

1 AN ORDINANCE OF THE CITY OF ORLANDO, FLORIDA,
2 RELATING TO THE REGULATION OF ADULT
3 ORIENTED LAND USES; PROVIDING FINDINGS;
4 AMENDING CHAPTER 37, ORLANDO CITY CODE,
5 RELATING TO ADULT ORIENTED LAND USES,
6 PROVIDING DEFINITIONS, ESTABLISHING LICENSING
7 REQUIREMENTS, PROVIDING FOR MINIMUM
8 OPERATIONAL REGULATIONS, PROHIBITING
9 CERTAIN ACTS ASSOCIATED WITH ADULT ORIENTED
10 LAND USES, PROVIDING FOR PENALTIES; AMENDING
11 CHAPTER 58, ORLANDO CITY CODE, RELATING TO
12 ZONING DISTRICTS AND LAND USES, AMENDING THE
13 TABLES OF PERMITTED, CONDITIONALLY
14 PERMITTED, AND PROHIBITED USES, AMENDING
15 PART 4A, CHAPTER 58, ORLANDO CITY CODE,
16 RELATING TO ADULT ENTERTAINMENT FACILITIES,
17 PROVIDING FOR MINIMUM SEPARATION
18 REQUIREMENTS AND METHOD OF MEASURING
19 DISTANCE, PROVIDING FOR MINIMUM CRIME
20 PREVENTION DESIGN STANDARDS FOR ADULT
21 ENTERTAINMENT FACILITIES; PROVIDING FOR
22 SEVERABILITY, REPEAL OF CONFLICTING
23 ORDINANCES, CODIFICATION, CORRECTION OF
24 SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.
25

26 WHEREAS, section 163.3202(1), Florida Statutes, requires that the City of Orlando,
27 Florida (the "City") adopt or amend and enforce land development regulations that are consistent
28 with and implement the City's adopted comprehensive plan; and
29

30 WHEREAS, section 163.3203(3), Florida Statutes, encourages the use of innovative land
31 development regulations and requires that all land development regulations be combined into a
32 single land development code for the City; and
33

34 WHEREAS, from time to time, amendments and revisions to the City's adopted
35 comprehensive plan (the "Growth Management Plan") and progress in the field of planning and
36 zoning make it necessary or desirable to amend or revise the land development regulations of the
37 City; and
38

39 WHEREAS, at its regularly scheduled meeting of April 21, 2009, the Municipal
40 Planning Board recommended to the City Council of the City of Orlando, Florida (the "Orlando
41 City Council"), that the provisions of this ordinance are consistent with the applicable provisions
42 of the City's adopted Growth Management Plan, are in the best interest of the public health,
43 safety, and welfare, are in harmony with the purpose and intent of the City's Land Development
44 Code, will not result in disorderly and illogical development patterns, and will not result in
45 incompatible land uses; and
46

93 effect of this chapter and other related parts of the Orlando City Code to restrict or deny access
94 by consenting adults to adult material protected by the United States or Florida constitutions, or
95 to deny access by the distributors and exhibitors of adult material to their intended and lawful
96 market, but neither is the purpose nor effect of this chapter and other related parts of the Orlando
97 City Code to condone or legitimize the distribution or exhibition of obscene material.
98

99 b. Findings and rationale. Based on evidence of the adverse secondary effects of adult
100 entertainment facilities presented in reports and studies presented to each of the commissioners
101 of the Orlando City Council, and on findings, interpretations, and narrowing constructions
102 incorporated in numerous court cases, including without limitation, *City of Littleton v. Z.J. Gifts*
103 *D-4, L.L.C.*, 541 U.S. 774 (2004), *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000), *City of Los*
104 *Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002), *City of Renton v. Playtime Theatres, Inc.*,
105 475 U.S. 41 (1986), *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), *Barnes v. Glen*
106 *Theatre, Inc.*, 501 U.S. 560 (1991), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990),
107 *California v. LaRue*, 409 U.S. 109 (1972), *Artistic Entertainment, Inc. v. City of Warner Robins*,
108 223 F.3d 1306 (11th Cir. 2000), *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County*, 337
109 F.3d 1251 (11th Cir. 2003), *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002), *Ben's*
110 *Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003), *Wise Enters v. Unified Gov't of*
111 *Athens-Clarke County*, 217 F.3d 1360 (11th Cir. 2000), *BZAPs, Inc. v. City of Mankato*, 268 F.3d
112 603 (8th Cir. 2001), *World Wide Web of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th
113 Cir. 2004), *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005), *Ward v. County of*
114 *Orange*, 217 F.3d 1350 (11th Cir. 2000), *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251
115 (11th Cir. 1999), *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000),
116 *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998), *Lady J. Lingerie, Inc.*
117 *v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999), *Grand Faloon Tavern, Inc. v. Wicker*, 670
118 F.2d 943 (11th Cir. 1982), *Board of County Commissioners v. Dexterhouse*, 348 So.2d 916 (Ct.
119 App. Fla. 1977), *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th
120 Cir. 1986), and other court cases, and on reports and studies of secondary effects occurring in
121 and around adult entertainment facilities, including without limitation, Phoenix, Arizona – 1979,
122 1995-1998, Houston, Texas – 1983, 1997, Indianapolis, Indiana – 1984, Amarillo, Texas – 1977,
123 Garden Grove, California – 1991, Los Angeles, California – 1977, Whittier, California – 1978,
124 Austin, Texas – 1986, Oklahoma City, Oklahoma – 1986, Dallas, Texas – 1997, 2004, Newport
125 News, Virginia – 1996, New York Times Square Study – 1994, Centralia, Washington – 2004,
126 Greensboro, North Carolina – 2003, and also on findings of physical abuse from the papers
127 entitled “Stripclubs According to Strippers: Exposing Workplace Sexual Violence,” by Kelly
128 Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources,
129 Minneapolis, Minnesota, “Sexually Oriented Businesses: An Insider’s View,” by David
130 Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law,
131 January 12, 2000, and the Report of the Attorney General’s Working Group on the Regulation of
132 Sexually Oriented Business, June 6, 1989, State of Minnesota, the Orlando City Council finds:
133

134 1. Adult entertainment facilities, as a category of commercial use, are associated
135 with a wide variety of adverse secondary effects, including without limitation, personal
136 and property crimes, public safety risks, prostitution, the spread of sexually transmitted
137 diseases, lewdness, public indecency, illicit sexual activity, illicit drug use and drug
138 trafficking, undesirable and criminal behavior associated with alcohol consumption, the

139 diminution of surrounding property values, litter, blight, and sexual assault and
140 exploitation.

141
142 2. Each of the foregoing negative secondary effects constitutes a harm that the
143 city has a substantial government interest in preventing or abating. This substantial
144 government interest in preventing secondary effects, which is the city's rationale for this
145 chapter and related parts of the Orlando City Code, exists independent of any
146 comparative analysis between adult oriented and non-adult oriented businesses. The
147 city's interest in regulating adult entertainment facilities extends to future secondary
148 effects that may occur in the city related to existing adult entertainment facilities as well
149 as facilities that may locate in the city in the future. The city finds that the cases, reports,
150 and studies relied on this chapter are reasonably believed to be relevant to the city.

151
152 **Sec. 37.021. Definitions.**

153
154 ~~(a) *Adult Bookstore* means a place which sells or offers for sale, for any form of~~
155 ~~consideration, any one or more of the following:~~

- 156
157 ~~(1) Books, magazines, periodicals or other printed matter, or photographs, films,~~
158 ~~motion pictures, video cassettes, slides or other visual representations or~~
159 ~~recordings, novelties and devices, which have as their primary or dominant~~
160 ~~theme matter depicting, illustrating, describing or relating to specific sexual~~
161 ~~activities or specified anatomical areas; or~~
162
163 ~~(2) Instruments, devices or paraphernalia which are designed for use in~~
164 ~~connection with specified sexual activities.~~

165
166 ~~An adult bookstore includes a place with only a portion or section of its area set aside for~~
167 ~~the display or sale to adults of materials listed in subsection (1) and (2) above, except that any~~
168 ~~place, otherwise included within this definition, that derives not more than ten percent (10%) of~~
169 ~~its gross income from the sale of materials listed in subsections (1) and (2) above shall be exempt~~
170 ~~from the provisions of this Chapter so long as such material is kept in a location where it is not~~
171 ~~visible to the customers of such place.~~

172
173 For purposes of this chapter, the following terms, phrases, words, and their derivatives
174 have the meanings expressed thereafter, unless the context clearly requires otherwise.

175
176 a. "Adult bookstore" means an establishment where a substantial portion of the items,
177 material, goods, or products sold or rented, offered for sale or rent, displayed, or exhibited
178 constitute adult material.

179
180 1. For purposes of the definition of adult bookstore, the term "substantial
181 portion" means more than an insignificant or incidental portion. The term "substantial
182 portion" does not necessarily mean a majority or predominant amount.

184 2. Whether the adult material constitutes a substantial portion of the items sold or
185 rented, offered for sale or rent, displayed, or exhibited at a commercial establishment
186 does not depend upon a specific percentage or ratio.

187
188 3. Whether adult material that is sold or rented, offered for sale or rent, displayed,
189 or exhibited constitutes a substantial portion may be determined by evidence relating to
190 some, but not necessarily all, of the following factors:

191
192 i. The amount of floor area, wall area, or display area dedicated to adult
193 material.

194
195 ii. The amount of adult material sold or rented, offered for sale or rent,
196 displayed, or exhibited.

197
198 iii. The visibility, prominence, or accessibility to customers of adult
199 material.

200
201 iv. The retail value of the adult material sold or rented, offered for sale or
202 rent, displayed, or exhibited.

203
204 v. Whether minors are excluded from the establishment.

205
206 vi. Any other fact, circumstance, or evidence that is relevant to
207 demonstrate the type and quantity of material that the establishment sells or rents,
208 offers for sale or rent, displays, or exhibits.

209
210 b.(b)-“Adult dancing establishment” ~~Adult Dancing Establishment~~ means a commercial
211 establishment that permits, suffers, or allows ~~workers~~dancers to display or expose specified
212 anatomical areas.

213
214 c. “Adult entertainment facility” means any adult bookstore, adult dancing
215 establishment, adult motion picture theater, commercial physical contact establishment, or body
216 art shop where procedures are conducted on specified anatomical areas and are viewed by
217 persons other than the artist and one other person with consent of the client.

218
219 d. “Adult material” means any one or more of the following, regardless of whether it is
220 new or used:

221
222 1. Book, magazine, periodical, or other printed matter, or photographs, films,
223 motion pictures, videotape, slides, computer digital graphic recording, or other visual
224 representation, or compact disks, audio recording, or other audio matter, that have as their
225 primary or dominant theme matter depicting, illustrating, describing, or relating to
226 specified sexual activities or specified anatomical areas; or

227
228 2. Instrument, novelty, device, or paraphernalia that is designed for use in
229 connection with specified sexual activities, excluding bona fide birth control devices.

230
231 3. Package, box, container, or like matter, displaying image or text on the exterior
232 thereof that falls under the definition of adult material.

233
234 e. “Adult motion picture booth” ~~(e) *Adult Motion Picture Booth*~~ means an enclosed area
235 within an adult motion picture theater ~~re~~ designed or used for the viewing of motion pictures ~~by~~
236 ~~one or two persons.~~

237
238 f. “Adult motion picture theater” ~~(d) *Adult Motion Picture Theatre*~~ means an enclosed
239 building, or a portion or part of an enclosed building, or an open-air theater ~~re~~ designed to permit
240 viewing by patrons seated in automobiles, used to present on a regular basis, for any form of
241 consideration, film material that which has as its primary or dominant theme matters depicting,
242 illustrating, or relating to specified sexual activities ~~for observation by adult patrons thereof,~~ and
243 includes any hotel or motel, boarding house, rooming house, or other lodging for transient
244 customers that which advertises the presentation of such film material.

245
246 g. “Commercial” ~~(e) *Commercial*~~ means operated for pecuniary gain, ~~which shall be~~
247 ~~presumed for any establishment which has received an occupational license. For purposes of this~~
248 ~~ordinance, operation for pecuniary gain shall not depend on actual profit or loss, regardless of~~
249 whether or not a profit is actually realized. An establishment is presumptively commercial in
250 nature if it has been issued a business tax receipt.

251
252 h. “Specified anatomical area” ~~(f) *Specified Anatomical Areas*~~ means:

253
254 1. ~~(1)~~ less than completely and opaquely covered:

255
256 (i) human genitals or pubic region;

257
258 (ii) human buttock;

259
260 (iii) human female breasts below a point immediately above the top of the
261 areola, ~~the colored ring around the nipple;~~ and

262
263 2. ~~(2)~~ human male genitals in a discernibly turgid state, even if completely and
264 opaquely covered.

265 i. “Specified criminal act” means:

266
267 1. An offense under Chapter 794, Florida Statutes (sexual battery).

268
269 2. An offense under Chapter 796, Florida Statutes (prostitution).

270
271 3. An offense under Chapter 800, Florida Statutes (lewdness and indecent
272 exposure).

273
274 4. An offense under Chapter 847, Florida Statutes (obscenity and material
275 harmful to minors).

276 | 5. A felony offense under Chapter 893, Florida Statutes (controlled substances).

277 |

278 | 6. An offense under Chapter 895, Florida Statutes (racketeering).

279 |

280 |

281 | 7. An offense under Chapter 896, Florida Statutes (money laundering and

282 | unlawful financial transactions).

283 |

284 | j. "Specified sexual activities" (g) *Specified Sexual Activities* means:

285 |

286 | 1. (1) human genitals in a state of sexual stimulation, arousal; or tumescence;

287 |

288 | 2. (2) acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy,

289 | coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty,

290 | pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, urolagnia, or

291 | zoerasty;

292 |

293 | 3. (3) fondling or other erotic touching of human genitals, pubic region, buttock,

294 | anus, or female breast; and

295 |

296 | 4. (4) excretory functions as part of or in connection with any of the activities set

297 | forth in 1(1) through 3(3) above.

298 |

299 | k. "Worker" means a person who works or performs at or for an adult entertainment

300 | facility, regardless of whether the person is paid a salary or wage. "Worker" includes without

301 | limitation an employee, independent contractor, subcontractor, performer, entertainer, lessee, or

302 | sublessee who works or performs at or for an adult entertainment facility. A "worker" may also

303 | be an operator, director, manager, or owner.

304 |

305 | **Sec. 37.032. Adult Bookstores.**

306 |

307 | ~~No person shall own, operate, manage or work at any adult bookstore unless the~~

308 | ~~following requirements are observed therein:~~

309 |

310 | It is unlawful to own, operate, manage, or work at an adult bookstore unless:

311 |

312 | a. (a) ~~All materials, devices and novelties shall be so~~ Adult material displayed that they

313 | cannot be seen by anyone other than customers who have entered the ~~licensed~~ premises.

314 |

315 | b. (b) ~~If recordings are offered for sale and customers may listen to them while on the~~

316 | licensed premises, soundproof booths or rooms shall be available for use by customers who

317 | desire to listen, and each such booth or room shall have:

318 |

319 | 1. (1) ~~one clear window, facing the major portion of the licensed premises,~~

320 | covering not less than one-fourth (1/4) of the wall area into which the window is set,

321 which window shall not be covered or obscured in any manner while the booth or room is
322 in use;

323
324 2. ~~(2)~~ sufficient chairs or couches to accommodate the expected number of
325 person who will occupy the booth or room at one time;

326
327 3. ~~(3)~~ the number of persons who may occupy the booth or room at one time
328 clearly stated on or near the door to the booth or room, and only that number of persons
329 shall be permitted inside the booth or room at one time; and

330
331 4. ~~(4)~~ the door or doors opening into the booth or room incapable of being locked
332 or otherwise fastened so that it or they will freely open from either side;

333
334 5. ~~(5)~~ all areas where a patron or customer is to be positioned visible from a
335 continuous main aisle and not obscured by any curtain, door, wall or other enclosure.

336
337 **Sec. 37.043. Adult Motion Picture Theaterres.**

338
339 ~~No person shall own, operate, manage or work at any adult motion picture theatre unless~~
340 ~~the following requirements are observed therein:~~

341
342 It is unlawful to own, operate, manage, or work at an adult motion picture theater unless:

343
344 a. ~~(a)~~ Each adult motion picture booth ~~shall be~~ open or ~~has~~ a rectangular shaped
345 entranceway not less than two ~~(2)~~ feet wide nor less than six ~~(6)~~ feet high.

346
347 b. ~~(b)~~ Each adult motion picture booth ~~shall have~~ has sufficient seats or couches to
348 accommodate the maximum number of persons expected to use the booth. The maximum
349 number of persons ~~that who~~ may occupy a booth ~~shall must~~ be stated on or near the entranceway,
350 and only that number ~~shall be~~ permitted to be in a booth at one time.

351
352 c. ~~(c)~~ All areas where a patron or customer is to be positioned must be visible from a
353 continuous main aisle and must not be obscured by any curtain, door, wall, or other enclosure.

354
355 d. ~~(d)~~ An adult motion picture theaterre having both adult motion picture booths and a
356 hall or auditorium ~~shall must~~ conform to the special requirements for ~~both facilities~~ each.

357
358 e. ~~(e)~~ In addition to the sanitary facilities otherwise required, there shall be provided
359 within or adjacent to the common corridor, passageway, or area in adult motion picture theaterres
360 having adult motion picture booths, adequate lavatories equipped with running water, hand-
361 cleansing soap or detergent, and sanitary towels or hand-drying devices; Common towels are
362 prohibited.

363
364 f. ~~(f)~~ An adult motion picture theaterre designed to permit viewing by patrons seated in
365 automobiles ~~shall must~~ have the motion picture screen so situated, or the perimeter of the

366 | ~~licensed premises so screened, that the projected film material may not be seen from any public~~
367 | ~~right-of-way or residential property.~~

368 |
369 | **Sec. 37.054. Adult Dancing Establishments.**

370 |
371 | ~~No person shall own, operate, manage, work or perform at any adult dancing~~
372 | ~~establishment unless the following requirements are observed therein:~~

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

376 |
377 | a. It is unlawful to display or expose specified anatomical areas while dancing with or
378 | simulating sexual activity with a patron.

379 |
380 | ~~(b) No person in an adult dancing establishment shall engage in the display or~~
381 | ~~exposition of specified anatomical areas except while the person is positioned at least three (3)~~
382 | ~~feet from another person.~~

383 |
384 | b. It is unlawful to display or expose specified anatomical areas unless the person so
385 | displaying or exposing is positioned at least three feet from all patrons.

386 |
387 | ~~(c) No person maintaining, owning or operating an adult dancing establishment shall~~
388 | ~~suffer or permit the construction, maintenance, or use of areas partitioned or screened from~~
389 | ~~public view that are designed to be occupied or are commonly occupied alone or together by any~~
390 | ~~person or persons on the premises of such establishment for private performances involving the~~
391 | ~~display or exhibition of specified anatomical areas.~~

392 |
393 | c. It is unlawful to construct, maintain, or operate an area within an adult dancing
394 | establishment partitioned or screened from public view and that is designed or intended to be
395 | occupied or is commonly occupied by a person or persons for the purpose of private
396 | performances involving the display or exhibition of specified anatomical areas.

397 |
398 | ~~(d) No person on the premises of an adult dancing establishment shall be permitted to~~
399 | ~~use or to be present in areas partitioned or screened from public view that are designed to be~~
400 | ~~occupied together or alone by any person or persons on the premises of such establishment for~~
401 | ~~the display or exhibition of specified anatomical areas.~~

402 |
403 | d. It is unlawful to use or to be present in an area within an adult dancing establishment
404 | partitioned or screened from public view and that is designed or intended to be occupied or is
405 | commonly occupied by a person or persons for the purpose of private performances involving
406 | the display or exhibition of specified anatomical areas.

407 |
408 | ~~(e) Nothing in this Chapter pertaining to adult dancing establishments shall be construed~~
409 | ~~to permit or authorize any acts or activities therein that are prohibited by State law.~~

410 |
411 | **Sec. 37.065. Compliance with Other Portions of City Code Law.**

412
413 Nothing ~~herein~~ in this chapter shall be construed or interpreted to ~~relieve any person from~~
414 ~~compliance with any other chapters or section of the City Code which may be~~
415 ~~applicable~~ authorize any act or omission otherwise prohibited by federal, state, or local law.
416

417 **Sec. 37.07. Adult Entertainment Facility Permit Required.**
418

419 a. *Permit required.* It is unlawful to own, operate, manage, direct, or work at an adult
420 entertainment facility unless the facility holds a valid adult entertainment facility permit in
421 accordance with this chapter.
422

423 b. *Permit classifications.* Each adult entertainment facility permit issued in accordance
424 with this chapter must be classified as either (1) an adult bookstore permit, (2) an adult dancing
425 establishment, (3) an adult motion picture theater, (4) a commercial physical contact
426 establishment, or (5) a body art shop defined by this chapter as an adult entertainment facility.
427

428 c. *Single classification.* Each adult entertainment facility permit is limited to one permit
429 classification.
430

431 d. *Limit of one permit.* Each adult entertainment facility is limited to one adult
432 entertainment facility permit.
433

434 **Sec. 37.08. Permit Application.**
435

436 a. *Application required.* Persons seeking an adult entertainment facility permit must file
437 an application with the planning official a sworn permit application on standard application
438 forms supplied by the planning official.
439

440 b. *Submittal requirements.* The completed application must contain the following
441 information and be accompanied by the following documents:
442

443 1. If the applicant is:
444

445 i. An individual, the individual must provide his or her legal name, any
446 aliases, and must submit satisfactory proof that he or she is at least 18 years of
447 age.
448

449 ii. A partnership, whether general or limited, the partnership must provide
450 its complete name, and the names, residential addresses, and residential telephone
451 numbers of all partners, the name, residential address, and residential telephone
452 number of at least one person in Florida who is authorized to accept service of
453 process, and a copy of the partnership agreement.
454

455 iii. A corporation, the corporation must provide its complete name, date
456 of incorporation, evidence of good standing, a copy of the articles of
457 incorporation and corporate bylaws, the names, capacities, residential addresses,

458 and residential telephone numbers of all officers and directors, the name of the
459 registered corporate agent, the address of the registered office for service of
460 process, and the name, residential address, residential telephone number, and title
461 or capacity of the person making application on behalf of the corporation.
462

463 2. If the applicant intends to conduct business under a name other than that of the
464 applicant, the establishment's fictitious name and its address as provided to the State of
465 Florida under the Fictitious Name Act.
466

467 3. Whether the applicant or any person identified pursuant to this section has,
468 within the five years immediately preceding the date of application, been convicted of a
469 state felony offense, any specified criminal act (or an offense under an analogous law of
470 the United States or state other than Florida), or a violation of the Orlando City Code, or
471 code of another city, county, or local government in Florida or any other state, and, if so,
472 the specified offense, the date of conviction, and place of conviction.
473

474 4. Whether the applicant or any person identified pursuant to this section has had
475 a previous adult entertainment facility permit suspended or revoked, including the name
476 and location of the facility for which the permit was suspended or revoked, as well as the
477 date of the suspension or revocation, and whether the applicant or any person identified
478 pursuant to this section has been a partner in a partnership or an officer or director of a
479 corporation whose previous adult entertainment facility permit has been suspended or
480 revoked, including the name and location of the facility for which the permit was
481 suspended or revoked, as well as the date of the suspension or revocation.
482

483 5. Whether the applicant or any person identified pursuant to this section holds
484 any other adult entertainment facility permit pursuant to this chapter, and, if so, the
485 names and locations of such other facilities.
486

487 6. The permit classification for which the applicant is applying.
488

489 7. The location of the proposed facility, including legal description and street
490 address of the proposed site.
491

492 8. The names of each person with the authority to manage or control the day-to-
493 day operation of the proposed facility, including such persons' mailing address,
494 residential address, business address, residential telephone number, and business
495 telephone number.
496

497 9. The applicant's mailing address, residential address, business address,
498 residential telephone number, and business telephone number.
499

500 10. A site plan, depicted in appropriate scale, of the proposed facility and its site,
501 including without limitation the following:
502

503 i. All property boundaries, rights-of-way, and the location of all buildings,
504 structures, parking areas and spaces, curb cuts, and driveways.

505
506 ii. All windows, doors, entrances, exits, restrooms, fixed structural
507 features, walls, stages, partitions, admission booths, concession areas, stands,
508 counters, and similar structures.

509
510 iii. All proposed improvements or enlargements to existing structures and
511 buildings.

512
513 11. A recent photograph of the applicant.

514
515 12. The applicant's social security number or the applicant's employer tax
516 identification number.

517
518 13. The applicant's driver's license number or state or federally issued
519 identification card number.

520
521 14. If the applicant is not the owner of the real property proposed for an adult
522 entertainment facility, the applicant must provide a notarized statement from the owner
523 demonstrating that the owner consents to the application for an adult entertainment
524 facility permit.

525
526 15. If the applicant is not the owner of the real property proposed for an adult
527 entertainment facility, the applicant must provide a copy of the lease or other rental
528 agreement.

529
530 16. If the applicant is not the owner of the real property proposed for an adult
531 entertainment facility, the applicant must provide the name, address, and telephone
532 number of the owner.

533
534 c. Application fee. In order to defray some of the costs and expenses associated with
535 processing the application, each application must be submitted with a nonrefundable
536 administrative fee of \$750.

537
538 d. Consent. By submitting an application pursuant to this section, the applicant consents
539 to the provisions of this chapter and to the exercise by the planning official and the departments,
540 officers, and agents of the city of their respective responsibilities under this chapter.

541
542 **Sec. 37.09. Application Processing.**

543
544 a. Processing. Upon receipt of a completed application, the planning official shall
545 immediately date stamp the application and send copies to the chief of police, the fire chief, the
546 building official, the zoning official, and the director of public works.

547

548 b. Investigation. Each official identified in subsection (a.) shall promptly conduct an
549 investigation in accordance with their respective following responsibilities:

550
551 1. The planning official is responsible for granting, granting with conditions,
552 denying, and renewing adult entertainment facility permits.

553
554 2. The chief of police is responsible for verifying the accuracy of the information
555 provided in response to sections 37.08 (b.) 1 – 6, 8, 9, 11 – 13, and 16, and for inspecting
556 the proposed facility for compliance with applicable criminal laws.

557
558 3. The building official is responsible for inspecting the proposed facility for
559 compliance with applicable building codes.

560
561 4. The fire chief is responsible for inspecting the proposed facility for compliance
562 with applicable fire codes.

563
564 5. The zoning official is responsible for inspecting the proposed facility for
565 compliance with applicable zoning codes.

566
567 6. The director of public works is responsible for inspecting the proposed facility
568 for compliance with applicable codes related to public works.

569
570 c. Findings. At the conclusion of their respective investigations, each official identified
571 in subsection (a.) shall prepare a report and forward it to the planning official within 30 days of
572 the planning official's date stamp. Reports must state whether the official finds any false,
573 deceptive, incorrect, or incomplete information in the application, whether the proposed facility
574 would violate any provision of this chapter or other applicable federal, state, or local law,
575 ordinance, code, rule, regulation, or court order.

576
577 **Sec. 37.10. Granting or Denying the Permit.**

578
579 a. Time period for granting or denying the permit. The planning official shall approve or
580 deny the permit application within 35 days of receiving the completed application. The planning
581 official shall notify the applicant of the decision in writing within 5 days of the approval or
582 denial.

583
584 b. Approving the application. If none of the officials identified in section 37.09 a.
585 submit a report with findings that require the application be denied, the planning official shall
586 approve the application and issue then issue the permit within 2 days of the applicant paying the
587 annual permit fee required by this chapter.

588
589 c. Denying the application. If one or more of the officials identified in section 37.09 a.
590 submit a report with findings that require the application be denied, the planning official shall
591 deny the application. The planning official must state the reason for denial in the notice
592 provided in accordance with section 37.10 a. The planning official shall deny an application for
593 any of the following reasons:

- 594
595 1. The application contains false, deceptive, incorrect, or incomplete information.
596
597 2. The applicant has failed to comply with state filing requirements for
598 corporations, partnerships, or doing business under a fictitious name.
599
600 3. A permit issued under this chapter for the location of the proposed facility is
601 the subject of a pending suspension or revocation proceeding or is currently suspended.
602
603 4. The proposed facility would violate a federal, state, or local law, ordinance,
604 code, rule, regulation, or court order.
605
606 d. Reapplication. If an application is denied, the applicant may reapply.
607

608 **Sec. 37.11. Permit Contents, Term, and Renewal.**
609

610 a. Contents. An adult entertainment facility permit must state the name of the permittee,
611 the name of the owner of the real property on which the facility is located, the name of the
612 establishment, the street address of the establishment, the permit classification, the date of
613 issuance, and the date of expiration.
614

615 b. Term. Adult entertainment facility permits are annual permits valid from the first day
616 of October through the final day of September in the following year.
617

618 c. Renewals. Permits must be renewed annually. Subject to all provisions of this
619 chapter, a permittee seeking to renew a permit must, by the first day of October, relinquish the
620 permit for the prior year, update all information and documentation required for a permit
621 application, execute and notarize a renewal request statement, and pay the applicable annual
622 renewal fee.
623

624 **Sec. 37.12. Annual Renewal Fee.**
625

626 a. Renewal fee. In order to defray some of the costs and expenses associated with
627 processing the annual renewal request, each request must be submitted with a nonrefundable
628 administrative fee of \$500. This fee is in addition to and not in lieu of the local business tax and
629 other lawful taxes, fees, and assessments.
630

631 **Sec. 37.13. Transfer of Permit Prohibited.**
632

- 633 a. Adult entertainment facility permits are not transferable.
634

635 **Sec. 37.14. Records, Reports, and Consent of Permittee.**
636

637 a. Records and reports. Permittees must maintain and provide records and make reports
638 to the planning official as reasonably required by the planning official in the implementation or
639 furtherance of the planning official's duties and responsibilities of this chapter. Permittees must

640 promptly notify the planning official in writing whenever any information required by this
641 chapter changes and must provide the planning official with the newly changed information.

642
643 b. *Consent.* By holding a permit pursuant to this chapter, the permittee consents to the
644 provisions of this chapter and to the exercise by the planning official and the departments,
645 officers, and agents of the city of their respective responsibilities under this chapter

646
647 **Sec. 37.15. Permit Suspension.**

648
649 a. *Suspension authorized for continuing violations.* Subject to the following, the code
650 enforcement division manager may suspend an adult entertainment facility permit if the adult
651 entertainment facility is operating in violation of an applicable federal, state, or local law,
652 ordinance, code, rule, regulation, or court order.

653
654 1. *Procedures.* Prior to suspending the permit, the code enforcement division
655 manager must provide the permittee with a written notice of violation, including any
656 evidence supporting the suspension, and at least 7 days to correct the violation. If the
657 violation is not corrected within the time allotted, the code enforcement division manager
658 may issue an order suspending the permit until the violation is corrected. Notices and
659 orders provided pursuant to this subsection must be provided by certified mail, return
660 receipt requested, to the facility's address of record.

661
662 2. *Appeal.* At any time after the issuance of the notice of violation, the permittee
663 may request a hearing before the code enforcement board to appeal the suspension. The
664 request for a hearing must be in writing and stays the effect of a suspension order until
665 after the hearing is held. The request must allege findings of fact and conclusions of law
666 supporting the permittee's challenge. The code enforcement board shall hear the
667 challenge at its next available regular meeting and shall conduct a de novo hearing in
668 accordance with its regular rules of evidence and procedure.

669
670 3. *Decision on appeal.* Upon conclusion of the hearing, the code enforcement
671 board shall make findings of fact, conclusions of law, and issue an order either
672 suspending the permit until the violation is corrected or quashing the suspension.

673
674 b. *Suspension authorized for non-continuing violations.* Subject to the following, the
675 code enforcement division manager may suspend an adult entertainment facility permit for a
676 period not to exceed 30 days if a worker of the respective facility violates an applicable federal,
677 state, or local law, ordinance, code, rule, regulation, or court order at the facility.

678
679 1. *Procedures.* At least 7 days before suspending the permit, the code
680 enforcement division manager must provide the permittee with a written notice of
681 violation, including any evidence supporting the suspension. Notices and orders
682 provided pursuant to this subsection must be provided by certified mail, return receipt
683 requested, to the facility's address of record.

685 2. Appeal. At any time after the issuance of the notice of violation, the permittee
686 may request a hearing before the code enforcement board to appeal the suspension. The
687 request for a hearing must be in writing and stays the effect of a suspension order until
688 after the hearing is held. The request must allege findings of fact and conclusions of law
689 supporting the permittee's challenge. The code enforcement board shall hear the
690 challenge at its next available regular meeting and shall conduct a de novo hearing in
691 accordance with its regular rules of evidence and procedure.

692
693 3. Decision on appeal. Upon conclusion of the hearing, the code enforcement
694 board shall make findings of fact, conclusions of law, and issue an order either
695 suspending the permit or quashing the suspension.

696
697 **Sec. 37.16. Permit Revocation.**

698
699 a. Revocation. Subject to the following, the code enforcement division manager shall
700 revoke an adult entertainment facility permit if:

701
702 1. Information provided in the application for the permit is false, deceptive,
703 incorrect, or incomplete.

704
705 2. Information provided in a renewal request is false, deceptive, incorrect, or
706 incomplete.

707
708 3. The permittee fails to comply with section 37.14 a. of this chapter.

709
710 4. The permit has been suspended three times in any two year period.

711
712 b. Procedures. At least 7 days before issuing an order revoking the permit, the code
713 enforcement division manager must provide the permittee with a written notice of violation,
714 including any evidence supporting the revocation. Notices and orders provided pursuant to this
715 subsection must be provided by certified mail, return receipt requested, to the facility's address
716 of record.

717
718 c. Appeal. Within 14 days of the issuance of the notice of violation, the permittee may
719 request a hearing before the code enforcement board to appeal the revocation. The request for a
720 hearing must be in writing and stays the effect of a revocation order until after the hearing is
721 held. The request must allege findings of fact and conclusions of law supporting the permittee's
722 challenge. The code enforcement board shall hear the challenge at its next available regular
723 meeting and shall conduct a de novo hearing in accordance with its regular rules of evidence and
724 procedure.

725
726 d. Decision on appeal. Upon conclusion of the hearing, the code enforcement board
727 shall make findings of fact, conclusions of law, and issue an order either revoking the permit or
728 quashing the revocation.

729
730 **Sec. 37.17. Suspension and Revocation Not Exclusive Enforcement Mechanisms.**

731
732 Nothing in this chapter shall be construed or interpreted to prohibit the city from
733 enforcing its codes and ordinances by means other than those provided by this chapter, including
734 without limitation, by summons, notice to appear in court, arrest, issuance of a citation, civil
735 action, stop work order, or demolition.

736
737 **Sec. 37.18. Judicial Review and Exhaustion of Administrative Remedies.**

738
739 a. *Judicial review.* A final order of the code enforcement board may be challenged by
740 petition for writ of certiorari filed with the circuit court within 30 days of the order's rendition.

741
742 b. *Exhaustion of administrative remedies.* Judicial review of a permit suspension or
743 revocation is available only after all applicable administrative appeal remedies provided by this
744 chapter have been exhausted.

745
746 **SECTION 2. SECTION 58.110, AMENDED.** Section 58.110, Code of the City of
747 Orlando, Florida, is hereby amended as follows:

- 748
749 a. Figure 2B.LDC and Figure 2D.LDC, section 58.110, Orlando City Code, are hereby
750 amended to show adult entertainment facilities as a permitted use in the industrial park
751 ("I-P") and general industrial ("I-G") zoning districts.

752
753 **SECTION 3. PART 4A, CHAPTER 58, AMENDED.** Part 4A., Chapter 58, Code of
754 the City of Orlando, Florida, is hereby amended as follows:

755
756 4A. ADULT ENTERTAINMENT FACILITIES

757
758 **Sec. 58.700. Purpose of Adult Entertainment Regulations.**

759
760 ~~The standards and requirements of this Part are intended to provide for appropriately~~
761 ~~designed and located adult entertainment facilities to minimize potential hazards due to traffic~~
762 ~~congestion, visual distractions and other dangers; and to protect surrounding uses from the~~
763 ~~potential adverse effects of adult entertainment facilities.~~

764
765 The purpose of this part is to minimize the negative secondary effects associated with
766 adult entertainment facilities, including without limitation, crime, blight, and the diminution of
767 surrounding property values.

768
769 **Sec. 58.701. Obscenity Not Permitted.**

770
771 ~~Nothing in this Section shall be construed to allow or permit the possession, distribution~~
772 ~~and transportation of obscene materials or to authorize the exposing of persons under 17 years of~~
773 ~~age to motion pictures, exhibitions, shows, representations and presentations of specified sexual~~
774 ~~activities or persons displaying or exhibiting specified anatomical areas. These matters are~~
775 ~~preempted to the state and are subject to state regulations, and it is not the intent of the City~~
776 ~~Council to legislate with respect to preempted matters.~~

777
778 It is not the intent of the City Council to legislate with respect to matters of obscenity.
779 Obscenity is regulated by state statute, including Chapter 847, Florida Statutes.
780

781 **Sec. 58.702. Dispersal of Facilities.**
782

783 ~~No person shall cause or permit the establishment or substantial enlargement of any adult~~
784 ~~entertainment facility closer than the following minimum distances from preexisting specified~~
785 ~~uses:~~

- 786
- 787 (a) ~~Another adult entertainment facility: 1,000 feet.~~
 - 788
 - 789 (b) ~~Church or religious institution: 1,000 feet.~~
 - 790
 - 791 (c) ~~Public Park, library, elementary, junior high, or high school grounds: 1,000 feet.~~
 - 792
 - 793 (d) ~~Residential zoning district: 1,000 feet.~~
 - 794
 - 795 (e) ~~Any establishment serving or selling alcoholic beverages for on-site consumption: 1,000~~
796 ~~feet.~~
 - 797

798 ~~— In addition, no person shall cause or permit the establishment or substantial enlargement~~
799 ~~of any establishment serving or selling alcoholic beverages for on-site consumption closer than~~
800 ~~1,000 feet from any preexisting adult entertainment facility.~~

801

802 ~~*Method of Measuring Distance.* Dispersal distances set forth in this Section shall be~~
803 ~~measured by the shortest and most direct bearing and distance from the exterior wall of the adult~~
804 ~~entertainment facility to:~~

- 805
- 806 (a) ~~The exterior wall of another adult entertainment facility, or any establishment serving or~~
807 ~~selling alcoholic beverages for on-site consumption;~~
 - 808
 - 809 (b) ~~The nearest point of school, library, church or public park property or grounds used as~~
810 ~~part of the school, library, church or park facility; or~~
 - 811
 - 812 (c) ~~The district line of a residential zoning district.~~
 - 813

814 ~~— *Variances.* Variances to the dispersal standards of this Section may be approved by the~~
815 ~~City Council upon review and recommendation by the Board of Zoning Adjustment in~~
816 ~~accordance with the requirements of Chapter 65, Part 2J. Any variance granted shall be based on~~
817 ~~a finding that:~~

- 818
- 819 (a) ~~The proposed use will not be contrary to the public interest or injurious to nearby~~
820 ~~properties, and that the spirit and intent of this Part will be observed.~~
 - 821
 - 822 (b) ~~All other appropriate regulations of this Part will be observed.~~

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1. Adult entertainment facilities are prohibited within 500 feet of the right-of-way of the following:
 - a. Roads designated as view corridors in the City’s adopted growth management plan.
 - b. The McCoy Road – Sand Lake Road corridor between Tradeport Drive and Interstate 4.
 - c. John Young Parkway between Osceola County and U.S. Highway 441.
 - d. Narcoossee Road between the Beachline Expressway and Hoffner Avenue.
 - e. Orange Avenue between Wetherbee Road and Oak Ridge Road.
 - f. U.S. Highway 441 between Osceola County and Seminole County and between Seminole County and Lake County.
 - g. The Beachline Expressway between Narcoossee Road and Interstate 4.
 - h. The Beltway System in Orange County.
 - i. Semorán Boulevard between Orlando International Airport and Seminole County.
 - j. Jetport Drive between Orange Avenue and the Beachline Expressway.
 - k. Hoffner Avenue between Goldenrod Road and Conway Road.
2. Adult entertainment facilities are prohibited within 1,000 feet of the following:
 - a. A religious institution.
 - b. Another adult entertainment facility.
 - c. A public library.
 - d. A public park.
 - e. A residential zoning district, including planned development zoning districts with residential uses.
 - f. An establishment serving or selling alcoholic beverages for onsite consumption.
3. Adult entertainment facilities are prohibited within 2,500 feet of a school.

869 4. Adult entertainment facilities are prohibited within 2,800 feet of the right-of-way of the
870 Lee Vista Boulevard – Judge Road corridor between Semoran Boulevard and Conway
871 Road.

873 5. Adult entertainment facilities are prohibited within 1,500 feet of the right-of-way of E.
874 Landstreet Road between Orange Avenue and Boggy Creek Road.

876 6. Adult entertainment facilities are prohibited within subareas 6 and 12 as designated in the
877 City’s adopted growth management plan.

878 Method of Measuring Distance. For the purposes of this part, distance shall be measured
879 by the shortest, straight line between property or district boundaries.
880

881 Variances. Variance from the requirements of this section may only be approved in
882 accordance with Part 2J, Chapter 65, Orlando City Code.
883

884
885 **Sec. 58.703. Nonconforming Facilities and UsesUses.**
886

887 ~~Any adult entertainment facility which is nonconforming to the provisions of this Part~~
888 ~~and Chapter, including any facility which is nonconforming to the dispersal standards of this Part~~
889 ~~shall be subject to the nonconforming use provisions of Chapter 58, Part 7.~~
890

891 Legally existing nonconforming adult entertainment facilities and uses are subject to the
892 regulations of Part 7, Chapter 58, Orlando City Code.
893

894 **Sec. 58.704. Minimum Crime Prevention Design StandardsReserved.**
895

896 Property on which an adult entertainment facility is located is subject to the following:
897

898 a. Exterior lighting. All exterior areas must be lit in accordance with the exterior
899 lighting standards of Orange County, Florida, ordinance #2003-08.
900

901 b. Signs. Notwithstanding other provisions of the land development code, signs may not
902 include flashing lights, photographs, images, silhouettes, drawings, depictions, or other pictorial
903 representations of any kind, and may only include the name of the facility and one or more of the
904 following applicable terms or phrases:

905
906 1. “Adult bookstore.”

907
908 2. “Adult motion picture theater.”

909
910 3. “Adult dancing establishment.”

911
912 4. “Adult entertainment.”
913

914 c. Landscaping. Shrubbery must be maintained under 30 inches in height and tree
915 branches must be kept at least 6 feet above the ground.

916
917 d. Interior requirements. Interior premises must be equipped with overhead lighting
918 fixtures of sufficient intensity to illuminate every place where patrons are permitted access at an
919 illumination of at least five foot candles as measured at the floor level.

920
921 e. Exterior requirements. Customer entryways and exits must be clearly defined, and
922 clearly visible from onsite parking areas and the public right-of-way. Unless otherwise required,
923 opaque walls and fences are prohibited. Publicly accessible vehicular rights-of-way must
924 completely encircle the facility so that law enforcement may patrol the perimeter of the facility.

925
926 **SECTION 4. SECTION 66.200, AMENDED.** Section 66.200, Code of the City of
927 Orlando, Florida, is hereby amended as follows:

928 *****

929
930
931 *Adult Family Care Home (AFCH):* A facility which provides, twenty-four hours a day, a
932 family-style living arrangement in a private home under which room, board, and care-giving
933 services are provided to five or less disabled adults or elders who are not relatives of the owner
934 or operator.

935
936 ~~*Adult Entertainment Facility:* Any adult bookstore, adult dancing establishment or adult~~
937 ~~motion picture theater as defined in Chapter 31A, 37, and 43 of the City Code; or any~~
938 ~~commercial physical contact establishment as defined by this Chapter; or any body art shop~~
939 ~~where procedures conducted on specified anatomical areas as defined by Section 37.01(f) of the~~
940 ~~City Code are viewed by persons other than the artist and on other person with the consent of the~~
941 ~~client.~~

942
943 *Adult entertainment facility:* Adult entertainment facility means any adult bookstore,
944 adult dancing establishment, adult motion picture theater, commercial physical contact
945 establishment, or body art shop where procedures are conducted on specified anatomical areas
946 and are viewed by persons other than the artist and one other person with consent of the client.

947
948 *Advertising Display Area:* The advertising display surface area encompassed within any
949 regular geometric figure which would enclose all parts of the sign which bear a message or
950 display. The structural supports for a sign, whether they be columns, pylons, or a building or a
951 part thereof, shall not be included in the advertising display area.

952 *****

953
954
955 **SECTION 5. SEVERABILITY.** If any provision of this ordinance or its application to
956 any person or circumstance is held invalid, the invalidity does not affect other provisions or
957 applications of this ordinance which can be given effect without the invalid provision or
958 application, and to this end the provisions of this ordinance are severable.

1006 CITY OF ORLANDO, FLORIDA:

1007

1008

1009 City Attorney

1010

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DRAFT