

## **Chapter 52**

### **LICENSES AND BUSINESS REGULATIONS\***

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### ARTICLE I. IN GENERAL

#### Sec. 52-1. Definitions.

*Motor Vehicle* shall mean every vehicle is self-propelled and required to be registered under the laws of the State of Georgia, including cars, trucks, motorcycles, motorboats and personal watercraft.

*Person* means any individual, partnership, limited liability company, firm, association, corporation, or combination of individuals of whatever form or character.

*Established place of Business* means a salesroom or sales office in a building or on an open lot of a retail sales office at which a permanent business of bartering, trading, offering, displaying, selling, buying, dismantling, or rebuilding of new, used or wrecked motor vehicles or parts is carried on, or the place at which the books, records, and files necessary to conduct such business are kept.

**Sec. 52-2. Restrictions on sale of motor vehicles.**

- (a)
  - (1) An owner or lessee of any real property shall not authorize more than five used motor vehicles within any twelve (12) month period to be displayed or parked on such real property for the purpose of selling or advertising the sale of such motor vehicle by the owner or lessee of such vehicles.
  - (2) An owner or lessee of any real property shall not authorize more than two motor vehicles at the same time to be displayed or parked on such real property for the purpose of selling or advertising the sale of such motor vehicles by the owner or lessee of such vehicles.
  - (3) an owner or lessee of any motor vehicle shall not display or park such motor vehicle on the real property of another for the purpose of selling or advertising the sale of such motor vehicle if the display or parking of such vehicle will cause the owner or lessee of the real property to be in violation of paragraphs (a)(1) or (a)(2) of this section.
  - (4) An owner or lessee of any motor vehicle shall not display or park such motor vehicle on the real property of another for the purpose of selling or advertising the sale of such motor vehicle unless the owner or lessee of such vehicles has the prior permission of the owner or lessee of the real property.
  - (5) A person shall not advertise, sell or offer for sale any used motor vehicle unless such vehicle is lawfully titled and registered in such person's name in accordance with the applicable provisions of Chapters 2 and 3 of Title 40 of the Official Code of Georgia Annotated.
- (b) The provisions of subsection (a) of this Code section shall not apply:
  - (1) To any person licensed as a motor vehicle dealer under the laws of the State of Georgia or any franchised dealer of motor vehicles or any subsidiary wholly owned or controlled by such dealer; or
  - (2) To any owner or lessee of real property who, in the regular course of business, provides parking for customers, patrons, vendors or employees, and the parking or display of the vehicle is incidental to its owner's or lessee's temporary presence as a customer, patron, vendor or employee.

**Sec. 52-3. Administration and enforcement; penalties.**

- (a) The provisions of this article shall be administered and enforced by the county Sheriff and deputies, City of Flovilla Code Enforcement officers or other person officially designated by the City council to enforce the provisions of the Official Code of City of Flovilla, Georgia or this article.
- (b) Proceedings to enforce this article shall be tried in the county magistrate court. Any person, firm or corporation who pleads guilty, nolo contendere or is convicted of violating the provisions of this article may be sentenced as provided in O.C.G.A. §36-1-20 or such other general laws as may be in the future enacted to provide for punishment and penalties that may be imposed by the magistrate courts of this State. Each violation of this article may be punished according to the provisions of Section 1-19 of the Official Code of City of Flovilla, Georgia.
- (c) In addition to its right to seek all legal and equitable remedies, City of Flovilla, Georgia, shall have the express right to seek injunctive relief against any person, firm or corporation selling motor vehicles in violation of this article. Nothing contained in this article shall be construed as granting or vesting in any person or entity other than City of Flovilla, Georgia, its city council or agents, any right to enforcement by legal, equitable or injunctive process.

**Secs. 52-4--52-30. Reserved.**

## ARTICLE II. ADULT AMUSEMENTS AND ENTERTAINMENTS\*

### DIVISION 1. GENERALLY

#### Sec. 52-31. 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:

*Adult bookstore* means an establishment having a substantial or significant portion of its stock in trade in 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 business* means either:

- (1) Any business other than those expressly specified in this article, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or
- (2) Any other business or establishment which offers its patron's services or entertainment characterized by an emphasis on matters depicting, describing, discussing 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 hotel or motel* means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities of specified anatomical areas. This definition shall not apply to hotels or motels that offer nothing more explicit than cable television or satellite television movies or programs that are rated for cable television distribution throughout the United States.

*Adult minimotion 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 therein.

*Adult motion picture arcade* means any place which the public is permitted or invited wherein coins 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 where the images so displayed are distinguished or characterized by an emphasis on depicting or describing sexual activities or specified

anatomical areas.

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

*Adult video store* means an establishment having a substantial or significant portion of its stock in trade in 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 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.

*Encounter center or rap established* means 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.

*Erotic dance establishment* means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, 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.

*Good moral character* means a person is of good moral character according to this article if that person has not been convicted of a felony, or any crime not a felony if it involves moral turpitude, in the past five years. The county may also take into account other factors as are necessary to determine the good moral character to the applicant or employee. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.

*Minor* means any person who has not attained the age of 18 years.

*Specified anatomical areas* means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttock, or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means and includes 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 and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty;

- (2) Clearly depicting human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts;
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain;
- (6) Erotic or lewd touching, fondling or other sexual contact with an animal by human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

**Sec. 52-32. Purpose.**

The purpose of this article 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 will be curtailed. However, it is recognized that such regulations cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. As to adult dance establishments, this article represents a balancing of competing interests: reduced criminal activity and protection of the neighborhood and property values though the regulation of adult entertainment establishments versus the protected rights of adult entertainments and patrons.

**Sec. 52-33. Erotic dance establishments.**

- (a) No person shall advertise or cause to be advertised an erotic dance establishment without a valid adult entertainment license issued pursuant to this article.
- (b) No later than March 1st of the year, an erotic dance establishment license 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) 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.
- (d) 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.
- (e) No person under the age of 18 years shall be admitted to an adult entertainment establishment.
- (f) An erotic dance establishment may be open only between the hours of 8:00 a.m. and 2:00 a.m.
- (g) No erotic dance establishment licensee shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor, beer or wine, or any controlled substance, upon the premises of the

licensee.

(h) An adult entertainment establishment licensee shall conspicuously display all licenses required by this article.

(i) All dancing shall occur on a platform intended for that purpose which is raised at least 18 inches from the level of the floor.

(j) No dancing shall occur closer than four feet to any patron.

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

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

(m) All areas of an establishment licensed hereunder shall be fully lighted at all times patrons are present. Full lighting shall mean illumination equal to 3.5 foot-candles per square foot.

(n) If any portion or subsection of this section of this article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder or application to other persons or circumstances shall not be affected.

#### **Sec. 52-34. Certain activities prohibited.**

No person shall publicly display or expose or suffer the public display or exposure, with less than a fully opaque covering, of any portion of a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

#### **Sec. 52-35. Prohibited conduct on premises licensed to sell alcoholic beverages.**

The following types of entertainment, attire, and conduct are prohibited upon any premises licensed to sell, serve, or dispense alcoholic beverages for consumption on such premises within the unincorporated areas of the county:

(1) The employment or use of any person, in any capacity, while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola, or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals, at any time in which the sale, service or consumption of alcoholic beverages takes place.

(2) Live entertainment where any person appears in the manner described in subsection (1) of this section or where such person performs acts of or acts which depict or simulate any of the following:

a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.

- b. The caressing or fondling of the breast, buttocks, anus, vulva or genitals.
- c. The displaying of the male or female pubic hair, anus, vulva, or genitals, or the displaying of the female breast below the top of the areola.
- d. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsection (1) or (2) of this section.

Provided, however, that nothing contained in this section shall apply to the premises of any mainstream performance house, museum or theater which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.

**Sec. 52-36. Admission of minors unlawful.**

It shall be unlawful for a licensee to admit or permit the admission of minors within licensed premises.

**Sec. 52-37. Sales to minor unlawful.**

It shall be unlawful for any person to sell, barter or give, or to offer to sell, barter or give to any minor any services, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor or adult dancing establishment or other adult entertainment facility.

**Sec. 52-38. Location.**

No adult entertainment license shall be issued for any facility that is:

- (1) Within 1,000 feet of any parcel of land which is either zoned or used for residential uses or purposes.
- (2) Within 1,000 feet of any parcel of land on which a church, school, governmental building, library, civic center, public park or playground is located.
- (3) Within 1,000 feet of any parcel of land upon which any other establishment regulated or defined in this article is located.
- (4) Within 1,000 feet of any parcel of land upon which any establishment selling alcoholic beverages is located.
- (5) On less than three acres of land or which contains less than 100 feet of road frontage.

For purposes of this section, distance shall be by linear measurement from property line to property line, using the closest property lines of the parcels of land involved. The term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as



a unit.

**Sec. 52-39. Off-street parking and service requirements.**

Parking spaces adult entertainment licensees must have one parking space per 100 square feet of gross building area or one for each three customer seats, whichever is greater.

**Sec. 52-40. Adult entertainment establishment employees.**

(a) *Qualifications.* Employees of any adult entertainment establishment shall be not less than 18 years of age. Every employee must be good moral character as defined in this article. Any employee who is convicted of a crime constituting a felony or a crime not a felony involving moral turpitude while employed as an adult entertainment establishment employee shall not thereafter work on any licensed premises for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term "convicted" shall include as adjudication of guilt on a plea of guilty or nolo contendere or the forfeiture of a bond when 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 at a licensed premises, he/she shall file a notice with the licensing officer of his/her 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 county 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 such denial, apply to the licensing officer for a hearing. The decision of the licensing officer after hearing may be appealed to the city council, which may issue such order as is proper in 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 Code, 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 and shall be governed hereunder as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.

**Sec. 52-41. Unlawful operation declared nuisance.**

Any adult entertainment establishment operated, conducted or maintained contrary to the provision of this article shall be and the same is hereby declared to be 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 actions, proceeding or proceedings for abatement, removal or enjoinder thereof in the manner provided by law. It shall take such other steps and shall apply to such court as may have jurisdiction to grant such relief as will

abate or remove such adult entertainment 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.

**Sec. 52-42. Abatement of sanitary nuisance.**

A licensed premises or any part thereof may be abated as a sanitary nuisance.

**Sec. 52-43. Cleaning of 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.

**Sec. 52-44. Self-inspection of premises.**

The licensee of a licensed premises or his designated representative shall make sanitary inspections of the licensed premises at least once a month and shall record his/her 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.

**Sec. 52-45. Sealing for unsanitary or unsafe conditions.**

A licensed premise of any part thereof may be sealed by order of the licensing officer on his/her finding of a violation of this article resulting in an unsanitary or unsafe condition. Prior to sealing, the licensing officer shall serve on the licensee, by personal service on him/her or by posting in a conspicuous place on the licensed premises, a notice of the violation and an order to correct it within 24 hours after service. If the violation is not so corrected, the licensing officer may physically seal that portion of the licensed premises causing the violation and order the discontinuance of use thereof until the violation has been corrected and the seal removed by the licensing officer. The licensing officer shall affix to the sealed premises a conspicuous sign labeled "unclean" or "unsafe" as the cases may be.

**Sec. 52-46. Violations, penalty.**

Any person violating the provisions of this article shall be guilty of a misdemeanor, punishable, upon conviction, as provided by Georgia law. In addition to such fine or imprisonment, violation of this article shall be grounds for immediate suspension or revocation of the license issued hereunder.

**Secs. 52-47--52-65. Reserved.**

## **DIVISION 2. LICENSES AND PERMITS**

### **Sec. 52-66. License required.**

It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the unincorporated area of the county any of the adult entertainment activities or establishments defined in this article without a license to do so. No license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the state or the United States.

### **Sec. 52-67. Operation of unlicensed premises unlawful.**

It shall be unlawful for any person to operate an adult bookstore, adult video store, erotic dance establishment, adult hotel or motel, adult motion picture theater, adult minimotion picture cabaret, encounter center, adult business or adult dancing establishment unless such business shall have made proper application for and received an adult entertainment license, which must be properly renewed within the time required under this article, and such license must not be under suspension or permanently or conditionally revoked in order to be renewed.

### **Sec. 52-68. Persons prohibited as licensees.**

- (a) No license provided for by this article shall be issued to or held by:
- (1) An applicant who had 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 issued shares of capital stock, are not of good moral character.
  - (4) Any partnership or association, any of whose officers or members holding more than five percent interest therein is not of good moral character.
  - (5) Any person employed by, 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 county.

(b) Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the county, 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 vs. American Mini Theaters, Inc.*, 437 U.S. 50, 81.

**Sec. 52-69. Application for license.**

(a) Any person desiring to obtain a license to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the county manager or his/her designated representative. Prior to submitting each application, a non-refundable fee, established by resolution of the city council, shall be paid to the Community Development Department to defray, in part, the cost of investigation and report required by this article. The Community Development Department shall issue a receipt showing that such application fees have been paid. The receipt or copy thereof shall be supplied to the county manager at the time such application is submitted.

(b) The application for license does not authorize the engaging in, operation of, conduct or carrying on of any adult entertainment establishment until such time as a license is actually issued.

**Sec. 52-70. Application contents.**

Each application for an adult entertainment establishment license shall contain the following information:

- (1) The full true name and any other names used by the applicant.
- (2) The present address and telephone number of applicant.
- (3) The previous addresses of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates of residence at each.
- (4) Acceptable written proof that the applicant is at least 18 years of age.
- (5) The applicant's height, weight, color of eyes and hair and date and place of birth.
- (6) Two photographs of the applicant at least two inches by two inches, taken within the last six months.
- (7) Business, corporation or employment history of the applicant for the five years immediately preceding the date of application. Business or employment records of the applicant, partner in a partnership, directors and officers of a corporation and, if a corporation, all shareholders holding more than five percent of the share of the corporate stock outstanding.
- (8) The business licenses history of the applicant and whether each applicant, in previous operations in this or any other city, county, state or territory under license, has had such license or permit for an adult entertainment business or similar type of business removed or suspended, the reason thereof, and the business activity or occupation subsequent to such action of suspension or revocation.
- (9) All convictions, including ordinance violations, exclusive of traffic violations, stating the dates and places of any such convictions.

- (10) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one person to be its responsible managing officer. Such designated person shall complete and sign all application forms required of an individual applicant under this article, but only one application fee shall be charged.
- (11) The names and addresses of the owner and lessor of the real property upon which the business is to be conducted and a copy of the lease or rental agreement.
- (12) Such other identification and information as the article may require in order to discover the truth of the matters hereinbefore specified as required to be set forth in the application.
- (13) The age and date of birth of the applicant, or any partners, or of any and all officers, or any stockholders of more than five percent of the shares of the corporation stock outstanding, and directors of the applicant if the applicant is a corporation.
- (14) If the applicant, any partner or any of the officers or stockholders holding more than five percent of the outstanding shares of the corporation, or the directors of the applicant if the applicant is a corporation, have ever been convicted of any crime constituting a felony, or a 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 disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.
- (15) The city shall require all individual applicants to furnish fingerprints of each 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 its authority to do business in the 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 city ordinance involving moral turpitude on the past five years. The licensing officer shall prepare forms consistent with the provisions of this provision 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 premises, copies of those documents giving such legal right.
- (20) A plat by a registered engineer or surveyor, licensed by the state, showing the location of the proposed premises in relation to the neighborhood, the surrounding zoning, its proximity to any church, school, public park, governmental building or site or other business regulated under this article.
- (21) Each applicant for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
  - a. If the applicant is an individual, the individual.
  - b. If a partnership, the manager or general manager.
  - c. If a corporation, the president of the corporation.
  - d. If any other organization or association, the chief administrative official.

**Sec. 52-71. Application to appear.**

The applicant, if an individual, or designated responsible managing officer, if a partnership or a corporation shall personally appear before the city council of the city and produce proof that a non-refundable application fee, established by resolution of the city council, has been paid and shall present the application containing the aforementioned and described information.

**Sec. 52-71. Application investigation.**

The city shall have 30 days to investigate the applicant and the background of the applicant. Upon completion of the investigation, the city council may grant the permit if it finds:

- (1) The required fee has been paid.
- (2) The application conforms in all respects to the provisions of this article.
- (3) The applicant has not knowingly made a material misrepresentation in the application.
- (4) The applicant has fully cooperated in the investigation of his/her application.
- (5) The applicant, if an individual, or any of the stockholders of the corporation and any officers or directors if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of any offense involving or convicted of any attempt to commit any of the above-mentioned offenses which, if committed or attempted in this state, would have been

punishable as one or more of the above-mentioned offenses, of any crime involving dishonesty, fraud, deceit or moral turpitude.

- (6) The applicant has not had an adult entertainment establishment license or other similar license or permit denied or revoked for cause by this city or any other city or county located in or out of this state prior to the date of application.
- (7) The building, structure, equipment or location or such business as proposed by the applicant would comply with all applicable laws, including but not limited to health, zoning, distance, fire and safety requirements and standards.
- (8) The applicant is at least 18 years of age.
- (9) That the applicant, his/her employee, agent, partner, director, officer, stockholder, or manager has not, within five years of the date of the application, knowingly allowed or permitted any of the specified sexual activities as defined in this article to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located or to be used as a place in which solicitations for the specified sexual activities as defined in this article openly occur.
- (10) That on the date of business for which a license is required in this article commences, and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.
- (11) That the proposed premises are not to be located within 1,000 feet of any church, school, library, governmental building, residential area or the site of any other business restricted under this article.
- (12) That the grant of such licensee will not cause a violation of this article or any other ordinance or regulation of the city, state of 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.

**Sec. 52-73. License--Refusal; appeal.**

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

**Sec. 52-74. Same--Renewal.**

Licenses for adult entertainment establishments may be renewed on a year-to-year basis, provided that the licensee continues to meet the requirements set out in this article. The renewal fee for the adult entertainment establishment license shall be established by resolution of the city council. Renewal of a license shall not be a matter of right, but is a privilege to be granted only upon full compliance with this article, and no property right to the renewal of a license is granted hereunder.

**Sec. 52-75. Same--Nontransferable; exception.**

No adult entertainment establishment license shall be sold, transferred or assigned by a licensee, or by operation of law, to any other person. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall thereafter be null and void; provided and excepting however, that if the licensee is a partnership and one or more of the partners should die; one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case the license, upon notification to the county, shall be placed in the name of the surviving partner. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when any stock authorized but not issued at the time of the granting of a license is thereafter issued and sold, transferred or assigned.

**Sec. 52-76. Change of location or name.**

(a) No adult entertainment establishment shall move from the location specified on its license until a change of location fee, established by resolution of the city council, has been deposited with the Butts County community Development Department and approval has been obtained from the mayor and the zoning administrator. Such approval shall not be given unless all requirements and regulations as contained in the City Code have been met.

(b) No licensee shall operate, conduct, manage, engage in or carry on an adult entertainment establishment under any name other than his/her name the name of the business as specified in his/her license.

(c) Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this article.

**Sec. 52-77. Appeal procedure.**

(a) The licensee shall, within ten days after he/she has been notified of an adverse determination, submit a notice of appeal to the city council.

(b) The notice of appeal shall be addressed to the city council and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision, or receipt of notice thereof, the basis of the appeal, the action requested by the city council and the name and address of the applicant.



(c) The clerk shall place the appeal on the agenda of the next city council meeting occurring not less than 30 days after receipt of the application for city council's action.

**Sec. 52-78. Same--City council to determine procedure.**

When an appeal is placed on the city council' agenda, the city council may take the following actions:

- (1) Set a hearing date and instruct the Community Development Department to give such notice of hearing as may be required by law.
- (2) In its discretion the board may appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a city employee and may be appointed for an extended period of time. The clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedure set out in this article.

**Sec. 52-79. City council hearing.**

Whenever the Community Development Department has scheduled an appeal before the city council, at the time and date set therefore, the city council shall hear all relevant testimony and shall examine evidence from the licensee, from interested parties and from county staff. The city council may sustain, overrule or modify the action complained of. The action of the city council shall be final.

**Sec. 52-80. The board of evidence inapplicable.**

The city council and the hearing officer shall not be bound by the traditional rules of evidence in hearing conducted under this article. Rules of evidence as applied in an administrative hearing shall apply.

**Sec. 52-81. Hearing officer--Power.**

A hearing officer appointed pursuant to the procedure set out in this article may receive and rule on the admissibility of evidence, hear testimony under oath and call witnesses as he/she may deem advisable with respect to the conduct of the hearing.

**Sec. 52-82. Same--Report.**

(a) The hearing officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the city council. Such report shall contain a brief summary of the evidence considered and stated findings, conclusions and recommendations. All such reports shall be filed with the Community Development Department and shall be considered public records. A copy of such report shall be forwarded by certified mail to the licensee or appellant the same date it is filed with the Community Development Department, with additional copies furnished to the sheriff of the county.

(b) The Community Development Department shall place the hearing officer's report on the

agenda for the next regular city council meeting occurring not less than ten days after the report is filed and shall notify the licensee or appellant of the date of such meeting at least ten days prior to the meeting, unless the licensee or appellant stipulates to a shorter notice period.

**Sec. 52-83. Same--Action by city council.**

The city council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the city council does not adopt the hearing officer's recommendations, 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.

**Secs. 52-84--52-100. Reserved.**

**ARTICLE III. TATTOO STUDIOS AND ARTISTS\***

**Sec. 52-101. Purposes.**

The purpose of these rules and regulations are to establish reasonable standards for individuals performing tattoo procedures and for the facilities from which the procedures are provided. Such standards should insure the health and safety of all individuals performing and receiving these services.

**Sec. 52-102. Definitions.**

Unless otherwise defined by specific sections as used in these rules and regulations the term:

*Antibacterial solution* means any solution used to retard the growth of bacteria approved for application to human skin and includes all products labeled accordingly.

*County* means the local county board of health or its duly authorized representatives.

*Currently licensed health care professional* includes physicians, registered nurse (RN), licensed practical nurses (LPN), and licensed emergency medical technicians.

*Department* means the Department of Human Resources of the State of Georgia.

*Governing body* means the partnership, the corporation, the association, or the person or group of persons who maintain and control the tattoo studio and who are legally responsible for the operation of the studio.

*Permit* means the authorization granted by the city to the governing body to operate a tattoo studio.

*Plan of correction* means a plan for correcting deficiencies in meeting rules and regulations of the department of human resources.

*Sanitary* means clean and free of agents of infection or disease.

*Sanitized* means effective antibacterial treatment by a process that provides sufficient concentration of chemicals for enough time to reduce the bacteria count including pathogens to a safe level on equipment.

*Sterilization* means holding an instrument in an autoclave for 15 minutes at 15 pounds of pressure at a temperature of 273 degrees Fahrenheit or 121 degrees Celsius.

*Tattoo* means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin.

*Tattoo artist* means any person who performs tattooing.

*Tattoo studio* means any permanent building or structure on a permanent foundation, holding a valid city or county business permit or license, wherein a tattoo artist performs tattooing.

#### **Sec. 52-103. Governing body.**

(a) The governing body shall be responsible for compliance with the requirements in O.C.G.A. Chapter 40, Title 31, with applicable administrative rules and regulations of the department of human resources including but not limited to all applicable statutes, rules and regulations regarding disclosure of ownership.

(b) Prior to being granted a permit each tattoo studio shall develop a written statement of policies and procedures outlining the responsibilities of management.

(1) Tattoo artists shall not be under the influence of alcohol and/or drugs while performing tattoo procedures.

(2) No person shall be tattooed who appears to be under the influence of alcohol and/or drugs.

(3) No animals, except for guide dogs accompanying blind persons, shall be allowed in the tattoo studio.

#### **Sec. 52-104. Minimum floor plan requirements.**

(a) The tattoo studio shall be constructed, arranged, and maintained as to provide adequately for the health and safety of its customers.

(b) The studio shall be constructed in a manner to allow the customer receiving the tattoo adequate privacy from observers. The work area shall be separate from the waiting area.

(c) Tattoo studios must have adequate ventilation.

(d) Walls and ceilings must be painted or covered in a manner which would allow for easy and effective cleaning. Paint covering must be light in color.

(e) Floors of the work area must not be carpeted. Surfaces shall be of a nonabsorbent material which would allow for effective cleaning by conventional methods.

(f) A clean and sanitary toilet and hand washing facility shall be made accessible to customers, however, it shall be separate from the work area.

(g) The work area shall be equipped with at least one sink and basin providing hot and cold running water for the use of the artists for washing their hands and preparing customers for tattooing. This area shall be provided with soap, an antibacterial solution, single use towels, and individual hand brushes for each artist.

(h) The work area shall be provided with adequate lighting.

(i) The work area shall not be used as a corridor for access to other rooms.

**Sec. 52-105. Furnishings and fixtures.**

(a) Furnishings of the tattoo studio shall be maintained in good condition, intact, and functional. The studio shall be kept clean, neat, and free of litter and rubbish.

(b) Cabinets for the storage of instruments, dyes, pigments, single use articles, carbon, and stencils shall be provided for each tattoo artist and shall be maintained in a sanitary manner which protects them from contamination.

(c) Work tables and chairs shall be provided for each tattoo artist.

(1) Surfaces of all work tables and chairs shall be constructed of material which is smooth, light colored, nonabsorbent, corrosive resistant, and easily sanitized.

(2) Work tables and chairs shall be sanitized with a bactericidal solution after each application.

**Sec. 52-106. Supplies.**

(a) Bulk single use articles shall be commercially packaged and handled to protect them from contamination. These articles shall be stored in an area separate from the toilet facilities.

(b) All materials applied to the human skin shall be from single use containers and shall be disposed of after each use.

**Sec. 52-107. Dyes and pigments.**

- (a) All dyes and pigments used in tattooing shall be from professional suppliers specifically providing dyes and/or pigments for the tattooing of human skin.
- (b) In preparing dyes or pigments to be used by a tattoo artist, only nontoxic sterile materials shall be used for each patron.
- (c) After tattooing, the remaining unused dye or pigment in the single-use or individual containers shall be discarded along with the container.

**Sec. 52-108. Sanitation.**

- (a) Prior to the start of the tattoo procedure the artist should inspect his/her hands for hangnails, small cuts, sores, and abrasions. If a cut, sore, or abrasion is detected, a bandage should be applied for added protection before gloving. Trim fingernails to insure that gloves are not punctured.
- (b) All jewelry such as watches, rings, etc. should be removed prior to the start of the tattoo procedure.
- (c) Before working on each client, the fingernails and hands of the tattoo artist shall be thoroughly washed and scrubbed with warm water, and antibacterial soap, using an individual hand brush that is clean and in good repair. The hands should then be dried by either an air blower or by single use towels prior to beginning work on each client or when interrupted in the process.
- (d) Single use disposable latex examination gloves shall be worn during the tattooing process. Gloves shall be changed and properly disposed of each time there is an interruption in the application of the tattoo, the gloves become torn or punctured, or whenever their ability to function is compromised.
- (e) Each artist shall wear a clean outer garment, apron or smock. These items shall be changed after each client.
- (f) Tattoo artists who are experiencing symptoms of diarrhea, vomiting, fever, rash, or skin infections shall refrain from tattooing activities.
- (g) Adequate numbers of sterilized needles and tubes must be on hand for each artist for the entire day and night operation.
- (h) Only single-use disposable razors shall be used to shave the area to be tattooed.

**Sec. 52-109. Sterilization.**

- (a) An operational sterilizer (autoclave) shall be provided in each tattoo studio.
- (b) Used non-disposable instruments shall be kept in a separate puncture resistant container until brush scrubbed in hot water and soap, and then sterilized by autoclaving.

- (c) The following procedures should be followed during the sterilization process:
  - (1) Prior to being placed in the autoclave all equipment shall be bagged, dated and sealed.
  - (2) Each autoclave bag may hold no more than one liner and shader tube with needle and bar inserted into tube.
  - (3) To protect needle tips from damage an appropriate sterile protective covering shall be placed on the needle tip.
  - (4) Instruments shall remain in the autoclave 55 minutes from a cold start.
  - (5) If the process begins with a hot start then instruments should be processed for 35 minutes.
  - (6) To achieve proper sterilization, temperature must reach 273 degrees Fahrenheit and 15--30 psi.
  - (7) Spore indicators shall be used with each load to ensure spore eradication.

**Sec. 52-110. Tattoo preparation.**

- (a) Before placing the tattoo design on the client's skin, the artist shall treat the skin area with an antibacterial solution.
- (b) If an acetate stencil is used by a tattoo artist for transferring the design to the skin, it shall be thoroughly cleaned and rinsed in a germicidal solution for at least 20 minutes and then dried with sterile gauze or dried in the air on a sanitized surface after each use.
- (c) If a paper stencil is used by a tattoo artist for transferring the design to the skin, it shall be single use and disposable.
- (d) If the design is drawn directly onto the skin, it shall be applied with a single-use article only.

**Sec. 52-111. After tattoo application.**

- (a) The completed tattoo shall be washed with a single-use towel saturated with an antibacterial solution.
- (b) After the area has dried, apply a thick layer of antibacterial ointment from a collapsible or plastic tube.
- (c) A bandage shall then be applied to the tattoo using sealed telfa (non-sticking) pads.
- (d) The client should then be given written instructions on caring for the tattoo during the healing process.

**Sec. 52-112. Disinfection of workplace.**

Each tattoo studio must be kept clean and sanitary. The owner must develop and implement a cleaning schedule that includes appropriate methods of decontamination and tasks or procedures to be performed. This written schedule must be based on the location within the studio, the type of surfaces to be cleaned, type of possible contamination present, the tasks or procedures to be performed, and their location within the studio.

The following procedures should be adhered to:

- (1) Clean and sanitize all equipment and work surfaces with an appropriate disinfectant after completion of tattoo procedures and at the end of work shift when surfaces have become contaminated since the last cleaning.
- (2) Remove and replace protective coverings such as plastic wrap and aluminum foil after each tattoo procedure.
- (3) Inspect and decontaminate on a regular basis, reusable receptacles such as bins, pails, and cans that have likelihood for becoming contaminated. When contamination is visible, clean and decontaminates receptacles immediately, or as soon as feasible.

**Sec. 52-113. Disposal of waste.**

- (a) Needles, razors, or other sharp instruments used during tattoo procedures, shall be placed in puncture resistant, closed containers immediately after use.
- (b) Needles shall not be purposely bent or broken, or otherwise manipulated by hand.
- (c) Containers of sharp waste shall be sent to a facility where they are either incinerated or otherwise rendered nonhazardous.
- (d) Disposable waste shall be placed in easily cleanable, closed containers provided with tight fitting lids, to prevent leakage or spillage.
- (e) Waste containers shall be kept closed when not in use.
- (f) Disposable waste shall be handled, stored, and disposed of to minimize direct exposure of personnel to waste materials.
- (g) The containers shall be located as near as feasible to the area of use. These containers shall not be overfilled.

**Sec. 52-114. Personnel.**

- (a) Persons performing the tattoo operation shall obtain current certification in emergency first-aid, sterilization, and sanitary procedures except where the individual is a currently licensed health care professional.
- (b) The above certification must be obtained within 60 days from the date the permit is issued.
- (c) The artist must obtain a physical examination by a licensed physician within 12 months prior to employment or initial application for permit. The examination must be sufficiently comprehensive to assure that the artist is free of communicable diseases.
- (d) The governing body must maintain a file on all employees who perform tattoo procedures, which will be available for inspection and includes the following:
  - (1) Report of physical examination.
  - (2) Evidence of emergency first-aid, sterilization, and sanitation certification.

**Sec. 52-115. Client files.**

- (a) For each client, proper records of tattoos administered shall be maintained by the studio.
- (b) Records of each client shall be prepared prior to the procedure being performed and shall reflect the client's name and signature, address, proof of age, date tattooed, design, its location and name of artist.
- (c) A statement of informed consent by the individual receiving the tattoo must be maintained on file.
- (d) A statement by the client attesting that he/she is not under the influence of alcohol and/or drugs shall be on file.
- (e) A copy of instructions signed by the client informing them on the risks involved and possible complications that might result from the tattoo procedure must be maintained on file.

**Sec. 52-116. Application for permit.**

- (a) The governing body of each tattoo studio shall submit to the local county health department an application for a permit to operate under the rules and regulations. No tattoo studio shall be operated and no tattooing performed without such a permit which is current under these rules and regulations.
- (b) The application for permit shall be made on forms provided by the county.
- (c) Each application for a permit shall be accompanied by a floor sketch of the tattoo studio showing windows, doors, room measurements, chairs, tables and equipment placement for clients and/or



staff.

(d) A listing of the names of all staff including the owner who will be working in the studio shall be included with the application for a permit. This listing shall include the full name of each staff person.

(e) The ownership of the studio shall be fully disclosed in its application for a permit.

(f) Zoning and other local requirements regarding proper location and establishment of tattoo studios shall be addressed by the applicant with the responsible local officials.

**Sec. 52-117. Permit.**

(a) The governing body of each tattoo studio shall obtain a valid permit from the county prior to beginning operation. To be eligible for a permit the studio must be in compliance with these rules and regulations.

(b) The permit shall be displayed in a conspicuous place on the premises.

(c) Permits are not transferable from one studio to another.

(d) A permit shall no longer be valid and shall be returned to the county when the studio ceases to operate, is moved to another location, the ownership changes, or the permit is suspended or revoked.

(e) A studio which fails to comply with these rules and regulations shall be subject to the sanctions available to the county pursuant to O.C.G.A. § 181-5 including but not limited to denial or revocation of its permit by the county.

**Sec. 52-118. Inspections.**

(a) The studio and its records shall be available for review and examination by properly identified representatives of the county.

(b) A copy of the inspection report shall be displayed in a conspicuous place on the premises and also shall be available for public inspection at the appropriate county wherein the studio is located.

**Sec. 52-119. Enforcement and penalties.**

(a) Enforcement of these rules and regulations shall be in accordance with O.C.G.A. § 31-5.

(b) No person shall engage in tattooing except in a licensed studio.

(c) The county may refuse to grant a permit for the operation of any tattoo studio which does not fulfill the minimum requirements of these rules and regulations and may revoke a permit which has been issued and invoke other sanctions if a studio violates any of these rules and regulations. Before any order is entered refusing a permit applied for or revoking a permit the applicant or permit holder shall be

afforded an opportunity for a hearing before the county board as provided in O.G.C.A, Article 1 of Chapter 5, of Title 31. The notice of refusal or revocation shall contain directions on how a hearing may be requested.

(d) The county is empowered to institute appropriate proceedings in a court of competent jurisdiction for the purpose of enjoining violation of any applicable provision of O.G.C.A., Title 31, or of the rules and regulations.

This ordinance shall take effect and be in force from and after the date of its adoption.

SO ADOPTED AND ORDAINED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Scott Chewning, Mayor

\_\_\_\_\_  
Catherine Watson, Mayor-Pro-Tem

\_\_\_\_\_  
Willie Morgan

\_\_\_\_\_  
Letha Kinard

\_\_\_\_\_  
Glorine Thurman

\_\_\_\_\_  
Thomas Douglas

ATTEST:

\_\_\_\_\_  
Annie Mitchell, City Clerk