ARTICLE III.

ADULT BOOKSTORES, ADULT MOTION PICTURE THEATERS AND ADULT MOTELS AND HOTELS*

*Cross References: Certain conduct prohibited in alcoholic beverage establishments, § 4-5; participation in lewd exposure, sexual intercourse or perversion prohibited at certain motion picture theaters, § 11-278; admission of minors to adult establishments and exposing them to sell of certain materials prohibited, § 12-15; display of pornographic material in establishments where juveniles permitted restricted, § 12-16; public display of periodicals, books, etc., with lewd covers restricted, § 12-17; sale or exhibition to minors of indecent publications, pictures or articles prohibited, § 12-18; topless performers, waitresses, etc., obscene manner, prohibited, § 12-20; certain physical contact for compensation prohibited, § 12-21; zoning regulations, § 59-1 et seq., Land Development Regulations, Vol. II.


Sec. 11-81. Purpose.

It is the purpose of this article to regulate adult bookstores, adult motion picture theaters and adult motels and hotels so as to lessen the concentration of such establishments and their proximity to each other and to other stated establishments which would otherwise work a deleterious effect upon the adjacent areas and could contribute to the blighting and downgrading of the surrounding neighborhoods.


Sec. 11-82. 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** shall mean an establishment which sells or rents adult material, unless the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material comprises less than ten (10) percent of the gross income from the sale and/or rental of goods and/or services at the establishment, or the individual items of adult material offered for sale and/or rental comprises less than twenty-five (25) percent of the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter. It is an affirmative defense to an alleged violation of this article regarding operating an adult bookstore without an adult entertainment business tax receipt if the alleged violator shows that the adult material is accessible only by employees and either the gross income from the sale and/or rental of adult material comprises less than ten (10) percent of the gross income from the sale and/or rental of goods and/or services at the establishment, or the individual items of adult material offered for sale and/or rental comprise less than twenty-five (25) percent of
the individual items publicly displayed at the establishment as stock in trade in any of the following categories: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations, or recordings or other audio matter.

Adult dancing establishment shall mean an establishment where employees display or expose specified anatomical areas to others, regardless of whether the employees actually engage in dancing.

Adult entertainment establishment shall mean an adult bookstore, adult motion picture theater, adult motel and hotel, or an adult dancing establishment.

Adult materials shall mean any one (1) or more of the following:
(1) Books, magazines, periodicals or other printed matters, or photographs, films, motion pictures, video cassettes, slides or other visual representations or recordings, novelties and devices, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
(2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

Adult motel or hotel shall mean a place where motion pictures are shown in rooms designed primarily for lodging, which motion pictures have as their dominant or primary theme matters depicting, describing or relating to specified sexual activities.

Adult motion picture booth shall mean an area within an adult motion picture theater designed for or used for the viewing by one (1) or two (2) persons of motion pictures which have as their dominant or primary theme matters depicting, describing or relating to specified sexual activities.

Adult motion picture theater shall mean a place where motion pictures are shown, or a section, department, or part of any business set aside for the showing of motion pictures, which has as its principal purpose the offering for viewing to adults of motion pictures which have as their dominant or primary theme matters depicting, describing or relating to specified sexual activities.

Business tax receipt shall mean a regulatory business tax receipt under the provisions of this article for the operation of an adult bookstore or a regulatory business tax receipt for the operation of an adult motion picture theater or a regulatory business tax receipt for the operation of an adult motel or hotel.

Department shall mean the department of the city that is responsible for granting, denying and renewing business tax receipts.

Interested party shall mean any person which is an applicant for a business tax receipt or who is an employee of an applicant for a business tax receipt, any person who
is a partner in a partnership which is an applicant for a business tax receipt, and any
person which is an officer, director or principal stockholder of a corporation which is an
applicant for a business tax receipt.

*Principal stockholder* shall mean any person who owns or controls legally or
beneficially twenty-five (25) percent or more of a corporation's outstanding stock. In
addition, if a principal stockholder of a corporation (referred to herein as corporation A)
is a principal stockholder of another corporation (referred to herein as corporation B), the
officers, directors and principal stockholders of corporation B shall be considered
principal stockholders of corporation A. If a corporation is registered with the Federal
Securities and Exchange Commission or is registered pursuant to F.S. ch. 517, and the
corporation's stock is for sale to the general public, such corporation shall be considered
not to have any principal stockholders.

*Specified anatomically areas* shall mean:
(1) Less than completely and opaquely covered:
   a. Human genitals or pubic region.
   b. Cleavage of the human buttocks.
   c. That portion of the human female breast encompassed within an
      area falling below the horizontal line one would have to draw to
      intersect a point immediately above the top of the areola (the
      colored ring around the nipple). This definition shall include the
      entire lower portion of the human female breast, but shall not
      include any portion of the cleavage of the human female breast
      exhibited by a dress, blouse, shirt, leotard, bathing suit or other
      wearing apparel, provided the areola is not so exposed.

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

*Specified criminal act* shall mean:
(1) A criminal violation of this Code.
(2) Any felony.
(3) An offense under F.S. ch. 794 regarding sexual battery.
(4) An offense under F.S. ch. 796 regarding prostitution.
(5) An offense under F.S. ch. 800 regarding lewdness or indecent exposure.
(6) An offense under F.S. ch. 826 regarding bigamy or incest.
(7) An offense under F.S. ch. 847 regarding obscene literature or profanity.
(8) An offense under an analogous statute of a state other than Florida, or
    under an analogous ordinance of another county or city.

*Specified sexual activity* shall mean:
(1) Human genitals in a state of sexual stimulation, arousal or tumescence; or
(2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy,
coprophilia, fellation, flagellation, masochism, masturbation, necrophilia,
pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual
intercourse, sodomy, urolagnia or zooerasty; or
(3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or  
(4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3) of this definition.  
Cross References: Definitions and rules of construction generally, § 1-2.

Sec. 11-83. Responsibilities of department.  
Ultimate responsibility for the administration of this article is vested in the department. The department is responsible for granting, denying, revoking, renewing, suspending and canceling adult entertainment business tax receipts (adult bookstore, adult motion picture theaters, adult motels and hotels, adult dancing establishments) for proposed or existing adult entertainment establishments. The police department is responsible for verifying information contained on an application pursuant to this section and sections 11-84 through 11-90 for inspecting any proposed establishment, any establishment with a business tax receipt or any establishment without a business tax receipt in order to ascertain whether it is in compliance with the applicable criminal statutes and ordinances, including those set forth in this article, and for enforcing applicable criminal statutes and ordinances, including those set forth in this article. The building department is responsible for inspecting any proposed establishment for which a business tax receipt is being applied for or any establishment that holds a business tax receipt in order to ascertain whether it complies with or is complying with this article and all other applicable building codes, statutes, ordinances, and regulations in effect in this city. The fire and rescue division is responsible for inspecting any proposed establishment for which a business tax receipt is being applied for or any establishment that holds a business tax receipt in order to ascertain whether it complies with or is complying with this article and all applicable fire codes, statutes, ordinances, and regulations in effect in the city. The county health department is responsible for any proposed establishment for which a business tax receipt is being applied for or any establishment that holds a business tax receipt in order to ascertain whether it complies with or is complying with this article and all applicable health codes, statutes, ordinances, and regulations in effect in the city. The planning department is responsible for ascertaining whether a proposed establishment for which a business tax receipt is being applied for complies with all locational requirements of this article, applicable portions of this article, all applicable zoning regulations in effect in the city, and whether an establishment that holds a business tax receipt is complying with this article and all applicable zoning regulations, and land use laws in effect in the city.  

Sec. 11-84. Adult entertainment business tax receipt required; classifications.  
(a) Requirement. No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment business tax receipt by the department under this article.  
(b) Classifications. Adult entertainment establishment business tax receipts referred to in this article shall be classified as follows:  
(1) Adult bookstore;
(2) Adult motion picture theater;
(3) Adult dancing establishment; or
(4) Adult motels and hotels.

c) **Single classification of business tax receipt.** An adult entertainment establishment shall be limited to one (1) classification of license.  

**Sec. 11-85. Application for business tax receipt.**

(a) **Required.** Any person desiring to operate an adult entertainment establishment shall file with the department a sworn business tax receipt application on a standard application form supplied by the department.

(b) **Contents.** The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:
   a. An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age;
   b. A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited and, if in existence, a copy of the partnership agreement; or
   c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors and principal stockholders and, if applicable, the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and the county of registration under F.S. § 865.09.

(3) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act and, if so, the specified criminal act involved, the date of conviction and the place of conviction.

(4) Whether the applicant or any of the other individuals listed pursuant to subsection (b)(1) of this section has had a previous business tax receipt under this article suspended or revoked, including the name and location of the establishment for which the business tax receipt was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose business tax receipt under this article has previously been suspended or revoked, including the name and location of the establishment for which the business tax receipt was suspended or revoked, as well as the date of the suspension or revocation.
Whether the applicant or any other individuals listed pursuant to subsection (b)(1) of this section holds any other business tax receipt under this article and, if so, the names and locations of such other establishments that hold an active business tax receipt.

The single classification of business tax receipt for which the applicant is filing.

The location of the proposed establishment, including a legal description of the property site, and a legal street address.

The names of the employees for the proposed establishment, if known, or, if presently unknown, a statement to that effect.

The applicant's mailing address, residential address and residential telephone number, if any.

A site plan drawn to appropriate scale of the proposed establishment, including, but not limited to:

a. All property lines, rights-of-way, and the location of the buildings, parking areas and spaces, curb cuts and driveways.

b. All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures.

c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size.

A recent photograph of the applicant.

Either the applicant's driver's license number or his state or federally issued identification card number.

Sec. 11-86. Application fee.

Each application for a business tax receipt under this article shall be accompanied by a nonrefundable fee of two hundred fifty dollars ($250.00). If the application for a business tax receipt is approved and a business tax receipt is granted, the fee shall be applied as a credit towards the annual business tax receipt fee required for the first year pursuant to section 11-92.

Sec. 11-87. Incomplete application.

If the department determines or learns at any time that the applicant has not properly completed the application for a proposed establishment, he shall promptly notify the applicant of such fact and shall allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a business tax receipt under section 11-90 shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

Sec. 11-88. Consent.

By applying for a business tax receipt under this article, the applicant shall be
deemed to have consented to the provisions of this article and to the exercise by the department of its respective responsibilities under this article.

Sec. 11-89. Investigation of application.
(a) Upon receipt of an application properly filed with the department and upon payment of the nonrefundable application fee, the department shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the police department, the building department, the fire and rescue division, the county health department and the zoning department. Each department shall promptly conduct an investigation of the applicant, application and the proposed establishment in accordance with its responsibilities summarized at section 11-83. At the conclusion of its investigation, each department shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, it shall state its reasons.
(b) A department shall disapprove of an application if it finds that the proposed establishment will be in violation of any provision of this article or of any building, fire, health or zoning statute, code, ordinance or regulation. After its indication of approval or disapproval, each department shall immediately return the photocopy of the application to the department.

Sec. 11-90. Business tax receipt issuance; denial.
(a) Time period for granting or denying business tax receipt. The department shall grant or deny an application for a business tax receipt under this article within fourteen (14) days from the date of its proper filing. Upon the expiration of the fourteenth day, the applicant may be permitted to begin operating the establishment for which a business tax receipt is sought, unless and until the department notifies the applicant of a denial of the application and states the reason for that denial.

Sec. 11-91. Business tax receipt issuance; denial.
(b) Granting of application for business tax receipt. If each of the departments has approved of the application, the department shall grant the application, notify the applicant of the granting, and issue the business tax receipt to the applicant upon payment of the appropriate annual business tax receipt fee provided in section 11-92, with credit as provided in section 11-86.

Sec. 11-92. Business tax receipt issuance; denial.
(c) Denial of application for business tax receipt. The application for a business tax receipt under this article may be denied as follows:
(1) The department shall deny the application for any of the following reasons:
   a. Any of the departments, excluding the police department, has disapproved of the application.
   b. The application contains material false information.
   c. The applicant or any of the other individuals listed pursuant to section 11-85(b)(1) has a business tax receipt under this Code which has been suspended or revoked.
d. The granting of the application would violate a state or federal statute or ordinance, an order from a court of law, or a deed restriction which effectively prohibits the applicant from obtaining an adult entertainment establishment business tax receipt.

(2) If the department denies the application, he shall notify the applicant of the denial, and state the reason for the denial.

(3) If a person applies for a business tax receipt at a particular location within a period of nine (9) months from the date of denial of a previous application for a business tax receipt at the location, and there has not been an intervening change in the circumstances which will probably lead to a different decision regarding the former reason for denial, the application shall be rejected.


Sec. 11-91. Contents of business tax receipt; term; renewals; expiration; cancellation.

(a) Contents. An adult entertainment business tax receipt shall state on its face the name of the establishment, the street address of the establishment, the classification of the business tax receipt, the date of issuance, and the date of expiration.

(b) Term. All business tax receipts issued under this article shall be annual business tax receipts which shall commence running on October first, and shall expire on September thirtieth of the following year on which date the business tax receipt shall have been paid for. If a business tax receipt is issued after October first, but by March thirty-first of the following year, the applicant shall pay the appropriate business tax receipt fee. If a business tax receipt is issued after March thirty-first, but by October first of the same year, the applicant shall pay one-half of the appropriate business tax receipt fee.

(c) Renewals. Business tax receipts shall be renewed annually. Subject to other provisions of this article, a business tax receipt holder under this article shall be entitled to a renewal of his annual business tax receipt from year to year, as a matter of course, by October first by presenting the business tax receipt for the previous year and by paying the appropriate business tax receipt fee.

(d) Expiration. A business tax receipt that is not renewed under this article by October first of each year shall expire. An expired business tax receipt may be renewed by November thirtieth of the same year upon presentment of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon payment of a penalty of ten (10) percent of the appropriate business tax receipt fee for the month of October, or fraction thereof, and an additional penalty of five (5) percent of the appropriate business tax receipt fee for the month of November, or fraction thereof.

(e) Cancellation. All expired business tax receipts not renewed by November thirtieth shall be cancelled summarily by the department.

Sec. 11-92. Annual business tax receipt fees; levy of; regulatory in nature.

(a) **Levy of business tax receipt fees.** There are hereby levied the following annual business tax receipt fees under this article for an adult entertainment establishment:

1. An establishment having a business tax receipt for only an adult bookstore, nine hundred eighty-two dollars and eighty cents ($982.80).
2. An establishment having a business tax receipt for only an adult theater, as follows:
   a. Having only adult booths, fifty-four dollars and sixty cents ($54.60) for each booth; or,
   b. Having only a hall or auditorium, six dollars and thirty cents ($6.30) for each seat; or,
   c. Having only an area outdoors designed to permit viewing by customers seated in vehicles, six dollars and thirty cents ($6.30) for each parking space; or,
   d. Having a combination of a, b and/or c above, the cumulative business tax receipt fee applicable to each, nine hundred eighty-two dollars and eighty cents ($982.80) or,
   e. Adult motel, nine hundred eighty-two dollars and eighty cents ($982.80);
3. An establishment having a business tax receipt for only an adult dancing establishment, nine hundred eighty-two dollars and eighty cents ($982.80).
4. An establishment having a business tax receipt for two (2) classifications, one thousand ninety-two dollars ($1,092.00).
5. An establishment having a business tax receipt for three (3) classifications, one thousand two hundred and one dollars and twenty cents ($1,201.20).

(b) **Business tax receipt fees are regulatory in nature.** The annual business tax receipt fees collected under this article are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult entertainment establishments under this article and the administration thereof. These regulatory fees are in addition to and not in lieu of the business tax receipt fees imposed by other sections of the Code.


Sec. 11-93. Records and reports; consent by business tax receipt holder.

(a) **Records and reports.** Each business tax receipt holder shall keep such records and make such reports as may be required by the department to implement this article and to carry out its purpose. Whenever the information required by or provided under section 11-85 has changed, the business tax receipt holder shall promptly provide the department with the changed information.

(b) **Consent.** By holding a business tax receipt under this article, the business tax receipt holder shall be deemed to have consented to the provisions of this article and to the exercise by the department of their respective responsibilities under this article.
Sec. 11-94. Transfer of business tax receipt.
(a) *Requirements for transfer.* A business tax receipt holder under this article shall not transfer his business tax receipt to another person, and thereby surrender possession, control and operation of the establishment that holds a business tax receipt to such other person, unless and until such other person satisfies the following requirements:

1. Obtains an amendment to the business tax receipt from the department which provides that he is not the business tax receipt holder, which amendment may be obtained only if he has completed and properly filed an application with the department setting forth the information called for under section 11-85(b)(1)–(5), (9) and (11), and the application has been granted by the department after approval by the police department.
2. In the event he has purchased the establishment that holds a business tax receipt from the business tax receipt holder, adduces satisfactory proof that the sale was bona fide.
3. Pays a transfer fee of ten (10) percent of the appropriate annual business tax receipt fee.

(b) *Effect of suspension or revocation procedures.* No business tax receipt may be transferred pursuant to subsection (a) of this section when the department has notified the business tax receipt holder that suspension or revocation proceedings have been or will be brought against the business tax receipt holder.

(c) *No transfer to different location.* A business tax receipt holder shall not transfer his business tax receipt to another location.

(d) *Attempted improper transfer void; business tax receipt abandoned.* Any attempted transfer of a business tax receipt either directly or indirectly in violation of this section is hereby declared void, and the business tax receipt shall be deemed abandoned and shall automatically revert to the department.

Sec. 11-95. Changing the name of establishment.
No business tax receipt holder may change the name of an adult entertainment establishment unless and until he satisfies each of the following requirements:

1. Gives the department thirty (30) days' notice in writing of the proposed name change.
2. Pays the department a ten (10) dollar change of name fee.
3. Complies with F.S. § 865.09.

Sec. 11-96. Suspension of business tax receipt.
(a) *Violation of a building, fire, health, or zoning statute, code, ordinance or regulation.* In the event a department learns or finds upon sufficient cause that an adult entertainment establishment that holds a business tax receipt is operating in violation of a building, fires, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, contrary to the respective general
requirements of this article, the department shall promptly notify the business tax receipt holder of the violation and shall allow the business tax receipt holder a seven-day period in which to correct the violation. If the business tax receipt holder fails to correct the violation before the expiration of the seven-day period, the department shall forthwith suspend the business tax receipt, and shall notify the business tax receipt holder of the suspension. The suspension shall remain in effect until the violation of the provision in question has been corrected.

(b) *Illegal transfer.* If the department learns or finds upon sufficient cause that a business tax receipt holder engaged in a business tax receipt transfer contrary to this section, he shall forthwith suspend the business tax receipt, and notify the business tax receipt holder of the suspension. The suspension shall remain in effect until the department is satisfied that the requirements of this section have been met.

(c) *Convictions for violations of this article.* Violations of this article shall result in the following:

1. In the event three (3) or more violations of this article occur at an adult entertainment establishment within a two-year period, and convictions result from at least three (3) violations, the department shall, upon the date of the third conviction, suspend the business tax receipt, and notify the business tax receipt holder of the suspension. The suspension shall remain in effect for a period of thirty (30) days.

2. In the event one (1) or more violations of this article occur at the establishment within a period of two (2) years from the date of the violation from which the conviction resulted for which the business tax receipt was suspended for thirty (30) days under subsection (c)(1) above, but not including any time during which the business tax receipt was suspended for thirty (30) days, and a conviction results from one (1) or more of the violations, the department shall, upon the date of the first conviction, suspend the business tax receipt again, and notify the business tax receipt holder of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

3. In the event one (1) or more violations of this article occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the business tax receipt was suspended for ninety (90) days under subsection (c)(2) above, but not including any time during which the business tax receipt was suspended for ninety (90) days and a conviction results from one (1) or more of the violations, the department shall, upon the date of the first conviction, suspend the business tax receipt again, and notify the business tax receipt holder of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

4. The transfer or renewal of a business tax receipt pursuant to this article shall not defeat the terms of subsections (c)(1)--(3) above.

(d) *Effective date of suspension.* All periods of suspension shall begin five (5) days after the date the department mails the notice of suspension to the business tax receipt holder or on the date the business tax receipt holder delivers his business
Sec. 11-97. Revocation of business tax receipt.

(a) False information. In the event the department learns or finds upon sufficient cause that a business tax receipt was granted based upon false information, misrepresentation of fact, or mistake of fact, he shall forthwith revoke the business tax receipt and notify the business tax receipt holder of the revocation.

(b) Convictions for violations of this article. Violations of this article shall result in the following:

(1) In the event one (1) or more violations of this article occur at an adult entertainment establishment which has had a business tax receipt suspended for a period of one hundred eighty (180) days pursuant to this article, and the violations occur within a period of two (2) years from the date of the violation from which the conviction resulted for which the business tax receipt was suspended for one hundred eighty (180) days, the department shall forthwith revoke the business tax receipt, and notify the business tax receipt holder of the revocation.

(2) The transfer or renewal of a business tax receipt pursuant to this article shall not defeat the terms of subsection (b)(1) above.

(c) Effect of revocation. If a business tax receipt is revoked, the business tax receipt holder shall not be allowed to obtain another adult entertainment business tax receipt for a period of ten (10) years, and no business tax receipt shall be issued again to any other person for the location upon which the adult entertainment establishment was situated.

(d) Effective date of revocation. The revocation shall take effect five (5) days after the date the department mails the notice of revocation to the business tax receipt holder or on the date the business tax receipt holder delivers his business tax receipt to the department, whichever happens first.


Sec. 11-98. Records for employees.

(a) The business tax receipt holder of an adult entertainment establishment is responsible for keeping a record of all employees who are currently employed by the establishment, and of all former employees who were employed by the establishment during the preceding one-year period. The record shall contain the current or former employee's full legal name, including any aliases, his date of birth, his residential address, his residential telephone number (if any), his driver's license number or his state or federally issued identification card number, and a recent photograph of the current or former employee.

(b) The original records required by subsection (a) above, or true and exact photocopies thereof, shall be kept at the establishment at all times.

(c) Any operator of the establishment shall be responsible for knowing the location of the original records or the true and exact photocopies thereof.

(d) Any operator of the establishment shall, upon request by a law enforcement
officer, make available for inspection the original records, or the true and exact photocopies thereof, while the establishment is open for business.


Sec. 11-99. Adult bookstores.

No person shall own, operate, manage or work at any adult bookstore unless the following requirements are observed there in:

1. All materials, devices and novelties shall be so displayed that they cannot be seen by anyone other than customers who have entered the premises that holds a business tax receipt.

2. If recordings are offered for sale and customers may listen to them while on the premises that holds a business tax receipt, soundproof booths or rooms shall be available for use by customers who desire to listen, and each such booth or room shall have:
   a. One clear window, facing the major portion of the premises that holds a business tax receipt, covering not less than one-fourth of the wall area into which the window is set, which window shall not be covered or obscured in any manner while the booth or room is in use.
   b. Sufficient chairs or couches to accommodate the expected number of persons who will occupy the booth or room at one (1) time.
   c. The number of persons who may occupy the booth or room at one (1) time clearly stated on or near the door to the booth or room, and only that number of persons shall be permitted inside the booth or room at one (1) time.
   d. The door or doors opening into the booth or room incapable of being locked or otherwise fastened so that it or they will freely open from either side.
   e. All areas where a patron or customer is to be positioned visible from a continuous main aisle and not obscured by any curtain, door, wall or other enclosure.


Sec. 11-100. Adult motion picture theaters.

No person shall own, operate, manage or work at any adult motion picture theater unless the following requirements are observed therein:

1. Each adult motion picture booth shall be open or have a rectangular shaped entranceway not less than two (2) feet wide nor less than six (6) feet high.

2. Each adult motion picture booth shall have sufficient seats or couches to accommodate the maximum number of persons expected to use the booth. The maximum number of persons who may occupy a booth shall be stated on or near the entranceway, and only that number shall be permitted to be in a booth at one (1) time.

3. All areas where a patron or customer is to be positioned must be visible from a continuous main aisle and must not be obscured by any curtain,
door, wall or other enclosure.

(4) An adult motion picture theater having both adult motion picture booths and a hall or auditorium shall conform to the special requirements for both facilities.

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

(6) An adult motion picture theater designed to permit viewing by patrons seated in automobiles shall have the motion picture screen so situated, or the perimeter of the premises that holds a business tax receipt so screened, that the projected film material may not be seen from any public right-of-way or residential property.


Sec. 11-101. Distance requirements; waiver.

(a) No adult bookstore, adult dancing establishment, adult motion picture theater, adult motel or hotel shall be located within a seven-hundred-fifty-foot radius, property line to property line, of any other of the aforementioned establishments or within seven hundred fifty (750) feet, property line to property line, of any establishment selling beer or intoxicating liquor for consumption on the premises; hotels, or motels; public lodging houses; massage parlors; churches, schools, kindergartens, pawnshops, pool or billiard halls, public buildings, public parks, dwellings or property zoned R-1A, R-1B, R-1C, GU, R-2, R-3, RMH1, RMH2, RR, RE, OR.

(b) The city council may waive the seven-hundred-fifty-foot restriction if it finds:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intention of this article will be observed.

(2) That the proposed use will not enlarge or encourage the development of a skid row.

(3) That the proposed use will not be contrary to any adopted neighborhood redevelopment plan or land use plan nor contrary to any downtown redevelopment program.

(4) That all applicable regulations of this article will be observed.


Cross References: Zoning, Ch. 59 et seq. of the Land Development Regulations, Vol. II.

Sec. 11-102. Notice of activity.

Immediately inside the entrance to any adult bookstore or adult motion picture theater, there shall be posted a well-lighted sign which shall read as follows:

NOTICE
Sec. 11-103. Adult dancing establishments.
No person shall own, operate, manage, work or perform at any adult dancing establishment unless the following requirements are observed therein:

(1) Persons engaged in displaying or exposing specified anatomical areas are prohibited from dancing or simulating sexual activity with any patron, spectator, employee, or other person on the premises of an adult dancing establishment.

(2) No person in an adult dancing establishment shall engage in the display or exposition of specified anatomical areas except while the person is positioned at least three (3) feet from another person.

(3) No person maintaining, owning or operating an adult dancing establishment shall suffer or permit the construction, maintenance or use of areas partitioned or screened from public view that are designed to be occupied or are commonly occupied alone or together by any such person or persons on the premises of such establishment for private performances involving the display or exhibition of specified anatomical areas.

(4) No person on the premises of an adult dancing establishment shall be permitted to use or to be present in areas partitioned or screened from public view that are designed to be occupied together or alone by any person or persons on the premises of such establishment for the display or exhibition of specified anatomical areas.

(5) Nothing in this article pertaining to adult dancing establishments shall be construed to permit or authorize any acts or activities therein that are prohibited by state law.

Sec. 11-104. Prohibitions, violations, penalty.

(a) Operation of establishment without valid adult entertainment business tax receipt. It shall be unlawful for any person to be an operator of an adult entertainment establishment where the person knows or should know:

(1) That the establishment does not have an adult entertainment business tax receipt for any applicable classification.

(2) That the establishment has a business tax receipt which is under suspension.

(3) That the establishment has a business tax receipt which has been revoked or cancelled.

(4) That the establishment has a business tax receipt which has expired.

(b) Operation of establishment. It shall be unlawful for any person to be an operator of an adult entertainment establishment:

(1) Which does not satisfy all of the general requirements of the Code.
(2) While the entrance or exit of the establishment is locked when a person other than an employee is inside the establishment.

(c) **Allowing employee to engage in prohibited acts.** It shall be unlawful for an operator or employee of an adult entertainment establishment, regardless of whether it holds a business tax receipt under this article, to knowingly or with reason to know, permit, suffer or allow any employee to:

1. Engage in a lap dance with a person at the establishment.
2. Contract or otherwise agree with a person to engage in a lap dance with a person at the establishment.
3. Engage in any specified sexual activity at the establishment.
4. Where alcoholic beverages are sold, offered for sale or consumed, display or expose at the establishment less than completely and opaquely covered human genitals or pubic region, less than completely and opaquely covered cleavage of the human buttocks, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
5. Display or expose at the establishment less than completely and opaquely covered human genitals or pubic region, less than completely and opaquely covered cleavage of the human buttocks, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, unless such employee is continuously positioned away from any person other than another employee, and unless such employee is in an area as described in the code.
6. Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee.
7. Engage in a private performance unless such employee is in an area which complies with the special requirements of this article.
8. While engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee.
9. Intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person.

(d) **Minors prohibited.** It shall be unlawful for an operator of an adult entertainment establishment, regardless of whether it holds a business tax receipt under this article, to knowingly, or with reason to know, permit, suffer, or allow:

1. Admittance to the establishment of a person under eighteen (18) years of age.
2. A person under eighteen (18) years of age to remain at the establishment.
3. A person under eighteen (18) years of age to purchase goods or services at the establishment.
4. A person to work at the establishment as an employee who is under
eighteen (18) years of age.

(e) Working at establishment which does not have valid adult entertainment business tax receipt. It shall be unlawful for any person to act as an employee of an adult entertainment establishment that he knows or should know does not hold a business tax receipt under this article, or which has a business tax receipt which is under suspension, has been revoked or cancelled, or has expired.

(f) Violations subject to criminal prosecution. Whoever violates any provision of this article may be prosecuted and punished as provided in section 1-15 and may be prosecuted through the city code enforcement board.


Secs. 11-105--11-125. Reserved.