

Title 5 BUSINESS LICENSES A

CHAPTER 5.20. ADULT ENTERTAINMENT ESTABLISHMENTS*

*Cross reference(s)--Public peace, morals and welfare, tit. 9.

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5.20.010. Purpose.

The intent of the Hall County Board of Commissioners in enacting this ordinance [chapter] is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments, to the end that the many types of criminal activities frequently engendered by such businesses and the adverse effect on property values, on the public health, safety, and welfare of the county, on its citizens and property, and on the character of its neighborhoods and development will be curtailed. This ordinance [chapter] is not intended as a de facto prohibition of legally protected forms of expression. Instead, this ordinance [chapter] is intended to represent a balancing of competing interests: reduced criminal activity and protection of neighborhoods and development through the regulation of adult entertainment establishments versus any legally protected rights of adult entertainment establishments and their patrons. This ordinance [chapter] is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful. (Res. of 11-9-92; Code 1991, § 5.06.010; Res. of 4-11-96, § 2)

5.20.020. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed

to them in this section:

- A. *Adult bookstore*: An establishment having as a substantial or significant portion of its stock in trade, books, printed material, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter which depicts, describes, or in any way relates to specified sexual activities or specified anatomical areas, or an establishment with a segment or section of the store, comprising five percent of its total floor space, which is devoted to the sale or display of such material, or an establishment with five percent of its net sales consisting of printed material which is distinguished or characterized by its emphasis on matter which depicts, describes, or relates to specified sexual activities or specified anatomical areas.
- B. *Adult business*: Any establishment which is either expressly specified in this chapter, or which is other than those expressly specified in this chapter, where employees or patrons expose specified anatomical areas or engage in specified sexual activities, or which offers its patrons a service or entertainment of any type which is characterized by an emphasis on matter depicting, describing, discussing, or relating in any way to specified sexual activities or specified anatomical areas.
- C. *Adult dancing establishment*: Any business or establishment where employees or dancers display or expose specified anatomical areas to others, or any establishment which features live performances by entertainers or employees where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- D. *Adult entertainment establishment*: Any adult theater, adult bookstore, or adult dancing establishment operated for commercial or pecuniary gain, regardless of profit or loss, and whether licensed or unlicensed. An establishment with an adult entertainment license is presumed to be an adult entertainment establishment. An establishment possessed of an occupational business license is presumed to be operated for commercial or pecuniary gain.
- E. *Adult material*: Any one or more of the following, regardless of whether it is new or used:
 - (1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations, or recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing, or relating in any way to specified sexual activities or specified anatomical areas; or
 - (2) Instruments, novelties, devices, or paraphernalia which are designed for use in connection with specified sexual activities.
- F. *Adult motel*: Any motel, hotel, boardinghouse, roominghouse, or other place of temporary lodging which advertises the presentation of or presents films, motion pictures, video cassettes, slides, or other photographic reproductions, which have as their primary or dominant theme matters depicting, illustrating, or relating in any way to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the term "adult theater."
- G. *Adult theater*: Any establishment which consists of an enclosed building, or a portion or a part of an enclosed building, or an open-air area used by persons for the viewing of films, motion pictures, video cassettes, slides, or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating, or relating in any way to specified sexual activities or specified anatomical areas. Adult motels and establishments which have adult booths are both considered to be adult theaters.
- H. *Adult video store*: An establishment having as a substantial or significant portion of this [its] stock in trade, videotapes, or movies, or other reproductions, whether for sale or for rent,

- which are distinguished or characterized by their emphasis on matter depicting, describing, or relating in any way to specified sexual activities or specified anatomical areas, or any establishment with a segment or section, comprising five percent or more of its total floor space, which is devoted to the sale or display of such material, or which derives more than five percent of its net sales from videos which are characterized or distinguished by their emphasis on matter which depicts, describes, or relates in any way to specified sexual activities or specified anatomical areas.
- I. *Alcoholic beverage*: Any beverage containing more than one percent of alcohol by weight.
 - J. *Bathhouse*: An establishment to which the public is permitted or invited and in which services offered include some form of physical contact between employee and patron and in which services offered are characterized or distinguished by an emphasis on specified sexual activities or on specified anatomical areas.
 - K. *Board of commissioners*: The board of commissioners of Hall County, Georgia.
 - L. *Church*: Any place where persons regularly assemble for religious worship.
 - M. *Conviction*: Any adjudication or determination of guilt resulting from a plea, trial, or forfeiture of bond when charged with a crime, regardless of whether adjudication was withheld or whether the imposition of a sentence was suspended. This definition shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act.
 - N. *Department*: The Hall County Business License Department, or any other section of the Hall County government set aside for the issuance of business licenses and permits.
 - O. *Display*: Any exposing, posting, exhibiting, or in any fashion revealing to any person in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision by view from a street, highway, or public sidewalk, or from the property of others, or from any portion of the person's store or property when items and material other than this material are offered for sale or rent to the public.
 - P. *Disseminate*: To transfer possession of, whether with or without consideration.
 - Q. *Distance and measurement*: The measurement in lineal feet from the center of any door of customer entry of the proposed premises of any adult entertainment establishment or adult business (or, if not on ground level, then the beginning point for measuring the distance shall be the point at ground level determined by measuring from the center of any door of customer entry which is perpendicular to ground level) to the nearest property line of any church, library, school, college, public park, residence, or hospital, as required by this chapter.
 - R. *Distribute*: Any transfer of possession, whether with or without consideration.
 - S. *Educational institution*: Any premises or site upon which there is an institution of learning for minors, whether public or private, which conducts regular classes and/or course of study. Included in the definition of the term "educational institution" are nursery schools, kindergartens, elementary schools, junior high schools, senior high schools, or any special institution of learning. The term does not include any premises or site upon which there is a vocational institution, professional institution, or institution of higher education, including community colleges, junior colleges, four-year colleges, or universities.
 - T. *Employee*: A person who works or performs in an adult entertainment establishment, irrespective of whether such person is paid a salary or wage.
 - U. *Escort bureau*: Any business, person, or agency who, for a fee, commission, hire, reward, or profit, furnishes or offers to furnish the names of persons, or who introduces, furnishes, or arranges for persons who may accompany other persons to or about social affairs,

- entertainments, or places of amusement, or who may consort with others about any place of public resort or within any private quarters.
- V. *Establishment*: A site or premises, or portion thereof, upon which certain activities or operations are conducted for commercial or pecuniary gain, regardless of actual profit or loss. A site or premises shall be presumed to be an establishment where it is in possession of an occupational business license.
- W. *Furnish*: To issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit, or otherwise provide.
- X. *Good moral character*: A person is of good moral character according to this chapter if that person has not been convicted of any felony or any non-felony involving moral turpitude in the past five years. The county may also take into account such other factors as are necessary to determine the good moral character of the applicant or employee. For the purposes of this definition, conviction shall include pleas of nolo contendere or bond forfeiture when charged with either a felony, or a non-felony involving moral turpitude.
- Y. *Inspector*: An employee or officer of the health department, business licensing department, building inspection department, zoning department, sheriff, fire department or fire and rescue department who inspects premises licensed under this chapter and takes or requires the actions authorized by this chapter in case of violations being found on licensed premises, or who inspects premises seeking to be licensed under this chapter or who takes or requires corrections of unsatisfactory conditions found on the premises.
- Z. *Minor*: Any person who has not attained the age of 18 years of age.
- AA. *Nudity*: The showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering or the showing of the female breast with less than a fully opaque covering of the portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- BB. *Obscene*: Any material or performance which, after applying contemporary community standards, is found to predominantly appeal to prurient interest in sex; to be, as a whole, a depiction or description of sexual conduct which is patently offensive to the average person in the community; and when taken as a whole is found to lack serious literary, artistic, political, or scientific value.
- CC. *Park*: Any lands or facility owned, operated, controlled, or managed by any county, city, or federal government, or any governmental entity in and upon which recreational activities occur, or upon which places are provided for the recreation and enjoyment of the general public, or which is kept or maintained for ornament and/or recreation.
- DD. *Performance*: Any play, motion picture, film, videotape, dance, or exhibition performed before an audience.
- EE. *Religious institution*: Any premises or site which is used primarily or exclusively for religious worship and related religious activities.
- FF. *Residence*: A house, apartment, mobile home, boarding or rooming house, duplex, condominium or other multi-family housing for human dwelling or any property zoned therefor.
- GG. *School*: Any state, county, city, church, or other school, public or private, as teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post-high school learning centers, kindergartens, and day care centers for persons of all ages.
- HH. *Sadomasochistic abuse*: Any flagellation or torture by or upon a person as an act of sexual stimulation or gratification.
- II. *Sexual conduct*: Any actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse, sexual intercourse; or physical contact with a person's clothed or

unclothed genitals, pubic areas, buttocks, or the breast of a female in any act of apparent sexual stimulation or gratification; or any sadomasochistic abuse; or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

JJ. *Specified sexual activities*: Shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship including sadomasochistic abuse, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellation, necrophilia, pederasty, pedophilia, lesbianism, zooerastia; or
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks or female breast; or
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
- (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

KK. (1) *Lingerie modeling* means entertainment or activity which consists of persons exhibiting or modeling lingerie or similar undergarments.

(2) *Lingerie modeling studio* means any place or commercial establishment wherein the patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling lingerie or similar undergarments.

LL. *Specified anatomical areas*: Shall include any of the following:

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

(Res. of 11-9-92; Code 1991, § 5.06.020; Res. of 4-11-96, § 2; Res. of 1-23-97, § 2)

Cross reference(s)--Definitions and rules of construction generally, § 1.20.010 et seq.

5.20.030. Violations; penalty; additional remedies.

A. Any person, firm, corporation, association or partnership violating any provision of this Chapter as the same exists or as it may hereinafter be amended, or shall fail to do anything required by this Chapter as the same exists or as it may hereafter be amended, shall be guilty of a misdemeanor, amenable to the process of the Magistrate or State Court of Hall County, and upon conviction, shall be punished as provided in the Official Code of Hall County, Georgia § 1.50.020 for each violation in the discretion of the Court.

B. The County is hereby authorized to punish violations of this Chapter under the provisions of the Official Code of Hall County, Chapter 1.50.

C. Any adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store operated, conducted, or maintained contrary to the provisions of this Chapter shall be and is hereby declared to be unlawful and a public nuisance. In addition to or in lieu of any other penalties or remedies, the County may commence an action or actions to enjoin, abate, or remove any violations of the provisions of

this Chapter.

D. Any violation of the provisions of this Chapter shall be considered due cause for the suspension or revocation of any licenses issued by the County to the offending party. Such revocation or suspension shall occur by way of a hearing before the Board of Commissioners as provided by this Chapter.
Revised by Amend Adopted 6/10/2004

5.20.040. License required.

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

(Res. of 11-9-92; Code 1991, § 5.06.040; Res. of 4-11-96, § 2)

5.20.050. Admission of minors unlawful.

It shall be unlawful for any person, licensee, or other adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store to admit or permit the admission of minors into the premises of their adult business or adult establishment, or to allow a minor to remain within the licensed or unlicensed premises of such a business or establishment.

(Res. of 11-9-92; Code 1991, § 5.06.050; Res. of 4-11-96, § 2)

5.20.060. Sales to minors unlawful.

It shall be unlawful for any person to sell, barter, exchange, trade, give, or offer to sell, barter, exchange, trade, or give to any minor any entertainment, service, material, device, or thing offered, for sale or otherwise, at an adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store.

(Res. of 11-9-92; Code 1991, § 5.06.060; Res. of 4-11-96, § 2)

5.20.070. Prohibited activities.

- A. No person, firm, partnership, association, corporation, or other entity, whether licensed or unlicensed, shall conduct any illegal activity in or upon the premises of an adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store.
- B. No adult entertainment licensee shall permit or suffer an employee or other person to appear nude or semi-nude where there is an individual payment offer or solicitation of money occurring between patron and employee.
- C. No adult entertainment licensee shall permit any employee or patron to use artificial devices or inanimate objects to depict any of the prohibited activities described in this chapter.
- D. No adult entertainment licensee shall suffer or permit an employee or any person on the premises to insert an object into her vagina or her or his anal orifice, except for private personal hygiene.
- E. No adult entertainment licensee shall suffer or permit an employee or any person on the premises to engage in actual or simulated genital masturbation or, in the case of females, fondling of the breasts.
- F. No adult entertainment licensee shall suffer or permit a male employee or any person on the premises to exhibit an unclothed erect penis.
- G. No adult entertainment licensee shall suffer or permit an employee or any person on the premises to engage in or simulate bestiality.
- H. No employee or person, while on the premises of any adult entertainment licensee, shall expose or be permitted to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage or female breast in a lewd or obscene fashion or be permitted to do so by the licensee or its employees.
- I. No employee or person, while on the premises of an adult entertainment licensee, shall dance or

perform nude or semi-nude in such manner as to simulate sexual activity with any patron, spectator, employee, or other person, or be permitted to do so by the licensee or its employees.

- J. No person, while on the premises of an adult entertainment licensee, shall, while nude or semi-nude, sit upon or straddle the leg, legs, lap, or body of any patron, spectator, employee, or other person therein, or engage in or simulate sexual activity while touching or being touched by said patron, spectator, or other person.
- K. No licensee shall suffer or permit the use of any areas on the premises of such establishment for sexual contact or private dancing performance or entertainment.
- L. No licensee shall suffer or permit any signage or advertisement which encourages, solicits, induces, or promotes conduct or activities proscribed by this chapter.
- M. No alcoholic beverages of any kind shall be sold, possessed, or consumed on the premises except in full compliance with the Hall County Malt Beverages and Wine Ordinance [chapter 5.30] and any applicable state or federal laws.
- N. No drugs or illegal or controlled substances of any kind shall be allowed, permitted, used, possessed, or sold upon the premises, and no gambling shall be allowed or permitted therein, and each licensee shall be required to provide for adequate security procedures and personnel to insure an orderly operation of such establishment.
- O. No adult entertainment establishment, as defined by this chapter, shall be open for business between the hours of 12:45 a.m. and 8:00 a.m. each day, nor shall such establishment operate after the hour of 12:45 a.m. on Sunday or on Christmas Day.

(Res. of 11-9-92; Code 1991, § 5.06.070; Res. of 4-11-96, § 2)

5.20.080. Minimum distance from certain uses.

No adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store shall be located within the following distance and measurement as defined and stated herein:

- A. Within 1,000 feet of any residence;
- B. Within 1,000 feet of a church, school, educational institution, religious institution, governmentally owned or operated building or structure, library, civic center, public park, park, hospital, community club, or prison;
- C. Within 1,000 feet of any establishment or business regulated or defined hereunder;
- D. Within 1,000 feet of an establishment selling alcoholic beverages other than the licensed establishment.

Each application for license hereunder for which there are no existing Hall County licenses for the operation of an adult entertainment establishment or business then in effect shall include a blue line copy of a surveyor's plat, 8½ inches by 11 inches in size, with a scale of one inch per 200 feet, showing the proposed location and the location of all customer entries in relation and distance, measured as provided in this chapter, to all real property and buildings on such real property which fall within the above distance requirements, together with the zoning classifications and present uses of all real property and the proposed location.

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

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

(Res. of 11-9-92; Code 1991, § 5.06.080; Res. of 4-11-96, § 2)

Cross reference(s)--Zoning regulations, tit. 17.

5.20.090. Existing establishments.

All existing adult entertainment establishments, adult businesses, bathhouses, escort bureaus, and

adult video stores shall obtain a license and comply with all the terms of this chapter within 30 days of its adoption.

(Res. of 11-9-92; Code 1991, § 5.06.090; Res. of 4-11-96, § 2)

5.20.100. Employees.

- A. Employees of adult entertainment establishments, adult businesses, bathhouses, escort bureaus, and adult video stores shall be not less than 18 years of age, and shall be of good moral character.
- B. No person shall be employed in any capacity whatsoever, including, but not limited to, performers, entertainers, and musicians, who has been convicted anywhere in the United States, or in federal court, within five years immediately prior to the application for employment, of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture, sale, or distribution of intoxicating liquors, or any other felony or crime involving moral turpitude, or for whom any outstanding warrant exists on which service has not been perfected. "Be employed" shall include all work done or services performed while in the scope of employment on the premises and elsewhere than on the licensed premises, for compensation or otherwise.
- C. It shall be the duty of all licensees of an adult entertainment establishment, adult business, bathhouse, escort bureau, or adult video store to file with the Hall County Sheriff's Department the names of all employees with their home addresses and home telephone numbers and places of employment. Changes in the list of employees must be filed with the Hall County Sheriff's Department within seven calendar days from the date of any such changes.

(Res. of 11-9-92; Code 1991, § 5.06.100; Res. of 4-11-96, § 2)

5.20.110. License generally; application for license.

- A. All licenses awarded under this chapter shall be a mere grant of privilege to carry on such business during the term of the license, and shall be subject to all the terms and conditions imposed by this chapter and related laws, applicable provisions of this Code, and other ordinances and resolutions of the county which may relate to such businesses.
- B. All licenses awarded under this chapter shall have printed on the front these words: "This license is a mere privilege subject to be suspended and revoked under the provision of the ordinances of Hall County, Georgia."
- C. A separate license shall be required for each place of business.
- D. No license shall be issued to any person who is less than 18 years of age or, in the instance where alcohol is served or proposed to be served upon the premises, 21 years of age.
- E. Application for a license shall be written and on forms supplied by Hall County at the county's business license office. Such application shall state the name and address of the applicant; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners, if a corporation, the names of the officers and shareholders, or if another business entity, then the names of all [persons] holding any ownership or managerial interest therein; and such other reasonable information as may be required by the supervisor of the inspections and permits division of Hall County, or by the Hall County Sheriff's Department, and must be sworn to by the applicant or agent thereof.
- F. All applicants shall furnish all data, information, and records which the county may request of them, and failure to furnish such data within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the applicant's application. By the filing of an application, applicants agree to produce for oral interrogation any person requested by the county or the county attorney, and who may be considered as being important in the ascertainment of the facts as to such license. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic dismissal of such application.
- G. For the purposes of this chapter, the term "applicant" shall include a person or persons, and shall also

- include all partners, officers, directors, principals, and shareholders of any partnership or corporation.
- H. Each application must be complete in its entirety before being accepted by the county for filing and processing.
- I. All applicants for licenses shall furnish plans and renderings of the proposed premises. Such premises shall be constructed, renovated, and, when needed, refurbished so as to be aesthetically pleasing, rather than dilapidated. The exterior shall be of finished building material such as brick, steel, stone, or wood, but shall not be constructed of concrete block. The applicant shall comply with all zoning, building, health, and similar county codes. All applicants shall obtain and file with their application a certification of zoning compliance, certifying that the property where the applicant plans to operate the business is zoned for the appropriate category as provided herein.

(Res. of 11-9-92; Code 1991, § 5.06.110; Res. of 4-11-96, § 2)

5.20.120. License fee; penalty for late payment.

- A. The annual license fee shall be \$3,500.00 as set by the board of commissioners and as from time to time may be amended by resolution. Said fee is a non-refundable fee and shall be paid upon submission of the application for license hereunder. Licenses shall be issued for a period of 12 months only and not for any partial year. No license shall be issued or renewed until and unless all fees and penalties due to the county are first paid.
- B. In addition to and not in the alternative to any other penalty which may be provided herein, any licensee, person, or entity who fails to pay any fee, tax, or other payment due to the county of any kind when due shall pay, in addition to such fee, tax, or other charge, a separate penalty equal to ten percent of the required fee, tax, or other charge, for each period of 30 days, or portion thereof, following the due date, until paid in full, including penalties.

(Res. of 11-9-92; Code 1991, § 5.06.120; Res. of 4-11-96, § 2)

5.20.130. Qualifications of applicant for license.

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

- A. That the applicant is not of good moral character, or has a poor reputation in the community, or does not have sufficient mental capacity to conduct the business for which application is made.
- B. That the applicant has previously had revoked or suspended any license issued under the police powers of any county or governmental entity.
- C. That the applicant, as a previous holder of a license for the sale of alcoholic beverages, any business license issued by Hall County for any special purpose, or any adult entertainment license, has violated any law, resolution, or ordinance relating to such business within a ten-year period immediately preceding the date of application.
- D. That any applicant, or any corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner, or managing agent is delinquent in payment of any property tax or other tax or license fee payable to Hall County or the State of Georgia.

(Res. of 11-9-92; Code 1991, § 5.06.130; Res. of 4-11-96, § 2)

5.20.140. Investigation of license applications.

All applications required by this chapter shall be investigated by the Hall County Sheriff's Department, which shall report its findings and recommendations to the county business license office, or any committee or board created by the board of commissioners for the purpose of making recommendations as to any application. No further action shall be taken by Hall County or by any applicant with respect to any application until completion by the sheriff's department of its investigation.

(Res. of 11-9-92; Code 1991, § 5.06.140; Res. of 4-11-96, § 2)

5.20.150. Citizenship and residence requirements for licensees.

- A. Where the applicant is a corporation, any license shall be applied for by and shall be issued to the

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

- B. Where the applicant is a partnership, any license shall be applied for by and shall be issued to the partnership and either (1) the managing general partner thereof, or (2) a person employed full time by the partnership in a managing capacity. Each of the said persons must be a U.S. citizen or legal alien for at least one year prior to application.
- C. Where the applicant is a sole proprietor, any license shall be applied for by and shall be issued to the sole proprietor if he is working full time in a managing capacity on the premises, and, if not, then to the sole proprietor and a person employed full time by the sole proprietor in a managing capacity. Each of the said persons must be U.S. citizen or legal alien for at least one year prior to application.
- D. For purposes of this section, the words "managing capacity" shall mean the president or chief executive officer of a corporation, or the managing or general partner of a partnership, or a person who has responsibility for management of the operations at the location to be licensed and who is a full time employee of the corporation, partnership, proprietary, or other ownership entity.
- E. The licensee shall notify the county in writing, and shall keep said notification current, of the name, address, and telephone number of the licensee and the agent of the licensee or any other person under whose name the license is issued, for the purpose of receiving communications and notices required under this chapter.

(Res. of 11-9-92; Code 1991, § 5.06.150; Res. of 4-11-96, § 2)

5.20.160 Action on License Application; Appeals.

- A. All applications shall be acted upon by the Hall County Business License Department (the "Department") within 45 days of the date of the filing of the application with all required documentation.
- B. If the Department fails to act on the application within 45 days of the date of the filing of the application, the applicant has the right to begin operating his/her business unless and until the Department notifies the applicant of a denial of the application.
- C. The Department shall act on any application after an appearance at a date, time and place established by the Department upon at least five (5) days notice to the applicant.
- D. The applicant shall be required to personally appear before the Department on the date and time set forth in the notice.
- E. Any decision of the Department shall be final unless an appeal is filed with the Clerk to the Hall County Board of Commissioners (the "Commissioners") by any aggrieved party on or before ten days from the date of the decision by the Department.
- F. A hearing before the Commissioners shall be scheduled within 20 days of the date of the filing of the appeal and notice thereof shall be provided to the appellant and other interested parties.

- G. The hearing on the appeal shall be held and a decision made on the appeal within 45 days of the date of the filing of the appeal unless the appellant agrees in writing for a hearing date to be held more than 45 days from the date of the filing of the appeal.
- H. If the Commissioners fail to act on the appeal within 45 days of the date of the filing of the appeal, the applicant has the right to begin operating his/her business unless and until the Commissioners notifies the appellant that it has sustained the decision of the Department.
- I. Upon the hearing of such appeal, the Commissioners shall receive all relevant testimony and evidence from the appellant, from interested parties and from county staff and enforcement officers.
- J. The Board of Commissioners may sustain, overrule, or modify the action complained of.
- K. The decision of the Commissioners shall be final.

5.20.170. Restrictions on transferability of license and addition of additional partners or shareholders.

- A. No license issued hereunder shall be sold, given, transferred, or assigned by any licensee, or by operation of law, to any other person, persons, or entities. Any such sale, gift, transfer, or assignment, or attempted sale, gift, transfer, or assignment, shall be deemed to constitute a voluntary surrender of the license and such license shall thereafter be null and void; provided, however, if the licensee is a partnership or corporation, and one or more of the partners or shareholders, as the case may be, should die, one or more of the surviving partners or shareholders who were partners or shareholders at the time of issuance of the license, and who wish to carry on the business by their service in a managing capacity, may acquire, by purchase or otherwise, the interest of the deceased partner or shareholder without effecting a surrender or termination of such license, and, in such case, the new licensee shall immediately notify the business license department of the county. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of such a license, or any stock authorized but not issued at the time of the granting of a license hereunder is thereafter issued and sold, transferred, or assigned.
- B. No licensee shall change the name or location of the establishment without obtaining a new license. (Res. of 11-9-92; Code 1991, § 5.06.170; Res. of 4-11-96, § 2)

5.20.180. Issuance of license to persons with prior convictions.

No original license shall be issued to any person where any individual having an absolute interest or a direct or indirect beneficial interest in the establishment either as owner, partner, principal stockholder, or his spouse, shall have been convicted within ten years immediately prior to the filing of said application of any felony or misdemeanor of any state, of any law of the United States, or of any municipal ordinance, with the exception of traffic offenses, or for whom an outstanding warrant exists on which no service has been perfected. Where the violation is for a misdemeanor, forfeiture of bond, or violation of a county or municipal ordinance, or where there is a plea of nolo contendere, the business license department or the board of commissioners if appeal is filed, after hearing, may, after investigation of the charges involved, waive the same as a disqualification. (Res. of 11-9-92; Code 1991, § 5.06.180; Res. of 4-11-96, § 2)

5.20.190. Additional licensing standards.

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

- A. Where there is evidence that, even though there is compliance with the minimum distance requirements set forth herein, the type or number of schools or number of churches or other facilities in the vicinity causes minors to frequent the immediate area.
- B. Where there is evidence that the location or type of structure would create difficulty in police supervision.
- C. Where there is evidence that there are no licenses granted in the area or where there is evidence that the proposed area is already adequately supplied with such licenses.
- D. Where there is evidence that a license for the location would be detrimental to the property values in the area.
- E. Where there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for automobiles. In addition to compliance with any other parking space requirements of Hall County and the State of Georgia, a licensee shall have sufficient parking on the premises so as to provide parking for his customers and so as to prevent parking on the streets or adjoining property.
- F. Where there is evidence that alcoholic beverages have been sold to intoxicated persons or to a minor.
- G. Where there is evidence that the conduct of the business by the licensee or potential licensee would violate the law or this Code, create a disturbance, create a congregation of intoxicated or unruly persons or minors, or allow minors to be on the premises or to purchase, possess, or consume alcoholic beverages on the premises, or where there is evidence that illegal activities have occurred on or in connection with the premises or establishment, or where the police have been caused to answer complaints or make extra surveillance of the premises or area.
- H. In addition to the above and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
 - 1. If the applicant is a previous holder of any special license under the Hall County Business License Ordinance [chapter 5.10], or is a holder of an alcoholic beverage license, the manner in which he conducted the business thereunder as to the necessity for unusual law enforcement observation and inspection in order to prevent the violation of any law, regulation, or ordinance relating to such business.
 - 2. The location for which the license is sought as to traffic congestion, general character of neighborhood, and the effect such establishment would have on the adjacent and surrounding property values.
 - 3. The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.
 - 4. If applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or "front" to obtain a license.

(Res. of 11-9-92; Code 1991, § 5.06.190; Res. of 4-11-96, § 2)

5.20.200. Interest in license by county officials or employees.

It shall be unlawful for any elected or appointed official, employee of the county, or employee of any elected official of the county who receives all or part of his salary from Hall County, or his or her spouse or minor child, to have any whole, partial, or beneficial interest in any license issued hereunder.

(Res. of 11-9-92; Code 1991, § 5.06.200; Res. of 4-11-96, § 2)

Cross reference(s)--Code of ethics, ch. 2.110.

5.20.210. Issuance of license.

Except as provided for in section 5.20.230 herein, when a license has been approved and the applicant has deposited with the department the required fee, the license shall be issued.

(Res. of 11-9-92; Code 1991, § 5.06.210; Res. of 4-11-96, § 2)

5.20.220. Causes of mandatory denial of license.

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

- A. The same applicant for a license or renewal has been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of the ordinance applicable to the applicant as opposed to rejection related to the location itself.
- B. The location has been rejected for any applicant.
- C. That applicant has withdrawn, without permission of the board or the department, an application at any time within seven days immediately preceding the time and date set for the hearing before the board or department, unless at least one year shall have expired from such withdrawal.
- D. When any application for a license to transact any business within the control of the police powers is denied for cause or any license is revoked for cause by the board of commissioners.

The one-year waiting period will not apply where the applicant shall apply for a new location which has not been rejected within the preceding 12 months, except if the applicant has had an application for another location rejected within the preceding 12 months because of a lack of qualifications on the part of the applicant.

(Res. of 11-9-92; Code 1991, § 5.06.220; Res. of 4-11-96, § 2)

5.20.230. Completion of proposed licensed premises.

If the building where the adult entertainment establishment, adult business, adult video store, bathhouse, or escort bureau is to operate is, at the time of the application for such license, not in existence or not yet completed or renovated, a license may be approved for such location provided the plans for the proposed building or renovation show clearly a compliance with all provisions of this chapter. No business shall be conducted therein until the premises have been completed in accordance with the plans, and the building is in conformity with all of the other provisions of this chapter, the Official Code of Hall County, and all laws and regulations of the state or federal government, and the license has been issued.

(Res. of 11-9-92; Code 1991, § 5.06.230; Res. of 4-11-96, § 2)

5.20.240. Forfeiture of license for nonuse.

Any holder of a license hereunder who shall begin the operation of the business as authorized by the license, but who shall for a period of 30 days thereafter cease to operate the business as authorized by the license, shall, upon completion of said 30-day period, automatically forfeit his license, which license shall, by virtue of said failure to operate, be canceled without the necessity of any further action on the part of the county.

(Res. of 11-9-92; Code 1991, § 5.06.240; Res. of 4-11-96, § 2)

5.20.250. Annual renewal of license required.

- A. All licenses hereunder shall be issued for a period of one calendar year, the same being January 1 through December 31 of each year. All licensees hereunder shall be required to renew their licenses annually on forms provided by the county, with the annual renewal fee for any such license being \$3,500.00.
- B. Any license holder upon the date of adoption of this ordinance [chapter] or any application for renewal of license on an existing licensed location shall not be required to meet the distance requirements herein set forth. An application for renewal shall meet and qualify under all other requirements of this chapter for the granting of a new license.

(Res. of 11-9-92; Code 1991, § 5.06.250; Res. of 4-11-96, § 2)

5.20.260. Revocation and suspension of license; hearing.

- A. The board of commissioners, on the basis of citations by, or charges brought on behalf of, the director of the business license department, the code enforcement officer, the zoning officer, a law enforcement official, the county attorney, or any other authorized representative of the county, shall have the right to suspend and/or revoke any license issued under this chapter whenever the licensee shall violate any county code, rule, regulations, or ordinance or any state or federal code, rules, regulation, ordinance, or statute pertaining to such business.
- B. Upon notice to the county that an alleged violation has occurred which may require the suspension or revocation of an adult entertainment license, a hearing shall be scheduled before the board of commissioners to consider the proposed suspension or revocation of said license. The licensee whose license is the subject of the aforesaid hearing shall be given adequate written notice by the county of the time and place of the hearing. At the hearing, the licensee shall be entitled to legal representation, and shall have the right to present witnesses and to cross-examine any witnesses presented by the county. No hearing provided for herein shall be conducted sooner than ten days from the date of issuance of the citation. The board of commissioners shall not be bound by the traditional rules of evidence in hearings conducted hereunder. Rules of evidence as applied in an administrative hearing shall apply.
- C. Notwithstanding all other provisions of this chapter, the board of commissioners shall have the sole discretion as to whether to suspend or revoke the license of a licensee thereby halting the operation of that licensee's adult entertainment establishment, adult bookstore, adult video store, bathhouse, or escort bureau for the violation of the provisions of any ordinance of Hall County, or for the violation of any law, rule, or regulation of the State of Georgia. Further, the board of commissioners may, at their discretion, set terms and conditions upon suspension of a license which must be followed by the licensee in order to have the license removed from suspension, or may place the licensee on probation for a period of time during which time the licensee may continue to operate his business. During the period of such probation as established after hearing by the board of commissioners, in the event of any subsequent violation of the laws and regulations of Hall County or the State of Georgia, the board of commissioners may thereafter either suspend the license, continue the period of probation, or revoke the violator's adult entertainment license.
- D. The board of commissioners may choose to revoke such a license at the first hearing following any alleged violation. Neither probation nor suspension is a procedural precondition to revocation of a license issued under this chapter. The action of the board of commissioners shall be final.

(Res. of 11-9-92; Code 1991, § 5.06.260; Res. of 4-11-96, § 2)

5.20.270. Removal of signs upon revocation or suspension of license.

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

(Res. of 11-9-92; Code 1991, § 5.06.270; Res. of 4-11-96, § 2)

5.20.280. Falsified license applications.

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

(Res. of 11-9-92; Code 1991, § 5.06.280; Res. of 4-11-96, § 2)

5.20.290. Special provisions for adult dancing establishments.

The following provisions shall apply to adult dancing establishments in addition to all other provisions of this chapter:

- A. The licensee shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed as dancers or entertainers.
- B. All dancing and entertainment shall occur on a platform intended for that purpose which is raised at least two feet from the next highest level of the remainder of the floor.
- C. No dancing or entertaining shall occur closer than ten feet from any person.
- D. No dancer or entertainer shall fondle or caress any patron and no patron shall fondle or caress any dancer.
- E. No patron shall directly pay or give any gratuity to any dancer or entertainer.
- F. No dancer or entertainer shall solicit any pay or gratuity from any patron.

(Res. of 11-9-92; Code 1991, § 5.06.290; Res. of 4-11-96, § 2)

5.20.300. Zones where establishments permitted.

No adult entertainment establishment, adult business, adult video store, bathhouse, or escort bureau shall be located on any premises unless the location has been zoned highway business district (HB), light industrial district (I-I) or heavy industrial district (I-II) under the zoning laws of Hall County.

(Res. of 11-9-92; Code 1991, § 5.06.300; Res. of 4-11-96, § 2)

Cross reference(s)--Zoning regulations, tit. 17.

5.20.310. Design and maintenance of premises.

- A. No adult entertainment establishment shall be conducted, operated, or licensed if the adult entertainment activity on the interior is visible from the exterior of the premises.
- B. No booth, screen, partition, or other obstruction shall be permitted within the interior of any such establishment so as to prevent a clear view through the premises, except to separate offices, kitchens, rest rooms, or other areas not frequented by patrons.
- C. All premises shall be kept clean and in proper sanitary condition. Each premises shall be cleaned at least once daily and more frequently when necessary. This activity shall be supervised by the person in charge of the premises. There shall be provided adequate facilities, equipment, and supplies on the premises to meet this requirement, and adequate ventilation and illumination shall be provided to permit thorough, complete cleaning of the entire licensed premises. Trash and garbage shall not be permitted to accumulate or to become a nuisance on or in the immediate vicinity of the licensed premises but shall be disposed of daily or more frequently if necessary to prevent accumulation.
- D. No premises for an adult entertainment establishment, adult business, adult video store, bathhouse, or escort bureau shall have any interior connections or door with any other place of business or with any place where gambling or other illegal activity is conducted, or where persons congregate for the illegal consumption, sale, possession, barter, manufacture, exchange, purchase, dispensation, delivery, or dealing in of alcoholic beverages or illegal substances such as narcotics or marijuana.

(Res. of 11-9-92; Code 1991, § 5.06.310; Res. of 4-11-96, § 2)

5.20.320. Display of license and license number.

Each licensee shall have printed on the front window of the licensed premises the inscription, "Hall County License No. _____, _____ Licensee" in uniform letters not less than three inches in height.

The license itself shall be conspicuously displayed at all times within the premises.

(Res. of 11-9-92; Code 1991, § 5.06.320; Res. of 4-11-96, § 2)

5.20.330. Lighting.

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

(Res. of 11-9-92; Code 1991, § 5.06.330; Res. of 4-11-96, § 2)

5.20.340. Advertising prohibited activity.

It shall be unlawful for any operator of an adult entertainment establishment, adult business, adult video store, bathhouse, or escort bureau, regardless of whether it is licensed under this chapter, to advertise the

presentation of any activity prohibited by this chapter, any applicable state statute, or any applicable local ordinance.

(Res. of 11-9-92; Code 1991, § 5.06.340; Res. of 4-11-96, § 2)

5.20.350. Regulation of obscenity.

It is not the intent of the board of commissioners that this ordinance [chapter] legislate or regulate with respect to matters of obscenity. The regulation of obscenity is a matter of state law, and is accomplished by O.C.G.A. §§ 16-12-80--16-12-83.

(Res. of 11-9-92; Code 1991, § 5.06.350; Res. of 4-11-96, § 2)

5.20.360. Effective date.

This chapter shall become effective immediately upon its adoption.

(Res. of 11-9-92; Code 1991, § 5.06.360; Res. of 4-11-96, § 2)

5.20.370. Sale and consumption of alcoholic beverages prohibited.

A. No person, association, partnership or corporation licensed under chapter 5.20 of title 5 of the Official Code of Hall County after April 11, 1996, shall serve, sell, distribute or suffer the consumption or possession of any intoxicating liquor, beer or wine or controlled substance upon the premises of any licensee. Any licensee whose license was granted prior to the adoption of this amendment shall not be subject to this amendment until December 31, 1996, at which time all licensees within the unincorporated area of Hall county shall be subject to this provision, including those licensees licensed before the effective date hereof.

B. This section (5.20.370) shall not apply nor prohibit the live performance of legitimate plays, operas, ballets at mainstream theaters, concert halls, museums or educational institutions holding a license, which derive less than 20 percent of its gross receipts from the sale of alcoholic beverages.

(Res. of 4-11-96, §§ 1, 2)

(Res. of 1; Res. of 9-9-99)