one or two (2) persons of motion pictures or video taped which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities.

Peep Booth: An enclosed area within an adult entertainment establishment designed or used for the viewing by one person of motion pictures, video tapes, or live performances which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas.

Specified Anatomical Areas: Means and includes any of the following:

A.
Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

B.
Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities:

A.
Human genitals in a state of sexual stimulation or arousal;

B.
Acts of human analingus, bestiality, cunnilingus, coprophilia, fellation, flagellation, frottage, masochism, masturbation, sadism, sadomasochism, sexual intercourse, sodomy or urolagnia; and

C.

Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

(Ord. 97-23)

5-6-2: - License Required.

It shall be unlawful for any person to operate any adult establishment in the City of Englewood without first obtaining a license.

(Ord. 97-23)

5-6-3: - Application for License.

A.

The application for an adult entertainment establishment license shall be made in accordance with the provisions of Title 5, Chapter 1.

B.

In addition the applicant shall be required to provide the following:

1.

Manager(s) license:

i.

All managers of adult entertainment establishments must be licensed. Licenses will be issued by the Licensing Officer.

ii.

Where any license holder has a change in manager or managers of his/her establishment, and a new manager has not previously been approved as a manager by the Licensing Officer, he/she shall be presented by the holder of a license or shall present himself/herself to the office of the Licensing Officer for a managers license.

2.

Employee registration:

i.

It shall be unlawful for any person to be employed by any adult establishment in the City of Englewood without first obtaining a registration.

(Ord. 97-23)

5-6-4: - Special License Application.

A.

For all adult entertainment establishments in addition to the license application requirements, in Chapter 1 of this Title, the applicant must comply with the following special application requirements:

1.

Diagram requirement:

i.

The application must be accompanied by a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business and designating the use of each room or other area of the premises.

ii.

The diagram shall designate all areas of the premises where patrons are not permitted.

iii.

The diagram need not be professionally prepared, but must be drawn to a designated scale, or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6″).

iv.

The diagram shall designate the place at which the license will be conspicuously posted.

v.

No alteration in the configuration of the premises or any change in use of any room or area as shown on the diagram may be made without the prior written approval of the Licensing Officer.

vi.

The Licensing Officer may waive the diagram requirement 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 and that the use of any area or room in the premises has not changed.

vii.

The applicant must be qualified according to the provisions of this chapter and the premises must be inspected by the City and found to be in compliance with the law.

2.

No license granted by this chapter shall be transferred. The license holder shall have a copy of the diagram on the licensed premises for inspection at any time.

3.

Self-inspection of licensed premises. The licensee, or his designated representative, shall make sanitary inspections of the licensed premises at least once per month, and shall record the findings on a form supplied by the Licensing Officer. Each licensed premises shall post and maintain in a readily accessible place, a schedule for maintaining the sanitation of the premises.

4.

Sealing for unsanitary or unsafe conditions. A licensed premises, or any part thereof, may be sealed by order of the Licensing Officer upon his finding of a violation of this chapter resulting in an unsanitary or unsafe condition. Prior to sealing, the Licensing Officer shall serve on the licensee, by personal service on him or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within twenty-four (24) hours after service. If the violation is not corrected, the Licensing Officer may physically seal the portion of the licensed premises in violation to discontinue use. This shall be in effect until the violation has been corrected and the seal removed by the Licensing Officer. The Licensing Officer shall affix to premises a conspicuous sign labeled "unclean" or "unsafe," as the case may be.

5.

All activities, materials, devices, and novelties shall be performed or displayed in such manner that they cannot be seen by anyone other than the customers who have entered the licensed adult entertainment establishment.

6.

No person, merchant, employee or agent shall, in the course of selling, renting, or offering for sale or rental, a tangible or intangible product, service or goods, expose "a specified anatomical area" or carry on a "specified sexual activity."

7.

It shall be unlawful for any employee of an adult entertainment establishment to receive tips from patrons except as follows:

i.

A licensee that desires to provide for tips from its patrons shall provide one or more boxes or other containers to receive tips. All tips for such employees shall be placed by the patron of the adult entertainment establishment into the tip box.

ii.

An adult entertainment establishment that provides tip boxes for its patrons as provided in this section shall post one or more signs to be conspicuously visible to the patrons on the premises in letters at least one inch (1″) high to read as follows: "all tips are to be placed in tip box and not handed directly to the entertainer. Any physical contact between the patron and entertainer is strictly prohibited."

B.

Special License Requirements—Adult Motion Picture Theaters and Booths: In addition to the license application requirements in Chapter 1 of this Title and the special application procedures in paragraph A, the applicant must comply with the following special application requirements:

1.

Each adult motion picture booth shall have a rectangular-shaped entrance way not less than two feet (2′) wide nor less than six feet (6′) high, and there shall be a door, curtain or other closure closing off the entranceway while the booth is in use, which closure shall open outward from the inside of the booth or be capable of being pushed aside.

2.

Each adult motion picture booth shall have sufficient seats to accommodate the maximum number of persons expected to use the booth. The maximum number of persons who may occupy a booth shall be stated on or near the entranceway, and only that number shall be permitted to be in a booth at one time.

3.

If there is more than one booth in an adult motion picture theater, it shall open onto a common corridor, passageway or area that has an exit way or exit doorway, as defined in the Uniform Building Code, separate from the other required exits of the licensed premises. This exit way or exit doorway need not be in use during the normal course of business, but an exit doorway opening directly to the exterior, whether it is the only exit doorway or the last exit doorway in an exit way, shall be equipped with approved panic hardware as provided in the Uniform Building Code.

4.

Adult motion picture booths shall be lighted, whenever film material is not being shown, such that the light intensity at every point thirty inches (30″) above the floor is not less than one-half (″) foot-candle, but may be in complete darkness when film material is being shown. Common corridors, passageways or areas shall be constantly lighted when in use such that the light intensity at every point thirty inches (30″) from the floor is not less than five-hundredths (.05) of a foot-candle.

5.

Partitions between adult motion picture booths shall be considered nonbearing partitions, but they shall be so constructed as to have a fire-resistance rating of not less than one hour, unless the area wherein the booths are located is sprinkled, then said requirements are waived.

6.

An adult motion picture theater having only a hall or auditorium for the showing of film material shall be considered a "place of assembly" within the meaning of the Uniform Building Code and shall conform to those requirements.

7.

An adult motion picture theater having both adult motion picture booths and a hall or auditorium shall conform to the special requirements for both facilities; provided, that where the special requirements allow for common elements to be utilized or constructed, this may be done with the approval of the Chief Building Official.

8.

There shall be provided within or adjacent to the common corridor, passageway or area in adult motion picture theaters having adult motion picture booths, adequate lavatories equipped with running water, hand cleansing soap or detergent, and sanitary towels or hand-drying devices; common towels are prohibited.

C.

Special License Requirements—Adult Dancing Establishments: In addition to the license application requirements in Chapter 1 of this title and the special application procedures in paragraph A, the applicant must comply with the following special application requirements:

1.

Any person employed or working in the licensed premises as a dancer shall, while dancing, perform upon a stage or similar structure specially designed for such dancing. Stages shall conform to the requirements of the Uniform Building Code, including the requirements for appurtenant rooms, if such appurtenant rooms are used by the establishment; provided, that the dancers shall be provided with a dressing room or rooms that are not part of or used by the public as restrooms.

2.

Where a dancer performs upon a platform or other small structure designed to hold a small number of persons, which is not a stage nor equipped to be a stage for theatrical presentations, the platform shall be level and of sturdy construction and shall be securely fastened to the floor or wall during performances. Steps and handrails shall be provided so that the dancer may mount to the top of the platform safely under the normal operating conditions of the establishment in all cases wherein the top of the platform is more than eight inches (8″) from the surface upon which the platform rests.

D.

Special License Requirements—Adult Modeling Establishments: In addition to the license application requirements in Chapter 1 of this title, the licensee shall also comply with the special application procedures in paragraph A and C.

E.

Special License Requirements—Peep Booths: In addition to the general requirements contained in sections 5-6-6, an adult entertainment establishment offering peep booths upon the licensed premises shall comply with all of the following special requirements:

1.

The diagram accompanying an application for a license shall specify the location of one or more manager's stations.

2.

It is the duty of the licensee to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

3.

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 to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain film or video reproduction equipment or equipment for showing slides or photographs. If the premises has two (2) or more manager's stations, 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 manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

4.

It shall be the duty of the licensee and employees present on the premises to ensure that the view area specified in the previous paragraph remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated in the application as an area to which patrons will not be permitted.

5.

It shall be the duty of the licensee to ensure that all walls shall be maintained without holes or damage.

6.

No peep booth may be occupied by more than one person at any time.

(Ord. 97-23; Ord. 02-26)