

EVANS COUNTY ORDINANCE
REGULATING ADULT ENTERTAINMENT ESTABLISHMENTS

WHEREAS, the Board of Commissioners of Evans County, Georgia finds that adult entertainment establishments, if unregulated, will likely lead to an increase in prostitution, venereal and other sexually-transmitted disease, drug and alcohol offenses and other criminal activity; and,

WHEREAS, adult entertainment establishments sometimes are fronts for or operated by persons associated with organized criminal activities, and the need to scrutinize such establishments is thereby enhanced in order to prevent the use of adult entertainment establishments for unlawful purposes; and,

WHEREAS, the law enforcement resources available for responding to problems associated with or created by adult entertainment establishments are limited and are best conserved by regulating and licensing adult entertainment establishments and those associated with them; and,

WHEREAS, the public health, safety and welfare are problems associated with or created by adult entertainment establishments are limited and are best conserved by regulating and licensing adult entertainment establishments and those associated with them; and,

WHEREAS, the public health, safety, welfare and convenience require that adult entertainment establishments and their locations, operations, and employees be regulated and, welfare and convenience require that adult entertainment establishments and their locations, operations, and employees be regulated and licensed in order to reduce the potential for harm, and in order to preserve the quality of urban life in residential and business areas of the community; and,

WHEREAS, the location of an adult entertainment establishment and like or associated business in the same neighborhood or in close proximity of the same tend to attract an undesirable quantity and quality of transients, adversely affect property values, cause an increase in crime and encourage residents and businesses therein to move elsewhere; and,

WHEREAS, the Board of Commissioners of Evans County, Georgia is desirous of preserving the public health, safety, and welfare of the county, its residents, and the character of its neighborhoods and developments;

NOW THEREFORE, BE, AND IT IS HEREBY ORDAINED by the Board of Commissioners of Evans County, Georgia:

ARTICLE I
ADULT ENTERTAINMENT ESTABLISHMENTS

Sec. 1-1. Purpose.

The purpose of this ordinance is to regulate certain types of businesses, including but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses and the adverse affect on property values and on the pubic health, safety, and welfare of the county, and on its citizens and property, and on the character of its neighborhoods and development will be curtailed. This ordinance is not intended as a de facto prohibition of legally-protected forms of expression. This ordinance is intended to represent a balancing of competing interests: reduced criminal activity and protection of neighborhoods and development through the regulation of adult entertainment establishments versus any legally-protected rights of adult entertainment establishments and patrons. This ordinance is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.

Sec. 1-2. Definitions.

As used herein, the following words or phrases shall have the following meanings:

Board of Commissioners - The Board of Commissioners of Evans County, Georgia.

Church - A place where persons regularly assemble for religious worship.

Conviction - Adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act.

Distance and measurement - The measurement in lineal feet from the center of any door of customer entry of the proposed premises of an adult entertainment establishment (or if not on ground level, then the beginning point for measuring the distance shall be the point at ground level determined by measuring from the center of any door of customer entry perpendicular to the ground level) to the nearest property line of any church, library, school, college, public park, residence or hospital. A radius shall be measured from the center of any door of customer entry of the proposed premises to the nearest property line of any church, library, school, college, public park, residence or hospital.

Minor - For purposes of this ordinance, any person who has not attained the age of twenty-one (21) years of age.

Park - Any lands or facility owned, operated, controlled or managed by any county, city or federal government or any governmental entity in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.

Residence - A house, apartment, mobile home, boarding or rooming house, duplex, or other multi-family housing, for human dwelling.

School - State, county, city, church or other schools, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high school learning centers, kindergartens and daycare centers for persons of all ages.

As used herein, the following words or phrases shall have the following meanings, and the premises on which defined establishments operate or on which defined activities occur shall constitute Adult Entertainment Establishments:

Adult bookstore - An establishment having a substantial or significant portion of its stock in trade, books, printed material, 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 of at least five percent (5%) of its total floor space devoted to the sale or display of such material, or at least five percent (5%) of its net sales consisting of printed material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult business - An establishment other than those expressly specified in this ordinance, where employees or patrons expose specified anatomical areas or engage in specified sexual activities, or any other business or establishment which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.

Adult entertainment establishment - A business or establishment that features dancers displaying or exposing specified anatomical areas.

Adult motion picture theater - An enclosed building with a capacity of fifty 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 therein.

Adult mini-motion picture theater - An enclosed building with a capacity for less than fifty 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 therein.

Adult hotel or motel - A hotel or motel whose primary purpose along with lodging is the presentation of material which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Adult motion picture arcade - 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 video store - An establishment having a substantial or significant portion of its stock in trade, video tapes 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 at least five percent (5%) of its total floor space, devoted to the sale or display of such material or which derives more than five percent (5%) of its net sales from videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Bathhouse and massage parlors - An establishment to which the public is permitted or invited and in which services offered include some form of physical contact between employee and patron and in which services offered are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Erotic entertainment/dance establishments - A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers or entertainers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

Encounter center or rap establishment - Any business, agency or person who, for any form of consideration or gratuity, provides a place where two or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.

Escort bureau, introduction services - Any business, agency or person who, for a fee, commission, hire, reward, profit or other consideration furnishes or offer to furnish names of persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

Good moral character - a person who has not been convicted of a drug-related, alcohol-related, or sex-related crime in the past five (5) years.

Specified sexual activities - include any of the following:

(1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piguerism, sapphism, zoerasty; or

(2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or

(4) Fondling or touching of nude human genitals, pubic regions, buttocks or female breast; or

(5) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or

(6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Specified anatomical areas - include any of the following:

(1) Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breast below a point immediately above the top of the areola; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

ARTICLE II

Sec. 2-1. License Required.

It shall be unlawful for any person, association, partnership, corporation, or other business entity, to engage in, operate, conduct or carry on, in or upon any premises, an adult entertainment establishment without first having complied with the provisions of this ordinance, or without a currently valid Evans County license for the operation of an adult entertainment establishment. No license issued hereunder shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States or under any other ordinance, rule or regulation of Evans County, Georgia.

ARTICLE III PROHIBITED ACTIVITIES

Sec. 3-1. Admission of minors unlawful.

It shall be unlawful for any person or licensee to admit or permit the admission of minors or allow a minor to remain within a licensed premises.

Sec. 3-2. Sales to minors unlawful.

It shall be unlawful for any person to sell, exchange, barter, trade, give or offer to sell, exchange, barter, trade or give, to any minor any entertainment, service, material, devise or thing offered, for sale or otherwise at an adult entertainment facility.

Sec. 3-3. Certain activities prohibited.

(1) No person, firm, partnership, association, corporation or other entity shall conduct any illegal activity in or upon the premises.

(2) No licensee shall permit or suffer an employee or other person to appear nude or semi-nude where there is an individual payment offer or solicitation of money occurring between patron and employee.

(3) No licensee shall permit any employee or patron to use artificial devices or inanimate objects to depict any of the prohibited activities described in this rule.

(4) No licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for personal hygiene or necessity.

- (5) No licensee shall suffer or permit an employee or any person on the premises to engage in actual or simulated genital masturbation or, in the case of females, fondling of the breasts.
- (6) No licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.
- (7) No licensee shall suffer or permit an employee or any person on the premises to engage in, or simulate bestiality.
- (8) No person, while on any licensed premises, shall expose or be permitted to expose to public view with less than full opaque covering his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage, in a lewd and obscene fashion.
- (9) No employee or person while on a licensed premises shall or be permitted to dance or perform nude or semi-nude in such a manner as to simulate sexual activity with any patron, spectator, employee or other person not employed therein.
- (10) No person, while on a licensed premises, shall, while nude or semi-nude, be permitted to sit upon or straddle the leg, legs, lap, body or face of any patron, spectator, employee or other person therein, or to engage in or simulate sexual activity while touching or being touched by said patron, spectator or other person.
- (11) No licensee shall suffer or permit the use of any areas on the premises of such establishment for sexual contact or private dancing performance or entertainment.
- (12) No licensee shall suffer or permit any signage or advertisement which encourages, solicits, induces or promotes conduct or activities proscribed by this ordinance.
- (13) No person, association, partnership or corporation licensed under the ordinance shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor, beer or wine, or controlled substance upon the premises of any licensee. Any licensee who was operating an adult entertainment establishment prior to the adoption of this ordinance shall not be subject to the ordinance until May 7, 1997, at which time all licenses within the County shall be subject to this ordinance, including those establishments in business before the effective date hereof.
- (14) No drugs or illegal or controlled substances of any kind shall be allowed, permitted, used, possessed or sold upon the premises, and no gambling shall be allowed or permitted therein.

ARTICLE IV

Sec. 4-1. Distance requirements for location.

No adult entertainment establishment, business, or use shall be located within the following distances as defined and measured as stated herein:

- (1) within 1000 feet of any residence;
- (2) within 1000 feet of a church, school, governmentally-owned or operated building, library, civic center, public park, hospital, community club, or prison;
- (3) within 1000 feet of another establishment regulated or defined hereunder;
- (4) within 1000 feet of an establishment selling alcoholic beverages other than the licensed establishment.

Each application for a license hereunder for which there is no existing county license then in effect of the type for which application is being made shall include a blue line copy of a surveyor's plat, 8½ x 11 in size, with a scale of 1 inch per 200 feet, showing the proposed location and the location of all customer entries in relation and distance, measured as provided in this ordinance, to all real property and buildings on such real property which fall within the above distance requirements, together with the zoning classifications and present uses of all such real property and the proposed location.

Each application for a location which has not previously been occupied for other than residential purposes or on which there is or is to be new construction shall also include a copy of a site plan approved by the Evans County Board of Commissioners.

After issuance of any license, no change in the location of the building on the premises or customer entry locations shall be made which would affect compliance with any distance requirements of this ordinance.

Sec. 4-2. Adult entertainment establishment employees.

(1) Employees of adult entertainment establishments shall be not less than twenty-one (21) years of age and of good moral character.

(2) No person shall be employed in any capacity whatsoever, including, but not limited to, performers, entertainers and musicians, who have been convicted in this or any other county or state or in any federal court within five (5) years immediately prior to the application for employment of soliciting for

prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture or sale of intoxicating liquors, or any other felony or crime involving moral turpitude, or for whom any outstanding warrant exists on which service has not been perfected. "Be employed" shall include all work done or services performed while in the scope of employment on the premises and elsewhere on the licensed premises, for compensation or otherwise.

(3) A permit to work in or be employed by an adult entertainment establishment, whether for compensation or otherwise, shall be required for all employees thereof, such as entertainers, employed or hired by an adult entertainment establishment 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. Each independent contractor shall be required to have and maintain his or her separate business license.

(4) No person requiring a permit may be employed by or work in an establishment until such person has filed an application, paid the fee for and obtained a work permit from the Evans County Board of Commissioners.

(5) Any permit for employment issued hereunder shall expire twelve (12) months from the date of issuance unless earlier revoked or suspended. The Evans County Board of Commissioners may prescribe reasonable fees for certifying the eligibility for employment.

(6) It shall be the duty of all licensees of an adult entertainment establishment to file with the Evans County Board of Commissioners the names of all employees with their home addresses and home telephone numbers and places of employment. Changes in the list of employees must be filed with the Evans County Board of Commissioners within three (3) days from the date of any such changes.

(7) Employees holding permits issued pursuant to this chapter shall at all times during their working hours have said permits available for inspection at the premises.

Sec. 4-3. Licensing and licenses.

(1) All licenses herein shall be a mere grant of privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this ordinance and related laws, applicable provisions of this Code and other ordinances and resolutions of the county relating to such business.

(2) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be suspended and revoked under the provisions of the ordinances of Evans County."

(3) A separate license shall be required for each place of business.

(4) No license shall be issued to any person who is less than twenty-five (25) years of age.

(5) All Applications for licenses shall be written and on forms supplied by Evans County at the county's office. Such application shall state the name and address of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and shareholders; if other business entity, then the names of all holding any ownership or managerial interest therein; and such other reasonable information as may be required by the Evans County Board of Commissioners, and be sworn to by the applicant or agent thereof.

(6) All applicants shall furnish all data, information and records requested of them by the county, and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application.

(7) For the purpose of this ordinance, the term "applicant" shall include a person or persons and, in the case of a partnership or corporation, all partners, officers, directors, principals, and shareholders of said partnership or corporation.

(8) Each application must be complete in its entirety before being accepted by the county for filing and processing.

Sec. 4-4. Notice of intent to engage in business.

(1) All applicants for licenses hereunder shall give notice that application has been filed and of the purpose of making such application by publication of an advertisement once a week for two (2) consecutive weeks prior to the date of consideration of the application by the Evans County Board of Commissioners in the newspaper in which legal advertisements are published.

(2) The first advertisement shall not appear more than thirty (30) days prior to the date of such consideration. The advertisement shall be of type not smaller than ten (10) point capital and lower case and shall be at least a one-inch column.

(3) The notice shall contain a particular description of the location for the proposed business, the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers, and the date, time and place of hearing, and a statement that any objections to the issuance must be made at or prior to the time of hearing, and, if prior to the time of hearing, must be in writing and received by the supervisor on or before the date and time of hearing.

(4) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following: "Evans County Adult Entertainment License applied for. Any objection to this application must be made at or prior to _____ o'clock ____m., on the _____ day of _____, 19____, at

(address) which is the date and time of hearing. If prior to the hearing, objections must be in writing." The sign or signs shall be at least eighteen (18) inches by twenty-four (24) inches in size and shall face toward all public streets, sidewalks or their public property which adjoin or adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the legal advertisement through the date of the initial consideration by the License Review Board.

Sec. 4-5. License fees, penalty for late payment.

(1) The annual license fee shall be set by the Board of Commissioners from time to time by resolution. Licenses shall be issued for a period of twelve (12) months only and not for any partial year. No license shall be issued or renewed until and unless all fees and penalties due the county are first paid.

(2) In addition to and not in the alternative to any other penalty which may be provided herein, any licensee, person or entity who fails to pay any fee, tax or other repayment due to Evans County of any kind when due shall pay, in addition to such fee, tax or other charge, a separate penalty equal to ten (10) per cent of the required fee, tax or other charge, for each period of thirty (30) days, or portion thereof, following the due date, until paid in full, including penalties.

Section 4-6. General qualifications of applicant.

No license hereunder shall be granted where the application or the evidence on a hearing shows any of the following conditions to exist:

(1) That the applicant is of bad moral character.

(2) That the applicant has had any license issued under the police powers of any county or other governmental entity previously suspended or revoked.

(3) That the applicant, as a previous holder of a license to sell alcoholic beverages or for any special Evans County business license, or for an adult entertainment establishment, has violated any law, regulation or ordinance relating to such business within a ten (10) year period immediately preceding the date of application.

(4) That any applicant, or any corporation or partnership for which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to Evans County.

Sec. 4-7. Licenses--investigation; report.

All applications required by this ordinance shall be investigated by the Evans County Sheriff's Office, which shall report its findings and recommendations to the Board of Commissioners. No further action shall be taken by Evans County or by any applicant with respect to any application until completion by the Evans County Sheriff's Office of its investigation.

Sec. 4-8. Citizenship and residence requirements.

(1) Where the applicant is a corporation, any license shall be applied for by and shall be issued to the corporation and either (1) the majority shareholder thereof, or (2) a person employed full time in a managing capacity by the corporation. Each of said persons must be a U. S. citizen or legal alien for at least one (1) year prior to application.

(2) Where the applicant is a partnership, any license shall be applied for by and shall be issued to the partnership and either (1) the managing general partner thereof, or (2) a person employed full time by the partnership in a managing capacity. Each of said persons must be a U. S. citizen or legal alien for at least one (1) year prior to application.

(3) Where the applicant is a sole proprietor, any license shall be applied for by and shall be issued to the sole proprietor if he is working full time in a managing capacity on the premises, and, if not, then to the sole proprietor and a person employed full time by the sole proprietor in a managing capacity. Each of said persons must be a U. S. citizen or legal alien for at least one (1) year prior to application.

(4) For purposes of this section, the words "managing capacity" shall mean the President or Chief Executive Officer or managing or general partner of a corporation or partnership, or a person who has responsibility for management of the operations at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor, or other ownership entity.

(5) The licensee shall notify the county in writing, and shall keep said notification current, of the name, address, and telephone number for licensee and the agent of the licensee at said address and telephone number for the purpose of receiving communications and notices required under this ordinance.

Sec. 4-9. Initial consideration of application.

All applications shall be acted upon by the Evans County Board of Commissioners after hearing at a date, time and place established by the county upon notice to the applicant. Any decision of the Evans County Board of Commissioners shall be final.

Sec. 4-10. License not transferable. Right to take in additional partners or shareholders restricted.

(1) No license issued hereunder shall be sold, given, transferred or assigned by any licensee, or by operation of law, to any other person, persons or entities. Any such sale, gift, transfer or assignment, shall be deemed to constitute a voluntary surrender of the license and such license shall thereafter be null and void; provided, however, if the licensee is a partnership or corporation, and one or more of the partners or shareholders, as the case may be, should die, one or more of the surviving partners or shareholders who were partners or shareholders at the time of issuance of the license may acquire, by purchase or otherwise, the interest of the deceased partner or shareholder without effecting a surrender or termination of such license, and in such case, the licensee, shall immediately notify the county. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license hereunder is thereafter issued and sold, transferred or assigned.

(2) No licensee shall change the name or location of the establishment without obtaining a new license.

Sec. 4-11. Issuance to persons with prior convictions.

No original license shall be issued to any person where any individual having an interest either as owner, partner, principal stockholder, directly or indirectly beneficial or absolute, or his spouse, shall have been convicted within ten (10) years immediately

prior to the filing of said application for any felony or misdemeanor of any state or of the United States or any municipal ordinance except traffic violations, or for whom an outstanding warrant exists on which no service has been perfected. Where the violation is for misdemeanor, forfeiture of bond, violation of a county or municipal ordinance, or where there is a plea of nolo contendere, the Board of Commissioners may, after investigation, waive same as a disqualification.

Sec. 4-12. Additional standards for issuance, or renewal of license.

With respect to the issuance, renewal or retention of licenses hereunder, any right to retain or have approved an application for a license or renewal, the following standards shall apply in addition to standards stated elsewhere herein:

- (1) Where there is evidence that, even though there is compliance with the minimum distance requirements herein, the type and number of schools or number of churches or other facilities in the vicinity causes minors to frequent the immediate area.
- (2) Where there is evidence that the location or type of structure would create difficulty in police supervision.
- (3) Where there is evidence that there are no licenses granted in the area or where there is evidence that the proposed area already is adequately supplied with such licenses.
- (4) Where there is evidence that a license for the location would be detrimental to the property values in the area.
- (5) Where there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles. In addition to compliance with any other parking space requirements of Evans County, a licensee shall have sufficient parking on the premises so as to provide parking for his customers and so as to prevent parking on the streets or adjoining property.
- (6) Where there is evidence that alcoholic beverages have been sold.
- (7) Where there is evidence that the conducting of the business has violated the law or this code, creates a disturbance, congregation of intoxicated or unruly persons, congregation of minors, allows minors to be on the premises or to purchase, drink or possess alcoholic beverage on the premises, or that illegal activities have occurred on or in connection with the premises or business, or causes the police to answer complaints or make extra surveillance of the premises.

(8) In addition to the above and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:

(a) The location for which the license is sought as to traffic congestion, general character of neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.

(b) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.

(c) If applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "dummy" to obtain a license.

A finding that the above conditions exist or a violation of this or other sections of this ordinance shall be grounds for denial of an original or renewal application and shall authorize the Board of Commissioners to suspend, revoke or place on probation, with or without conditions, the license or holder of an existing license. The Board of Commissioners may specify conditions of operation of the license holder during any time of probation. Such conditions shall be on file with the county office. No probation shall extend over a period of more than twelve (12) consecutive calendar months.

Sec. 4-13. County official, spouse, children, prohibited from interest in license.

It shall be unlawful for any elected or full-time appointed official or any employee of the county or employee of an elected official of the county who receives all or part of his salary from Evans County, or his spouse or minor child to have any whole, partial or beneficial interest as defined herein in any license hereunder.

Sec. 4-14. License to be obtained within two weeks of approval of application.

(1) All licenses must be obtained and fees paid not later than two (2) weeks from the date of the approval of the application, and if not so obtained, the permit granted shall be void.

(2) When a license has been approved and the applicant has deposited the required fee, the license shall be issued.

Sec. 4-15. Causes for mandatory denial of license.

No license shall be issued to an applicant if within twelve (12) months immediately preceding the filing of an application one or more of the following shall have occurred:

(1) The same applicant for a license or renewal has been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of the ordinance applicable to the applicant as opposed to rejection for reasons related to the location itself.

(2) The location has been rejected for any applicant.

(3) When any application for a license to transact any business within the control of the police powers is denied for cause or any license is revoked for cause by the Board of Commissioners.

Sec. 4-16. Completion of proposed licensed premises.

Where a building where the adult entertainment establishment is to operate is, at the time of the application for such license, not in existence or not yet completed or renovated, a license may be issued for such location provided the plans for the proposed building or renovation show clearly a compliance with all other provisions of this ordinance. No business shall be conducted therein until the premises have been completed in accordance with the plans and is in conformity with all of the other provisions of this ordinance the other ordinances of Evans County and laws and regulations of the state or federal government.

Sec. 4-17. Time limit for commencement of business in licensed establishment; forfeiture for nonuse.

(1) All holders of licenses hereunder must within three (3) months after the issuance of said license open for business unless the time is extended. Failure to open the licensed establishment within the three (3) month period or the extended period shall serve as an automatic forfeiture and the cancellation of the license, and no refund of license fees shall be made.

(2) Any holder of a license hereunder who shall begin the operation of the business as authorized in the license, but who shall for a period of three (3) consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of said three (3) month period automatically forfeit his license, which license shall, by virtue of said failure to operate, be canceled without the necessity of any further action of the County.

Sec. 4-18. Annual renewal required.

(1) All licenses hereunder shall be issued for a period of one year from the date of issuance. All licensees hereunder shall be required to renew their licenses annually on forms prescribed by the County.

(2) Any license holder upon the date of adoption of this ordinance or any application for renewal of license on an existing licensed location shall not be required to meet the distance requirements herein set forth. An application for renewal shall meet and qualify under all other requirements of this ordinance for the granting of a new license.

Sec. 4-19. Suspension, revocation and probation of license.

(1) No license issued hereunder shall be suspended, revoked or placed on probation except for due cause as herein defined, and after a hearing before the Board of Commissioners following written notice to the holder of such license of the time, place and purpose of such hearing addressed to licensee at the last address which licensee provided to the county or to the address of the premises and a statement of the charge upon which such hearing shall be held, except as hereinafter provided. Three days notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the circumstances may justify.

(2) "Due cause" for suspension, revocation, or probation of such license shall consist of the violating of any local, state or federal laws, regulations or ordinances regulating such business or when the operation of the business has become undesirable, or for any reason which would authorize the refusal to issue or renew such license.

(3) In all hearings pursuant to this section, the following procedures shall prevail, and the proceeding shall be as informal as compatible with justice:

(a) The Chairman of the Board of Commissioners shall read or cause to be read the charges and specifications against the licensee. He shall then read or cause to be read any response filed by the licensee.

(b) The Board of Commissioners shall hear the evidence upon the charges and specifications as filed against the licensee and shall not consider any additional evidence beyond the scope of the charge, and may exclude evidence which is purely cumulative.

(c) The order of proof shall be as follows: The county representative shall present his/her evidence in support of the charges; the licensee shall then present his/her evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.

(d) The licensee and county may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the Board of Commissioners may interrogate all parties and witnesses to obtain necessary information.

(e) The Chairman of the Board of Commissioners may suspend a business license or give three (3) days notice that such license is subject to suspension when there is cause to believe that grounds exist for revoking the license. This action shall be reviewed at the next regular meeting of the Board of Commissioners, or at the request of the license holder, a special meeting of the Board of Commissioners may be called within three (3) days after such request is filed with the county to affirm or refuse the suspension after the hearing of the evidence. An accusation by a law enforcement officer shall be deemed due and sufficient cause for suspension. A license shall not be revoked except upon action by the Board of Commissioners.

Sec. 4-20. Removal of signs after revocation or during suspension.

When any license is revoked, all signs indicating that such business is conducted on the premises shall be removed from the premises, both outside and inside, during the period of revocation or suspension.

Sec. 4-21. False information in applications for license or work permits.

Any material omission, or untrue or misleading information contained in or left out of an original or renewal application for any license or permit issued pursuant to this ordinance shall be unlawful, shall be cause for a denial thereof, and shall be punishable as a violation of a county ordinance. If any such license or permit has previously been granted under the above circumstances, such shall constitute cause for the revocation of same.

Sec. 4-22. Certain provisions applying to erotic dance and entertainment establishments.

The following provisions, in addition to all others, shall apply to erotic dance and entertainment establishments:

(1) No later than March 1 of each year, the licensee shall file a verified report with the county showing the licensee's gross receipts and all amounts paid to dancers or entertainers for the preceding twelve (12) month period.

(2) Licensee shall maintain and retain for a period of two (2) years the names, addresses, and ages of all persons employed as dancers or entertainers.

(3) All dancers and entertainers, dancing and entertainment, shall occur on a platform intended for that purpose which is raised at least two feet from the next-highest level of the remainder of the floor.

(4) No dancing or entertaining shall occur closer than ten (10) feet to any patron.

(5) No dancer or entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer.

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

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

(8) All areas of the licensed establishment shall be fully lighted at all times when patrons are present, which shall mean illumination equal to 3.5 candles per square foot.

Sec. 4-23. Violations.

Any person violating the provisions of this ordinance shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for sixty (60) days, or both.

Violations shall be considered due cause for suspension or revocation of any license.

The violation of the provisions of this ordinance by any person may be enjoined by instituting appropriate proceedings for injunction in any courts of competent jurisdiction. Such actions may be maintained notwithstanding that other adequate remedies at law exist. Such actions may be instituted in the name of the governing authority of this county.

The violation of the provisions of this ordinance may be abated as a nuisance.

Sec. 4-24. Provisions relating to premises.

(1) No adult entertainment establishment shall be conducted, operated or licensed if the adult entertainment activity on the interior of the premises is visible from the exterior of the premises.

(2) No booth, screen, partition or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view throughout the premises, except to separate offices, kitchens, rest rooms, or other areas not frequented by patrons.

(3) All premises shall be kept clean and in proper sanitary condition. Each premises shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the premises. There shall be provided adequate facilities, equipment and supplies on the 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 more frequently if necessary to prevent accumulation.

(4) No premises for an adult entertainment establishment shall have any interior connections or doors with any other place of business or with any place where gambling or other illegal activity is conducted, or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation, delivery, or other dealing in of alcoholic beverages or for any immoral purpose.

Sec. 4-25. Premises to be lighted.

All premises shall be fully lighted both inside and outside, except during hours when the establishment is not open for business. Interior lighting shall be at least 3.5 foot candles per square foot.

Sec. 4-26. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provision of this ordinance shall be and the same is hereby declared to be unlawful and a public nuisance. The County may, in addition to, or in proceeding or proceedings for abatement, removal or enjoinder thereof, in the manner provided by law.

Sec. 4-27. Severability and conflict.

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional.

Should any section or provision of this ordinance be in conflict with any other ordinance, rule, regulation, or law, then the more restrictive ordinance, rule, regulation, provision, requirement, or law shall prevail.

Sec. 4-28. Effective date.

This ordinance shall become effective immediately upon its adoption.