

CITY OF FAYETTE, MISSOURI

BILL NO. 2024-05

ORD NO.

**AN ORDINANCE OF THE CITY OF FAYETTE, MISSOURI
AMENDING THE CITY CODE BY ADDING ONE NEW CHAPTER
REGARDING ADULT ENTERTAINMENT.**

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FAYETTE, MISSOURI, AS FOLLOWS:

SECTION ONE: The City Code is hereby amended by adding one new chapter regarding Adult Entertainment, to read as follows:

CHAPTER 625 ADULT ENTERTAINMENT BUSINESSES.

Article I. IN GENERAL

Section 625.010 Definitions.

For the purposes of this Chapter and unless the context plainly requires otherwise, the following definitions are adopted:

- A. Adult business means any business enterprise:
1. That has as a regular and substantial business purpose the sale, display or rental of goods that are designed for use in connection with "specified sexual activities," or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; or
 2. That has one of the following as a regular and substantial business purposes:
 - a. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display "specified anatomical areas" or "specified sexual activities," or
 - b. The providing of services that provide "specified sexual activities" or "specified anatomical areas" ancillary to other pursuits, or allow participation in "specified sexual activities" ancillary to other pursuits.

3. The definition of "adult business" also includes, but is not limited to, any and all of the following, as defined herein:
 - a. Businesses that offer the following described goods for sale or rent:
 - i. Adult retail establishments means an establishment that as a regular and substantial business purpose, offers for sale or rent, any one or more of the following: instruments, devices, gifts or more of the following: instruments, devices, gifts or paraphernalia which are designed for use in connection with "specified sexual activities" or clothing that graphically depicts "specified anatomical areas" or any of the materials sold or rented in an adult bookstore as defined herein.
 - ii. Adult bookstore means an establishment that as a regular and substantial business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iii. Adult news rack means any coin or card-operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iv. Adult newsstand means a freestanding structure, vehicle or booth which as a regular and substantial business purpose, offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - b. Businesses that provide the following entertainment:
 - i. Adult entertainment business means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment" as defined herein, is a regular and substantial portion of its business.
 - ii. Adult motion picture theater means an establishment containing a room with seats facing a screen or projection areas, where a regular and substantial portion of its business is the exhibition to customers of films, videotapes, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."
 - iii. Adult theater means an establishment located in an enclosed building where a regular and substantial portion of its business is

providing the live performance of activities relating to "specified sexual activities" or exhibition of "specified anatomical areas" or live performers, for observation by customers and patrons.

- iv. Adult entertainment cabaret means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, go-go dancers, or live performances; or material which is primarily characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
 - v. Adult entertainment studio (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to "specified sexual activities" or the exhibition of "specified anatomical areas."
 - vi. Adult encounter parlor means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.
 - vii. Body painting studio means an establishment where a regular and substantial portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers view "specified anatomical areas."
- c. Businesses that provide the following described services:
- i. Bath house means an enterprise where a regular and substantial portion of its business is offering baths with other persons present who are nude or displaying "specified anatomical areas."
 - ii. Adult motel means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motions pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" and rents room accommodations for less than six hours at a time.

- B. Adult entertainment means any live exhibition, performance, display or dance of any type, including but not limited to, talking singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.
- C. Adult entertainment business means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member.
- D. Code Enforcement officer shall mean a person appointed by the Mayor as such, or in the absence thereof the Director of Public works.
- E. Contagious and communicable diseases means those diseases which are set out in the Code of State Regulations established by the State of Missouri.
- F. Employee means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult entertainment business.
- G. Entertainer means any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.
- H. Manager means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.
- I. Operator means any person operating, conducting or maintaining an adult entertainment business.
- J. Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons however organized.
- K. Public place means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.
- L. Premises means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.
- M. Server means any person who serves food or drink at an adult entertainment business.

- N. Specified anatomical areas means:
1. Uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or
 2. Human male genitals in a discernibly erect state, even if completely and opaquely covered.
- O. Specified sexual activities means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in a act or apparent sexual stimulation or gratification.
- P. Substantial business purpose means:
1. 33 percent or more of the gross floor space, is devoted to that purpose; or
 2. 33 percent or more of the retail floor space is devoted to that purpose; or
 3. 33 percent or more of the gross sales of the business are derived from that purpose.

Section 625.020 License required for adult businesses and adult entertainment businesses.

- A. It shall be unlawful for any person to operate or maintain an adult business or adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City.
- B. It is unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.
- C. It shall be prima facie evidence that any adult entertainment business that fails to have posted, in the manner required by this Chapter, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section had knowledge that such business was not licensed.
- D. Any business enterprise that sells or rents goods that are designed for use in connection with "specified sexual activities," or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" and that excluded minors by virtue of age from all or any part of the business premises shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business" as defined in this chapter. This entry and inspection shall take place during hours when such

adult business is open to the public unless otherwise requested by the adult business, and shall not unreasonably interfere with the conduct of such business.

Section 625.030 License required for managers, servers and entertainers.

It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended.

Section 625.040 License, classification and fees.

- A. The license year for all fees required under this chapter shall be from each July 1 through June 30. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.
- B. All licenses shall be issued for a specific location and shall be non-refundable and non-transferable.
- C. The classification of licenses and fees for each shall be as follows:
 - 1. Adult entertainment business license fee is \$500.00 per year;
 - 2. Adult entertainment manager's license fee is \$20.00 per year;
 - 3. Adult entertainer's license fee is \$20.00 per year;
 - 4. Adult entertainment server's license fee is \$20.00 per year.

Section 625.050 License limited to one identifiable type of adult use.

All adult business licenses shall be issued for only one adult business use per premises which shall be listed on the application. More than one adult business use shall not be allowed on a premises. Any change in the type of adult use shall invalidate the adult business license.

Section 625.060 License application.

- A. Adult business license. All persons desiring to secure a license to operate an adult entertainment business under the provisions of this chapter shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:
 - 1. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
 - 2. The name of the adult entertainment business, a description of the adult entertainment to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.
 - 3. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same

information for all corporate officers and directors and stockholders who own more than ten percent or greater interest in the corporation.

4. The residence addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application.
5. A description of the adult business history of the applicant, or of the partnership and all partners, or of the corporation and all corporate officers and directors.
6. A statement from the applicant, or from all partners, or from all such corporate officers and directors, whether any such person or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason therefor, and the activity or occupation subjected to such action, suspension or revocation:
7. A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.
8. A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. A felony criminal act within five years immediately preceding the application or
 - b. A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes of the State of Missouri or ordinances of the City.

The statement shall also indicate that the applicant, each partner of each corporate officer and director has not been convicted or a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
9. On applications requesting a license to operate a bathhouse or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed Missouri physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein.
10. A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.
11. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State.

12. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult entertainment businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

B. Manager, server or entertainer's license. All persons desiring to secure a license under the provisions of this chapter to be an adult entertainment manager, server or entertainer shall make a notarized application to the City Clerk. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining or at the business.
2. The name and address of each adult entertainment business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises. Failure to provide an "intent to hire" statement shall not invalidate the application.
3. A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. A felony criminal act within five years immediately preceding the application, or
 - b. A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

4. A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.
5. The applicant shall present documentation to the City Clerk that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - a. A valid motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth;

- b. A state-issued identification card bearing the applicant's photograph and date of birth;
- c. An official and valid passport issued by the United States of America;
- d. An immigration card issued by the United States of America;
- e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
- f. Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

C. Facilities necessary. No adult business license to conduct a bathhouse or body painting studio shall be issued unless an inspection by the Code Enforcement Officer reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
2. Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.
3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Code Enforcement Officer or a representative, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

D. Application processing. Upon receipt of a complete application for an adult entertainment or an adult entertainment manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Police Department for investigation

of the application. In addition, the City Clerk shall transmit a copy of the application to the Code Enforcement Officer.

It shall be the duty of the Police Chief or a designee to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Police Chief shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk.

It shall be the duty of the Code Enforcement Officer to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Code Enforcement Officer, shall report the results of the investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk.

Upon receipt of the reports from the Police Chief and Code Enforcement Officer, the City Clerk shall either issue or deny the license, provided the license application for an adult business, manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the City Clerk.

Section 625.070 Examination of application, issuance of license, disapproval.

- A. If the application for an adult entertainment business or an adult entertainment business manager, server or entertainer is in proper form and accompanied by the appropriate license fee, the City Clerk shall examine the application, and after such examination, the City Clerk shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible under section 625.090.
- B. The records of the City Clerk shall show the action taken on the application, and if the license is granted, the City Clerk shall direct the issuance of the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.
- C. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

Section 625.080 Ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

- A. An adult entertainment business applicant if one or more of the following conditions exist:
 - 1. The applicant's premises is located within 1,000 feet of any school, church, public park, licensed child care center or licensed child care home. Measurements shall be made in a straight line, without regard to intervening structures or objects, from

the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, church, public park, licensed day care center or licensed child care home;

2. The applicant's premises is located within 1,000 feet of any other adult entertainment business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult entertainment business;
 3. The applicant's premises is located within 1,000 feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property.
 4. In the case of an application for an adult business license for a business use defined in subsection 625.010.A.3.b or subsection 625.010A.3.c described as adult entertainment business, adult motion picture theater, adult entertainment cabaret, adult entertainment studio, adult encounter parlor, body painting studio, bathhouse or adult motel, the applicant's premises is located within 1,000 feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property;
 5. The applicant failed to supply all of the information requested on the application;
 6. The applicant gave materially false, fraudulent or untruthful information on the application;
 7. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the City Clerk;
 8. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 625.090 of this Chapter during the time period set forth in said section;
 9. The applicant has had an adult entertainment license revoked or suspended in this or any other city during the past five years.
 10. If the applicant is applying for a license to operate a bath house or body painting studio and has not produced a health certificate as required herein for all persons working on the premises.
- B. An applicant for an adult entertainment manager, server or entertainer if one or more of the following conditions exist:

1. The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (A) above;
2. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in section 625.090 during the time period set forth in said section;
3. The applicant failed to provide all of the information required on the application;
4. The applicant gave materially false, fraudulent or untruthful information on the application.
5. The applicant has had an adult entertainment manager, server or entertainer license revoked or suspended in this or any other city during the past five years.

Section 625.090 Standards of conduct.

The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons, of adult entertainment businesses, while on or about the premises of the business:

- A. Identification cards. All or any manager, server or entertainer issued a license by the City under the provisions of this chapter shall, at all times when working in an establishment subject to the provisions of this chapter, have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.
- B. Age restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.
- C. Exterior observation and display. No adult business will be conducted in any manner that permits the observation or display of performers servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any exterior source including, but not limited to, by display, decoration, sign, show window or other opening.
- D. Nudity prohibited. No manager, employee, server, entertainer or patron in an adult business, other than a licensed bath house, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any "specified anatomical area."
- E. Certain acts prohibited.
 1. No manager, employee, server or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate

objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

2. No manager, employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.
 3. No manager, employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
 4. No adult entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:
 - a. While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage, or
 - b. While such entertainer is not on the stage or platform and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.
 5. No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall:
 - a. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises, (unless otherwise permitted pursuant to chapter 4, Alcoholic beverages, of the Code of the City of Fayette),
 - b. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises,
 - c. Knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises,
 - d. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises, or
 - e. Knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.
- F. Signs required. All adult entertainment business shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, or which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED AND
LICENSED BY THE CITY OF FAYETTE

ENTERTAINERS ARE:

*Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.

*Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and or genitals, unless upon a stage at least two feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.

*Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

-While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or

-While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

*Not permitted to be upon the stage at any time.

*Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

- G. Lighting required. The interior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one footcandle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

The exterior premises of all adult business shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one footcandle in all parking areas and on the general grounds of the premises as measured at the ground level and there shall be illumination to the equivalent of not less than five footcandles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

- H. Closed booths or room prohibited. The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portions of any booths, cubicles, rooms or stalls is visible from a common area of the premises. The use of video cameras to meet this requirement is not allowed. Visibility shall not be

blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. The manager shall be required to position himself/herself so as to be able to view the entire interior portion of the premises while on duty.

Only one person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle room or stall.

- I. Ventilation and sanitation requirements. The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.
- J. Hours of operation. No adult businesses or adult entertainment businesses may be open or in use between the hours of 1:30 a.m. and 10:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 1:30 a.m. and 12:00 noon.

Section 625.100 License—Posting or display.

- A. Every person, corporation, partnership, or association licensed under this chapter as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment facility premises.
- B. Every person holding an adult entertainment server, manager or entertainer license shall post his or her license in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by City authorities responsible for enforcement of this chapter.

Section 625.110 Manager on premises.

- A. A manager shall be on duty at any adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.
- B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment servers license and that such licenses are prominently posted.
- C. It shall be the responsibility of the manager to ensure persons under the age of 18 do not enter upon the premises.

Section 625.120 Inspector and inspections.

All adult businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

Section 625.130 Suspension, revocation, or non-renewal—License.

Whenever the City Clerk has information that:

- A. The owner or operator of an adult business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this chapter; or
- B. There have been recurrent violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed; or
- C. The adult business license or the manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or
- D. The adult business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
- E. The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in section 625.090; or
- F. The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided in section 625.090;

Then a panel comprised of the City Clerk, Fire Chief and Code Enforcement Officer shall conduct a hearing to determine whether the license should be suspended or revoked. Based on the evidence produced at the hearing, the panel may take any of the following actions:

- 1. Suspend the license for up to 90 days.
- 2. Revoke the license for the remainder of the license year.
- 3. Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the chapter occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

Section 625.140 Renewal.

- A. A license may be renewed by making an application to the City Clerk on application forms provided for that purpose. Licenses shall expire on June 30 of each calendar year, and renewal applications for such licenses shall be submitted between June 15 and June 30.
- B. Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter.
- C. If the application for renewal of a license is not made during the time provided in subsection (A) of this section, the expiration of such license shall not be affected, and a new application shall be required.

Section 625.150 Judicial review—Stay of enforcement of orders.

Following the entry of an order by the City Clerk, suspending or revoking a license issued pursuant to this chapter, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk may stay the enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for judicial review.

Section 625.160 Penalty.

It shall be unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be punished by a fine not exceeding \$500.00, or be punished by incarceration for a period not to exceed 90 days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense.

Section 625.170 Regulations.

The City Clerk shall have the power to promulgate regulations, as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this chapter.

Section 625.180 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The Board of Aldermen hereby declares that it would have passed this ordinance and each section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part hereof irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

SECTION TWO: Repeal of Conflicting Ordinances. Any ordinance or portion of an ordinance directly in conflict with the provisions of this Ordinance is hereby repealed.

SECTION THREE: Effective Date. This ordinance shall be in full force and effect from and after the date of its passage and approval and shall remain in effect for two years from the date of passage.

Dated this _____ day of _____, 2024.

Jeremy Dawson, Mayor

Attest:

Judith Thompson, City Clerk