

ORDINANCE NO. 2943 NEW SERIES

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, REZONING APPROXIMATELY 4.66 ACRES ON LAND LOCATED AT THE NORTHEAST CORNER OF NORTH 63<sup>RD</sup> AVENUE AND WEST HAYWARD AVENUE FROM R-4 (MULTIPLE RESIDENCE) TO M-1 (LIGHT INDUSTRIAL); AMENDING THE ZONING MAP; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Glendale Planning Commission held a public hearing on May 7, 2015 in zoning case ZON15-01 in the manner prescribed by law for the purpose of rezoning property located at the northeast corner of North 63<sup>rd</sup> Avenue and West Hayward Avenue, and approximately 900 feet south of Northern Avenue from R-4 (Multiple Residence) to M-1 (Light Industrial);

WHEREAS, due and proper notice of such Public Hearing was given in the time, form, substance and manner provided by law including publication of such notice in *The Glendale Star* on April 16, 2015; and

WHEREAS, the City of Glendale Planning Commission has recommended to the Mayor and the Council the zoning and of property as aforesaid and the Mayor and the council desire to accept such recommendation and rezone the property described on Exhibits A and B as aforesaid.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That land in Glendale, Maricopa County, Arizona located at the northeast corner of North 63<sup>rd</sup> Avenue and West Hayward Avenue, and approximately 900 feet south of Northern Avenue be rezoned from R-4 (Multiple Residence) to M-1 (Light Industrial).

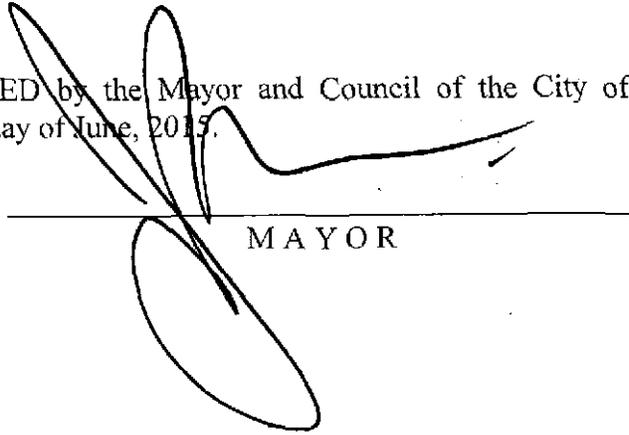
SECTION 2. That the rezoning herein provided for be conditioned and subject to the following:

1. Prior to the construction of any new buildings or structures on these properties, approval through the City of Glendale's Design Review process is required.

SECTION 3. Amendment of Zoning Map. The City of Glendale Zoning Map is herewith amended to reflect the change in districts referred to and the property described in Section 1 above.

SECTION 4. Effective Date. This Ordinance shall become effective at the time and in the manner prescribed by law.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 23<sup>rd</sup> day of June, 2015.



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MAYOR

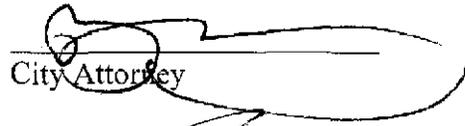
ATTEST:



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City Clerk (SEAL)

APPROVED AS TO FORM:



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City Attorney

REVIEWED BY:



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Acting City Manager

## Exhibit A

DELETIONS SHOWN BY ~~STRIKETHROUGH~~  
ADDITIONS SHOWN BY UNDERLINE

### Amendments to Glendale City Code, Chapter 21.2, Sexually Oriented Businesses

#### Chapter 21.2 - SEXUALLY ORIENTED BUSINESSES

#### ARTICLE I. - IN GENERAL

##### Sec. 21.2-1. - Findings.

- (a) The city council makes the following findings based on evidence concerning the secondary effects of sexually oriented (adult) businesses on the community presented in reports made available to the city council:
- (1) Adult businesses cause secondary effects which are detrimental to the public health, safety and welfare and which are set forth in more detail in subsections (a)(2) through (a)(12) of this section.
  - (2) Adult businesses lend themselves to ancillary unlawful and unhealthy activities and are frequently used for *unlawful sexual activities, including public sexual indecency and prostitution, and sexual encounters of a casual nature.*
  - (3) Adult businesses which feature live performances or activities involving nude or semi-nude persons, including adult cabarets, escort bureaus, nude model studios, semi-nude businesses and topless bars, lend themselves to unlawful and unhealthy activities that are presently largely uncontrolled by the operators of such businesses, and such businesses require special supervision from public safety agencies.
  - (4) Sexual acts and other sexual contact occur at businesses which allow live performances featuring nude or semi-nude entertainers. Such acts result from the inability or unwillingness of the operators to control sexual activity and/or the physical layout of such businesses, which generally permits one-on-one performances by entertainers whose activities are difficult for the operators to monitor. Sexual acts are especially likely at adult businesses which provide private or semi-private areas, booths or rooms for viewing live performances, and offering and providing such areas encourages sexual activities.
  - (5) The operating characteristics of adult businesses raise substantial government concerns, including health concerns over the spread of sexually transmitted and possibly fatal diseases, and should be reasonably regulated in order to protect those substantial governmental concerns.
  - (6) Adult businesses require minimum standards and regulations to protect and preserve the public health, safety and welfare.
  - (7) Establishing regulations on the place and manner of activities in adult businesses by limiting live performances to locations open to public viewing and by minimizing contact between employees and patrons will serve as a deterrent to and help curb the illegal sexual activity and other casual sexual conduct occurring in adult businesses.
  - (8) Establishing a reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the operators and managers of adult businesses. Further, such a licensing procedure will place an incentive on operators and managers to see that adult businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensees are the actual operators and managers of the adult business, and fully in possession and control of the premises and activities occurring therein.

- (9) The regulation of nudity and semi-nudity, and manner of entertainment, in adult businesses will further the substantial governmental interests in preventing prostitution and other sex related crimes, including illegal sex acts, and in protecting the public health, safety and welfare.
  - (10) Requiring visibility, sufficient lighting and monitoring of patron activities in adult businesses will advance the substantial governmental interests in curbing the illegal and unsanitary sexual activity occurring in adult arcades and adult theaters and will facilitate enforcement of the provisions of this chapter and other state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.
  - (11) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of adult businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this chapter and other state and local laws, thereby furthering the substantial governmental interest in protecting the public health, safety and welfare.
  - (12) A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate, manage or be employed in an adult business. Barring such persons from the operation and management of and employment in sexually oriented businesses for a period of five (5) years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.
- (b) In making the findings set forth in subsection (a) of this section, the city council has relied upon the "Adult Business Factual Record and Studies" which are on file with the tax and license division of the finance department.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-2. - Purpose.

It is the city council's intent in adopting this chapter to regulate adult businesses in a manner necessary to protect the health, safety and welfare of the public and of employees and patrons of such businesses; to reduce the incidence of criminal behavior which may occur at adult businesses; to place the burden of ensuring compliance with the provisions of this chapter on operators, managers and employees of adult businesses; and to prohibit certain adult businesses which are deemed to be public nuisances.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-3. - Applicability of ordinance to existing businesses; annexation.

- (a) Except as otherwise specifically provided for in this chapter, the provisions of this chapter shall apply to all persons and adult businesses within the city, regardless of whether such persons or businesses commenced their activities before or after the effective date of the ordinance codified in this chapter.
- (b) Any person who was operating an adult business within the city prior to the effective date of the ordinance codified in this chapter and who is required to make substantial permanent changes to his or her adult business premises by any provision of this chapter, including changes in the configuration and lighting of such premises, shall not be required to make such changes for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, provided that any such person shall be deemed to be unlawfully operating an adult business if he or she continues to operate such business without making the required changes to the premises within one hundred twenty (120) days after the effective date of the ordinance codified in this chapter.
- (c) If an existing adult business is located in an area that is annexed by the city after the effective date of the ordinance codified in this chapter, any provisions of this chapter that require the licensing of operators, managers or employees of such business, or that require an operator of such business to make substantial permanent changes to the adult business premises, shall not apply for a period of one hundred twenty (120) days after the effective date of the annexation. Any operator, manager or employee of such business shall be deemed to be unlawfully operating or working without a

license if he or she fails to apply for and obtain all required adult business licenses and identification cards within one hundred twenty (120) days after the effective date of the annexation. Any operator of such business who is required to make substantial permanent changes to the adult business premises shall be deemed to be acting unlawfully if he or she continues to operate such business without making the required changes within one hundred twenty (120) days after the effective date of the annexation.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-4. - Definitions.

Unless the context clearly indicates otherwise, any word, term or phrase defined in any section in this chapter shall have the same meaning throughout this chapter. The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Adult arcade:** Any place to which the public is permitted wherein money-operated, token-operated or credit-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine in any viewing room of one hundred fifty (150) square feet or less at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**Adult bookstore or novelty store:** Any commercial establishment:

(a) Which as one of its principal business uses offers for sale or rental, for any consideration, any of the following:

- (1) Books, magazines, periodicals or other printed materials, which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas; or
- (3) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding condoms and other birth control and disease prevention products; and

(b) Which regularly excludes all minors from the premises because of the sexually explicit nature of the items sold, rented or displayed therein.

For purposes of this definition, twenty-five percent (25%) or more of the establishment's merchandise constitutes a *principal business use*.

**Adult business or sexually oriented business:** Any adult arcade, adult bookstore, adult cabaret, adult motel, adult theater, escort bureau, nude model studio, semi-nude business or topless bar.

**Adult business license or sexually oriented business license:** Any license issued pursuant to this chapter, including temporary or annual licenses for operators, managers and employees of any adult business.

**Adult cabaret:** Any nightclub, bar, restaurant or other commercial establishment which features live performances or activities on the business premises that are characterized by the exposure of specified anatomical areas or by specified sexual activities; provided that a nude model studio is not an adult cabaret. The term "adult cabaret" is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite the patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

**Adult cabaret performer:** Any employee who provides live entertainment to patrons at an adult cabaret involving specified anatomical areas, specified sexual activities or semi-nudity.

**Adult motel:** Any hotel, motel or similar commercial establishment which:

- (a) Offers accommodations to the public for any consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of such photographic reproductions; or
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (c) Allows a tenant or occupant of a sleeping room to rent the room for a period of time that is less than ten (10) hours.

**Adult theater:** Any business establishment, other than an adult arcade or adult motel, used regularly for the business of exhibiting films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas, and from which all minors are regularly excluded because of the sexually explicit nature of such films, cassettes or reproductions.

**Consideration:** Money or money's worth, in the form of any fee, charge, commission, salary, wage or other payment.

**Contact:** Any physical contact that occurs through clothing or by means of any other object.

**Direct line of sight:** A straight line between the observer and the object being observed unobstructed by any wall, curtain, partition or other physical barrier that materially obstructs a view of the object being observed.

**Electronic benefit transfer card transaction (EBT):** The use of a credit or debit card service, automated teller machine or point-of-sale terminal or access to an online system for the withdrawal of cash assistance provided pursuant to A. R. S. Title 46, Chapter 2, Article 5, or for the processing of a payment for merchandise or a service from cash assistance provided pursuant to A.R.S. Title 46, Chapter 2, Article 5.

**Employee:** Any individual who is hired, engaged or authorized to perform any service for an adult business on a full-time, part-time or contract basis, whether the individual is designated an employee, independent contractor or otherwise. The term "employee" does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the licensee, nor an attorney, accountant or other person whose primary function is to provide professional advice and assistance to the licensee.

**Escort:** Any person who for any consideration is held out to the public as available for hire to consort with or to accompany another person to social affairs, places of amusement or entertainment, within any place of public resort, or within any private quarters.

**Escort bureau:** Any person who for any consideration furnishes, refers or offers to furnish or refer escorts, or provides or offers to introduce patrons to escorts.

**Escort runner:** Any person who is not an escort and who for any consideration, as the agent for either an escort bureau or an escort patron, contacts or meets with escort patrons or escort bureaus at any location other than the established open office.

**Establish:** *The opening or commencement of any adult business as a new business; the conversion of any existing business to any adult business; the addition of any adult business to any other existing adult business; or the relocation of any adult business.*

**Knowingly:** With respect to conduct or to a circumstance described in this chapter as an offense, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

**Licensee:** Any person to whom an adult business license is issued.

**Manager:** Any person who exercises general control over an adult business while working at the premises of such business.

**Manager's station:** Any portion of an adult business designated by the operator as an area in which a manager shall be placed to observe employee and/or patron conduct.

**Nonporous:** Excludes any wood, plywood, composition board or other porous material.

**Nude, nudity or state of nudity:** The appearance of the cleft of the buttocks, anus, genitals or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals or areola of the female breast.

**Nude model:** Any employee who appears nude or semi-nude at a nude model studio.

**Nude model studio:** Any place where a person appears nude or semi-nude, and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons for any consideration. The term "nude model studio" does not include a proprietary school that is licensed by this state; a college, community college or university that is supported entirely or in part by taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college or university that is supported entirely or in part by taxation; or a structure to which all of the following apply:

- (a) A sign is not visible from the exterior of the structure and no other advertising appears on the premises indicating that a nude or semi-nude person is available for viewing;
- (b) The business does not otherwise advertise itself as an adult business;
- (c) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and
- (d) Where no more than one nude or semi-nude model is on the premises at any one time.

**Operator:** Any natural person who owns an adult business or is required to be licensed under section 21.2-24 for any corporation, limited liability company, partnership, trust or other legal entity that owns an adult business.

**Person:** Any natural person, corporation, limited liability company, partnership, trust or other legal entity.

**Recklessly:** With respect to a result or to a circumstance described in this chapter as an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware of such risk solely by reason of voluntary intoxication also acts recklessly with respect to such risk.

**Semi-nude or semi-nudity:** A state of dress which shows the female breast below a horizontal line across the top of the areola at its highest point, or which shows the male or female buttocks. This definition shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, leotard, bathing suit or other wearing apparel, provided that the areola is not exposed in whole or in part.

**Semi-nude business:** Any commercial establishment, other than an adult cabaret, nude model studio or topless bar, which features employees who appear semi-nude before customers on the business premises. The term "semi-nude business" is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite the patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion of exploitation of semi-nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

**Semi-nude business performer:** Any employee of a semi-nude business who appears semi-nude at such business.

Specified anatomical areas: Human genitals in a state of sexual arousal; the appearance of the cleft of the buttocks, anus, genitals or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals or areola of the female breast.

Specific sexual activities: Any of the following activities:

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- (b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (c) Masturbation, actual or simulated; or
- (d) Excretory functions as part of or in connection with any activities set forth in subsections (a) through (c) of this definition.

Tax and license manager: The person designated by the city to act as tax and license manager, regardless of such person's official Title with the city.

Topless bar: Any establishment which is required to hold a liquor license under Arizona law and which offers semi-nude performers as entertainment.

Topless bar performer: Any employee of a topless bar who appears semi-nude at such bar.

Viewing room: Any room, booth or area where a patron of an adult business would ordinarily be positioned while watching a film, video cassette or other video reproduction.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-5. - Compliance with administrative regulations.

The chief of police and the tax and license manager may adopt such rules and regulations as they deem necessary to implement and enforce the provisions of this chapter; provided that such rules and regulations are consistent with this chapter and are approved by the city manager. All persons who are required to be licensed under this chapter shall comply with all rules and regulations so adopted.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-6. - Compliance with other laws.

The issuance of an adult business license shall not be construed as authority to engage in any activity which is in violation of any other law or regulation to which such activity is subject, or to conduct activities on any property in violation of the zoning ordinance.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-7. - Violations.

It shall be unlawful for any person having a duty under this chapter to recklessly or knowingly fail to fulfill that duty, or for any person to otherwise recklessly or knowingly violate any provision of this chapter.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-8. - Injunction.

The operation of any adult business without the required adult business license shall constitute a nuisance, and any person who operates such business without such license shall be subject to a suit for injunctive relief.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-9. - Severability.

If any provision of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect the validity of the remaining provisions of this chapter, all of which are hereby declared to be severable from each other.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-10—21.2-19. - Reserved.

ARTICLE II. - LICENSES

Sec. 21.2-20. - Classification of businesses and employees.

(a) Adult businesses shall be classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or novelty stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult theaters;
- (6) Escort bureaus;
- (7) Nude model studios;
- (8) Semi-nude businesses; or
- (9) Topless bars.

(b) Owners, operators and employees of adult businesses shall be classified as follows:

- (1) Operators;
- (2) Managers;
- (3) Adult cabaret performers;
- (4) Escorts;
- (5) Nude models;
- (6) Semi-nude business performers;
- (7) Topless bar performers; or
- (8) Other employees or persons associated with adult businesses who are not defined as operators and who perform no activities as managers, adult cabaret performers, escorts, nude models, semi-nude business performers or topless bar performers.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-21. - Licenses required.

(a) Subject to subsections (b) and (c) of this section, it shall be unlawful for any person to:

- (1) Operate an adult business without first having obtained an operator's license issued under this chapter;
- (2) Operate an adult business at any time without the presence on the adult business premises of a manager who possesses a manager's license and identification card issued under this chapter;
- (3) Employ a manager, adult cabaret performer, escort, nude model, semi-nude business performer or topless bar performer who does not possess a manager's, adult cabaret performer's, escort's, nude model's, semi-nude performer's or topless bar performer's license and identification card issued under this chapter; or
- (4) Work in an adult business as a manager, adult cabaret performer, escort, nude model, semi-nude business performer or topless bar performer without having first obtained a manager's, adult cabaret performer's, escort's, nude model's, semi-nude performer's or topless bar performer's license and identification card under this chapter.

- (b) The provisions of this section shall not apply to organizations providing escort services which are exempt from licensing under section 21.2-81(a).
- (c) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to any person who was operating an adult business within the city, or who was employed as a manager, adult cabaret performer, escort, nude model, semi-nude business performer or topless bar performer within the city, prior to the effective date of the ordinance codified in this chapter; provided that any such operator, manager or employee shall be deemed to be unlawfully operating or working without a license if he or she fails to apply for and obtain all required adult business licenses and identification cards within one hundred twenty (120) days after the effective date of the ordinance codified in this chapter.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-22. - Separate licenses and fees for separate activities required; exceptions.

- (a) If adult businesses of more than one classification are operated at one location, each operator of such businesses shall be required to obtain a separate operator's license, and pay the application and license fees therefor, for each such classification of businesses.
- (b) Each operator of an adult business with multiple operators shall obtain a separate operator's license for such business. Only the prime operator of an adult business with multiple operators shall be required to pay the annual license fees for such business. For billing purposes, the tax and license manager may at any time designate and re-designate one operator of an adult business as the prime operator of such business, and all other operators shall be designated as sub-operators of such business. The obligations of a prime operator and a sub-operator under this chapter are the same, except for the payment of any required fees.
- (c) An operator of an adult business who also acts as a manager of such business shall be required to obtain separate operator's and manager's licenses for such business; provided that such operator/manager shall be required to pay only the application and license fees applicable to an operator's license for such business.
- (d) Only one license is required for each manager of adult businesses, regardless of how many adult businesses or classifications of such businesses he or she is employed by. An adult business manager shall give written notification to the tax and license manager of any change of employment as an adult business manager, no later than ten (10) days after such change.
- (e) Only one license, which may be designated as a "performer's/model's license," is required for each adult cabaret performer, nude model, semi-nude business performer or topless bar performer, regardless of how many adult cabarets, nude model studios, semi-nude businesses or topless bars he or she is employed by. Each such employee shall give written notification to the tax and license manager of any change of employment as a performer/model, no later than ten (10) days after such change.
- (f) Only one license is required for each escort, regardless of how many escort bureaus he or she is employed by. Each escort shall give written notification to the tax and license manager of any change of employment as an escort, no later than ten (10) days after such change.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-23. - Issuance standards.

- (a) No person shall be licensed under this chapter if such person:
  - (1) Recklessly or knowingly makes any false or misleading material statement in the course of applying for or renewing an adult business license, for a period of one year after making the false or misleading statement;
  - (2) Is under the age of eighteen (18) years, provided that any person who is issued a performer's/model's license shall not be permitted to use such license as a topless bar performer until such licensee is at least nineteen (19) years old.

(3) Has been denied an adult business license or had such license revoked in any jurisdiction, for a period of one (1) year following the final denial or revocation decision; or

(4) Subject to subsections (b) and (c) of this section, has been convicted of any of the following offenses under Arizona law or any offense committed under the laws of another state which would constitute one of the following offenses described in Arizona Revised Statutes, title 13, chapters 14, 32, 35 and 35.1, as amended:

- a. Indecent exposure.
- b. Public sexual indecency; public sexual indecency to a minor.
- c. Sexual abuse.
- d. Sexual conduct with a minor.
- e. *Sexual assault.*
- f. Sexual assault of a spouse.
- g. Molestation of child.
- h. Continuous sexual abuse of a child.
- i. Enticement of person for purpose of prostitution.
- j. *Procurement by false pretenses of person for purposes of prostitution.*
- k. Procuring or placing persons in house of prostitution.
- l. Receiving earnings of prostitute.
- m. Causing spouse to become prostitute.
- n. Taking child for purpose of prostitution.
- o. Detention of persons in house of prostitution for debt.
- p. Keeping or residing in house of prostitution.
- q. Pandering.
- r. Transporting persons for purpose of prostitution or other immoral purpose.
- s. Child prostitution.
- t. Production, publication, sale, possession and presentation of obscene items.
- u. Coercing acceptance of obscene articles or publications.
- v. Furnishing obscene or harmful items to minors.
- w. Public display of explicit sexual materials.
- x. Films, photographs or motion pictures of minors.
- y. Obscene or indecent telephone communications to minors for commercial purposes.
- z. Sale or distribution of materials harmful to minors through vending machines.
- aa. Commercial sexual exploitation of a minor.
- bb. Sexual exploitation of a minor.
- cc. Portraying adult as minor.
- dd. Admitting minors to public displays of sexual conduct.
- ee. Attempt, solicitation, conspiracy or facilitation to commit any of the foregoing offenses.

(b) No person shall be licensed under this chapter for the following periods of time if such person has been convicted of any offenses specified in subsection (a) of this section:

- (1) If there is only one (1) misdemeanor conviction, a period of two (2) years after the later of the date of conviction or the date of release from confinement imposed for such conviction;
  - (2) If there are two (2) or more misdemeanor convictions within a five (5)-year period, a period of five (5) years after the later of the date of the last conviction or the date of release from confinement imposed for any such conviction;
  - (3) If there is a felony conviction, a period of five (5) years after the later of the date of conviction or the date of release of confinement imposed for the conviction.
- (c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-24. - Licenses for businesses owned by non-natural persons.

If an adult business is not owned and operated as a sole proprietorship, the entity which owns such business shall not be required to obtain its own operator's license but each of the following representatives of such entity shall be licensed as an operator of such business:

- (a) The president of an owner which is a corporation;
- (b) Each general partner of an owner which is a general partnership, limited partnership or limited liability partnership;
- (c) Each managing member of an owner which is a limited liability company, or if there are no designated managing members, all members;
- (d) Each trustee of an owner which is a trust;
- (e) For a corporate owner, any person who is the beneficial owner of at least fifty percent (50%) of the shares of the corporation; or
- (f) For a non-corporate owner, any person who shares, directly or indirectly, at least fifty percent (50%) of any financial gain attributable to the owner's business as an owner, proprietor, beneficiary or otherwise.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-25. - Background checks.

The chief of police or such other employee of the city as he or she may designate shall conduct a criminal history background check for each applicant for an adult business license. Each applicant shall be fingerprinted and photographed as a part of such investigation; provided that any natural person who has been fingerprinted by the city for any licensing purposes within one (1) year from the date of application for another license requiring a background check shall not be required to be fingerprinted a second time.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-26. - Application for license.

An application for an adult business license shall be made on forms furnished by the city and shall include the following information, to the extent such information is applicable, about the applicant:

- (a) The name, address and telephone number of such person;
- (b) All aliases, fictitious names and trade names used by such person. If the business is to be conducted under a name other than the legal name of the applicant, the applicant shall furnish copies of the fictitious name certificate recorded with the county recorder and any trade name registered with the Secretary of State;
- (c) Each residence address for such person for the five (5)-year period immediately preceding the date of filing the application and the inclusive dates of each such address;
- (d) Proof of such person's age by any of the following instruments showing a date of birth:

- (1) An unexpired driver's license issued by any state, provided such license includes a picture of the person;
  - (2) An identification license issued pursuant to Arizona Revised Statutes, section 28-3165;
  - (3) An armed forces identification card;
  - (4) An unexpired passport which is issued by a government and which contains a photograph of the person and date of birth; or
  - (5) Any other identification document issued by a government which has substantial indices of reliability.
- (e) Height, weight, color of eyes and hair, and date of birth;
- (f) The business, occupation or employment history for the five (5)-year period immediately preceding the filing of the application;
- (g) Whether such person has ever been denied any similar license or permit or has had any similar license or permit revoked or suspended and, if so, the name of the jurisdiction denying, revoking or suspending such license or permit and the date of and reasons for such denial, revocation or suspension;
- (h) The issuing jurisdiction and effective date of any license or permit issued to such person relating to an adult business;
- (i) All prior felony or misdemeanor charges, indictments or convictions for offenses specified in section 21.2-23
- (j) A description of all adult business services to be provided;
- (k) If the applicant is a representative of a corporation as defined in section 21.2-24, a copy of the articles of incorporation as filed with the corporation commission;
- (l) If the applicant is a representative of a limited liability company as defined in section 21.2-24, a copy of the articles of organization filed with the corporation commission;
- (m) If the applicant is a representative of a general partnership as defined in section 21.2-24, a copy of any written partnership agreement;
- (n) If the applicant is a representative of a limited partnership as defined in section 21.2-24, a copy of the certificate of limited partnership filed with the secretary of state;
- (o) If the applicant is a representative of a limited liability partnership as defined in section 21.2-24, a copy of the statement of qualifications filed with the secretary of state;
- (p) If the applicant is a representative of a trust as defined in section 21.2-24, a copy of any document by which such trust was created; and
- (q) The federal employer's identification number and state tax identification number.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-27. - Operator's diagram of premises.

- (a) This section shall apply to all adult businesses except for adult motels.
- (b) In addition to the requirements of section 21.2-26, each application for an operator's license shall include a sketch or diagram showing the configuration of all areas of the proposed adult business premises, unless such sketch or diagram has already been provided to the city by another operator at such premises. The sketch or diagram need not be professionally prepared but shall:
- (1) Be oriented to the north or to some designated street or object;
  - (2) To the extent applicable, show the location of all manager's stations, viewing rooms, video cameras and monitors installed for monitoring purposes, restrooms, general patron areas,

clearly designated areas in which patrons may be present, areas in which patrons are not permitted, stage areas, and any other distinct rooms or areas on the premises; and

- (3) Be drawn to a designated scale or with clearly marked dimensions sufficient to show the dimensions of all areas of the interior of the premises to an accuracy of plus or minus one (1) foot.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-28. - Initial inspection of premises; operator's duties.

An applicant for an operator's license shall make the adult business premises available for inspections by proper city officials during normal work hours prior to issuance of any temporary or annual license pursuant to section 21.2-30. Such inspections may be conducted at any time agreed upon by the city after the filing of an application, regardless of whether such application is complete. If the applicant and the city cannot agree on inspection dates prior to the filing of a complete application, the applicant shall, at such time as the tax and license manager gives the applicant notice that the application is deemed to be complete, immediately give the tax and license manager written notification of at least three different dates and times during normal business hours within the next ten (10) days when the applicant will be available at the business premises for inspection purposes. Failure of an applicant to be at the premises at the times stated in such notice to the tax and license manager shall be grounds for denying an operator's license pursuant to section 21.2-30 until such time as the city is able to perform any required inspections at agreed-upon times.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-29. - Fees.

- (a) The application and license fees for adult business licenses shall be set by resolution. The city may set different application and license fees for an applicant who has not previously been issued an adult business license for the calendar year in which he or she submits an application and an applicant who has been issued an adult business license for the calendar year in which he or she submits an application and who is required to obtain a new license due to a change in the location of his or her business.
- (b) Each applicant for an adult business license shall submit a full set of fingerprints to the City of Glendale for the purpose of obtaining a state and federal criminal records check pursuant to A. R. S. § 41-1750 and Public Law (PL) 92-544. The department of safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. In addition to any other fees imposed under this article, an applicant for an adult business license issued under this article shall pay an amount necessary to cover the costs of federal fingerprint processing or federal criminal history record information checks. The specific amount of such additional fee shall be set by administrative order based upon information received by the department of public safety, as to the costs of fingerprint processing and record information checks. The additional fees collected pursuant to this subsection shall be transmitted to the department of public safety as required by Arizona Revised Statutes section 41-1750, as amended.
- (c) No application or fingerprinting fees paid pursuant to this chapter shall be returned to an applicant if his or her application is withdrawn or denied. No license fee paid pursuant to this chapter shall be returned to a licensee if his or her temporary or annual license is suspended or revoked.
- (d) No application for an adult business license shall be deemed complete for purposes of processing the application and issuing a license under section 21.2-30 until all application, fingerprinting and license fees required by this section have been paid.

(Ord. No. 2273 § 6, 7-23-02; Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-30. - Issuance of temporary and annual licenses; expiration; renewal.

- (a) While an application for a manager's, escort's or performer's/model's license is pending, including any appeal of a denial of such license, the applicant shall not file a second application for a license of the same classification. While an application for an operator's license is pending, including any

appeal of a denial of such license, the applicant shall not file a second application for an operator's license of the same business classification for the same location.

- (b) No adult business license shall be issued until the applicant has filed a complete application for such license and, if applicable, has complied with section 21.2-28. The tax and license manager shall notify the applicant, orally or in writing, within five (5) days after the filing of an application, whether the city deems the application to be complete or, if not, the additional information the city needs in order for the application to be complete. If an applicant submits additional information to the tax and license manager after receiving notification that his or her application is incomplete, the tax and license manager shall notify the applicant, orally or in writing, within five (5) days after the applicant has submitted all information required by this article, that the application is now deemed to be complete.
- (c) The tax and license manager shall approve or deny an application for an adult business license *within sixty (60) days after the receipt of a complete application*. If the tax and license manager fails to approve or deny the application within such sixty (60)-day period, the application shall be deemed to be approved. The tax and license manager shall approve the application and issue an annual license unless any of the following requirements are not met:
  - (1) The applicant is disqualified from obtaining a license under section 21.2-23
  - (2) The applicant fails to comply with section 21.2-28
  - (3) The applicant is delinquent in the payment of any taxes, fees, fines or penalties imposed upon the applicant relating to any adult business activity of the applicant in the city, and such delinquency is not cured within the sixty (60)-day processing period; or
  - (4) The applicant's proposed business location is not permitted under the city's zoning ordinance or under any other applicable law.
- (d) The tax and license manager shall, no later than fifteen (15) days after the filing of a complete application for an adult business license, issue a temporary license that is valid for a period of sixty (60) days from the date of such application, unless the tax and license manager *denies the application within such fifteen (15)-day period pursuant to subsection (c)(1) of this section or denies the issuance of a temporary license pursuant to subsections (c)(2) through (c)(4) of this section*. If a temporary license is denied pursuant to subsections (c)(2) through (c)(4) of this section but the applicant cures any such defects in his or her application *within the sixty (60)-day processing period*, the tax and license manager shall issue a temporary license for the remainder of such sixty (60)-day period at such time as the defects in the application have been cured. The temporary license shall authorize the applicant to perform the services specified in the application while the application is pending, shall expire at the end of the sixty (60)-day processing period without any further action on the city's part, and shall not be extended for any reason beyond such sixty (60)-day period.
- (e) Whenever an adult business license is denied, the tax and license manager shall serve a notice of such denial, *including the reasons therefor, on the applicant*. Such notice shall be personally served on the applicant or mailed to the applicant's last known address by certified mail. The denial shall be deemed effective for appeal purposes upon service or mailing of such notice and may be appealed pursuant to section 21.2-32. If a license is denied, except for a denial of a temporary license pursuant to subsections (c)(2) through (c)(4) and (d) of this section, *the applicant may reapply for an adult business license only in accordance with section 21.2-23 (a)(3)*.
- (f) Any annual adult business license shall be valid only for the calendar year in which it is issued. Each such license expires on December 31 of each year and must be renewed on or before January 31 of the following year by filing an application for renewal, paying the applicable renewal fee and submitting and additional documentation required by this chapter. The application, payment for renewal and additional required documentation must be received by the tax and license manager by January 31 to be deemed timely filed.
- (g) Persons whose initial applications for adult business licenses are received by the city after March 31 of any year shall be subject to an initial license fee on a prorated basis as follows:

| Business Start Date   | Proration of License Fee |
|-----------------------|--------------------------|
| April 1—June 30       | 75%                      |
| July 1 September 30   | 50%                      |
| October 1—December 31 | 25%                      |

The applicable proration percentage shall be applied to the annual license fee set by resolution to determine the initial license fee.

- (h) Any person who fails to renew an adult business license by January 31 of any year and who conducts any activity covered by such license after such date shall be deemed to be operating without a license, shall be subject to all penalties imposed under this chapter against persons unlawfully operating without a license, and shall be subject to a penalty of fifty percent (50%) of the annual license fee which would have been imposed on the date on which the adult business license expired in addition to payment of the applicable license fee. All license fees and penalties owed by a person pursuant to this subsection must be paid before a new adult business license is issued to such person.
- (i) Any person who is required to obtain an adult business license and fails to do so prior to conducting any activity covered by such license shall be subject to a penalty of fifty percent (50%) of the annual license fee which would have been imposed on the date on which such activities commenced in addition to payment of the applicable license fee. All license fees and penalties owed by a person pursuant to this subsection must be paid before an adult business license is issued to such person.
- (j) No adult business license shall be renewed unless the licensee is in compliance with all provisions of this chapter at the time of renewal.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-31. - Revocation or suspension.

- (a) The tax and license manager may suspend any adult business license for a specified period not to exceed thirty (30) days, or revoke such license, for any of the following reasons:
  - (1) The licensee has violated or is not in compliance with sections 21.2-33, 21.2-34, 21.2-35, 21.2-40, 21.2-41, 21.2-42, 21.2-43, 21.2-44, 21.2-45, 21.2-46, 21.2-51, 21.2-52, 21.2-60, 21.2-61, 21.2-71, 21.2-72, 21.2-73, 21.2-74, 21.2-83, 21.2-84, 21.2-85, 21.2-100, 21.2-101, 21.2-102, 21.2-110, 21.2-111, 21.2-112, 21.2-113, 21.2-120, 21.2-131, 21.2-132 or 21.2-133, 21.2-134, or any applicable provisions of the zoning ordinance.
  - (2) The licensee recklessly or knowingly gives any false or misleading material statement in the course of applying for or renewing a license.
  - (3) The licensee, or any employee of a licensee, has recklessly or knowingly allowed prostitution on the adult business premises.
  - (4) The licensee has been convicted of an offense listed in section 21.2-23 for which the applicable time periods for disqualification have not expired.
  - (5) For an operator or manager, if on two or more occasions within any twelve (12)-month period, any employee of an adult business has committed any of the crimes specified in section 21.2-23 on the adult business premises, and convictions for such offenses have been obtained.
  - (6) The licensee, or any employee of a licensee, has recklessly or knowingly allowed any act of "sexual intercourse," "oral sexual contact" or "sexual contact," including masturbation, to occur on the adult business premises, as such terms are defined in Arizona Revised Statutes, section 13-1401, as amended. This subsection (a)(6) shall not apply to adult motels unless a licensee,

or any employee of a licensee, recklessly or knowingly allows any act of sexual intercourse, oral sexual contact or sexual contact to occur in a public place or in public view, or unless such licensee or employee recklessly or knowingly allows any act of sexual intercourse, oral sexual contact or sexual contact to occur at the motel, in exchange for any consideration paid or received by any person other than normal fees charged by the motel for room rentals.

- (7) The licensee is delinquent for a period of more than thirty (30) days in payment to the city of any taxes or fees related to the adult business.
- (b) The fact that a conviction is being appealed shall have no effect on the revocation or suspension of a license.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-32. - Appeal from denial, revocation or suspension of license.

- (a) If the tax and license manager determines that grounds exist for revocation or suspension of an adult business license, he or she shall give written notice of the city's intent to revoke or suspend such license to the licensee, which notice shall contain the reasons for the revocation or suspension and, if applicable, the period of the suspension. Such notice shall either be personally served on the licensee or mailed to the licensee's last known address by certified mail. The notice shall be deemed effective upon personal service of such notice on the licensee or upon mailing of such notice.
- (b) No later than twenty (20) days after the service of a notice of denial or a notice of intent to revoke or suspend an adult business license, the applicant or licensee may provide to the tax and license manager a written response to such notice, which shall include a statement of reasons why the license should not be denied, revoked or suspended and which may include a request for an administrative hearing on the denial, revocation or suspension. If an applicant does not file a written response to a notice of denial within such twenty (20)-day period, the applicant shall be deemed to have waived any appeal rights he or she would otherwise have under subsections (c) through (i) of this section. If a licensee does not file a written response to a notice of intent to revoke or suspend within such twenty (20)-day period, the tax and license manager shall revoke or suspend the license in accordance with such notice and shall serve a final notice of revocation or suspension on the licensee. Such final notice shall be personally served on the licensee or mailed to the licensee's last known address by certified mail. A revocation or suspension shall be deemed to be effective upon personal service of the final notice on the licensee or upon mailing of such notice.
- (c) If the applicant or licensee files a timely written response to a notice of denial or a notice of intent to revoke or suspend an adult business license, the tax and license manager shall, within fifteen (15) days after receiving the response:
  - (1) Withdraw the notice of denial or notice of intent to revoke or suspend by sending the applicant or licensee written notice of such withdrawal, if the tax and license manager determines from the response that a notice of withdrawal is appropriate; or
  - (2) Schedule an administrative hearing before a hearing officer on the notice of denial or notice of intent to revoke or suspend, if the applicant or licensee has requested such hearing; or
  - (3) Schedule an administrative hearing before a hearing officer on the notice of denial or notice of intent to revoke or suspend, if the tax and license manager desires such hearing based on a written response which does not include a request for hearing; or
  - (4) Forward a copy of the notice of denial or notice of intent to revoke or suspend, and the applicant's or licensee's written response thereto, to a hearing officer for a ruling on the written record, if neither the applicant or licensee nor the city requests an administrative hearing.
- (d) If a licensee files a timely written response to a notice of intent to revoke or suspend, the revocation or suspension shall not take effect until after the hearing officer issues a written ruling on such response and, if the hearing officer upholds the revocation or suspension, the city serves a final notice of revocation or suspension on the licensee. Such final notice shall be personally served on the licensee or mailed to the licensee's last known address by certified mail. The revocation or

suspension shall be deemed to be effective upon personal service of the final notice on the licensee or upon the mailing of such notice.

- (e) If the tax and license manager fails to act in a timely manner in accordance with subsection (c) of this section, the notice of denial or notice of intent to revoke or suspend shall be deemed to be withdrawn without prejudice by the city.
- (f) Any hearing held pursuant to subsections (c)(2) or (c)(3) of this section shall be scheduled no later than thirty (30) days after the filing of the applicant's or licensee's written response. The city manager shall appoint a hearing officer to conduct a hearing in accordance with this section. The hearing officer shall not be a member of the city's tax and license division or police department.
- (g) Any hearing held pursuant to this section shall be conducted in an informal manner. The hearing officer shall hear such testimony and consider such evidence as is relevant to the determination of all issues relating to the applicant's or licensee's qualifications for obtaining and holding an adult business license. The hearing officer shall not be bound by technical rules of evidence or procedure in conducting the hearing. All parties to the administrative proceeding shall have the right to be represented by counsel, to present witnesses and to cross-examine witnesses. The burden of proof at the hearing shall be:
  - (1) On the applicant to establish, by a preponderance of the evidence, that he or she meets all of the requirements to obtain a new adult business license; and
  - (2) On the city to establish, by a preponderance of the evidence, that grounds exist for revoking or suspending an adult business license.
- (h) The hearing officer shall render a written ruling no later than thirty (30) days after the completion of the hearing is concluded based on the evidence presented by the city and by the applicant or licensee. If neither the applicant or licensee nor the city has requested a hearing on the applicant's or licensee's written response to a notice of denial or notice of intent to revoke or suspend, the hearing officer shall render a written ruling on such response no later than thirty (30) days after such notice and response are forwarded to the hearing officer. If the hearing officer fails to render a written ruling within the thirty (30)-day period specified in this subsection, a decision in favor of the applicant or licensee shall be deemed to have been rendered.
- (i) When the hearing officer's decision to deny, revoke or suspend an adult business license becomes final, the applicant or licensee shall have the right to seek judicial review of the decision by way of special action or other available procedure in the superior court. The city shall consent to an expedited hearing after the filing of the action and service of the appropriate documents on the city.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-33. - Non-transferability of licenses.

- (a) No operator's license shall be transferred between persons or locations. No person shall operate an adult business at any place other than the licensed premises specified in the operator's license.
- (b) No adult business license for a manager, adult cabaret performer, escort, nude model, semi-nude business performer or topless bar performer shall be transferred between persons.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-34. - Display of license.

- (a) An adult business operator shall at all times display his or her adult business license in a conspicuous place at the licensed business premises.
- (b) A manager, adult cabaret performer, escort, nude model, semi-nude business performer or topless bar performer shall have his or her adult business license readily available for inspection, on his or her person or at the adult business premises, at all times during which he or she is engaging in such licensed business activities within the city and shall display such license upon request to any law enforcement officer or any city official whose duties are related to licensing.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-35. - Identification cards for adult business employees.

- (a) The tax and license manager shall issue to each manager, adult cabaret performer, escort, nude model, semi-nude business performer and topless bar performer an identification card containing a current photograph of such licensee. Each identification card shall expire on December 31 of the year in which it is issued, except for temporary identification cards which specify a different expiration date. The licensee shall obtain a new identification card on or before January 31 of the following year by presenting himself or herself to the tax and license division for photographing.
- (b) At all times that a licensee is acting as a manager, adult cabaret performer, nude model, semi-nude business performer or topless bar performer, such licensee shall have his or her identification card readily available for inspection at the adult business premises. A manager, adult cabaret performer, nude model, semi-nude business performer or topless bar performer shall display his or her identification card upon request to any law enforcement officer or any city official whose duties are related to licensing.
- (c) At all times that a licensee is acting as an escort, such licensee shall carry his or her identification card on his or her person. An escort shall display his or her identification card upon request to any person considering doing business with such licensee or to any law enforcement officer or any city official whose duties are related to licensing.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-36—21.2-39. - Reserved.

#### ARTICLE III. - ADDITIONAL REGULATIONS

##### DIVISION 1. - IN GENERAL

Sec. 21.2-40. - Periodic inspections.

- (a) It shall be unlawful for any adult business licensee to refuse to permit any law enforcement officer or any city official whose duties are related to licensing to inspect the videotapes of monitoring required to be made and maintained under section 21.2-51, or to refuse to permit such officer or official to inspect the adult business premises, for purposes of ensuring compliance with this chapter, at any time such premises are occupied or open for business.
- (b) The provisions of this section shall not apply to areas of an adult motel which are currently being rented to a customer for use as a temporary or permanent habitation.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-41. - Loitering; exterior lighting and monitoring requirements.

It shall be the duty of the operator and manager of any adult business to:

- (a) Initiate and enforce a "no loitering" policy within the external boundaries of the real property upon which such business is located.
- (b) Post conspicuous signs stating that no loitering is permitted on such property.
- (c) Designate an employee to monitor the activities of persons on such property at all times such business is open by visually inspecting such property at least once every thirty (30) minutes or inspecting such property by use of video cameras and monitors. Such video cameras and monitors, if used, shall operate continuously at all times that the premises are open for business, and the monitors shall be installed within a manager's station.
- (d) Provide adequate lighting of the exterior premises to allow visual inspection or video monitoring to prohibit loitering.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-42. - Changes to configuration of premises.

- (a) No operator shall make or allow to be made any material change in the configuration of the adult business premises to that configuration on file with the tax and license manager, unless such operator obtains the prior written approval of the tax and license manager for such change. The tax and license manager shall approve any proposed change to the configuration of the premises within thirty (30) days after receiving a complete, written application for such change, unless such change would result in a violation of this chapter. The application for a change in configuration must comply with the requirements of section 21.2-27(b) in order to be deemed a complete application.
- (b) In addition to the tax and license manager's approval for changes in the configuration of the adult business premises, the operator shall obtain all building permits and approvals from other city departments that may be necessary for such changes to the business premises.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-43. - Licensee's duty to update information.

Any adult business licensee shall, within ten (10) days after a material change to any information provided by such license in applying for and renewing his or her license, provide the tax and license manager with a written notice of such change. Any change of address provided by the licensee pursuant to this section shall be deemed to be the licensee's last known address for purposes of serving any notices on the licensee which are required or permitted under this chapter, until such time as the licensee provides the tax and license manager with further written notices of address changes pursuant to this section.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-44. - Operator's duty to ensure compliance by managers.

- (a) An adult business operator shall not allow any employee to work as a manager of such business until such employee has displayed to the operator a valid adult business manager's license and identification card. The operator shall require that all persons employed as managers maintain current licenses and identification cards at all times during which such employees work at the adult business. On or before January 31 of each year, the operator shall verify with each manager that such employee has renewed his or her manager's license and identification card.
- (b) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were operating adult businesses within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-45. - Duty to monitor restrooms.

- (a) If any restroom on the adult business premises is open to and may be locked by patrons using such restroom, it shall be the duty of the adult business operator and manager to regularly monitor such restroom to ensure that no more than one person is using such restroom at any time and that no illegal activities take place in such restroom.
- (b) For any restroom on the adult business premises which is not covered by subsection (a) of this section, it shall be the duty of the operator and manager to regularly monitor such restroom to ensure that no illegal activities take place in such restroom.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-46 – Operating requirements:

An adult business at which performers disrobe or perform in an unclothed state shall disable the ability of any automatic teller machines and point-of-sale terminals on the business' premises to accept the electronic benefit transfer card or process an electronic benefit transfer card transaction.

Secs. 21.2-47—21.2-49. - Reserved.

## DIVISION 2. - ARCADES

Sec. 21.2-50. - Non-applicability to adult motels.

The provisions of this division shall not apply to any adult motel, except to the extent that a portion of the motel premises are operated as an adult arcade in addition to the general operations of the motel.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-51. - Regulations for exhibition of explicit films by arcades.

Any adult arcade shall comply with the following requirements:

- (a) Restrooms shall not contain any video reproduction equipment.
- (b) It shall be the duty of the operator and manager to ensure that each viewing room is visible from a continuous main aisle and remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present in the premises and to ensure that no patron is permitted access to any areas of the premises which have been designated, in the operator's current diagram of the premises submitted under sections 21.2-27 and 21.2-42, as an area in which patrons will not be permitted. The provisions of this subsection shall not apply to any adult business that is required or elects to comply with the provisions of section 21.2-52
- (c) The interior premises, with the exception of any viewing rooms and the aisles contiguous to each viewing room, shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot-candle as measured at the floor level. Each viewing room and the aisles contiguous to such viewing room shall be illuminated with lighting fixtures of sufficient intensity to provide an illumination of not less than 0.75 foot-candle as measured at three (3) feet above floor level. It shall be the duty of the operator and manager to ensure that the illumination described above is maintained at all times that the premises are open for business.
- (d) It shall be the duty of the operator and manager to ensure that no act of "sexual intercourse," "oral sexual contact" or "sexual contact," including masturbation, as defined in A.R.S. section 13-1401, as amended, occurs on the adult business premises.
- (e) It shall be the duty of the operator and manager to ensure that no more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
- (f) It shall be the duty of the operator, manager and any employee who discovers two or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms to immediately remove such person from the premises.
- (g) It shall be the duty of the operator, manager and any employee who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and to prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repair of openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.
- (h) It shall be the duty of the operator and manager, during each business day, to regularly inspect the walls between viewing rooms for openings of any kind.
- (i) It shall be the duty of the operator and manager to initiate and enforce a "no loitering" policy in viewing rooms.
- (j) It shall be the duty of the operator and manager to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
  - (1) That no loitering is permitted in viewing rooms.
  - (2) That the occupancy of viewing rooms is limited to one person.

- (3) That sexual intercourse, oral sexual contact and sexual contact, including masturbation, are prohibited.
  - (4) That the making of openings between viewing rooms is prohibited.
  - (5) That violators will be required to leave the premises.
  - (6) That violations of subsections (j)(1) through (j)(4) are unlawful.
- (k) It shall be the duty of the operator and manager to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (j) It shall be the duty of the operator and manager to ensure that all wall surfaces and seating surfaces in viewing rooms, restrooms, or other rooms or areas providing patron privacy, are constructed of or permanently covered by nonporous, easily cleanable material.
- (m) It shall be the duty of the operator and manager to ensure that the premises are clean and sanitary at all times. Cleaning procedures shall include all of the following:
- (1) The operator and manager shall maintain a regular cleaning schedule, documented by appropriate logs, and shall employ sufficient personnel to assure the establishment is clean.
  - (2) The operator and manager shall provide an employee to check all areas for trash, body fluids and excrement and to promptly remove such materials and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection, solid waste shall be stored in a manner that prevents access by animals or members of the public and that will not facilitate the creation of a health nuisance.
  - (3) Thorough cleaning of the entire interior of any viewing room shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, windows and other surfaces.
- (n) It shall be the duty of the operator and manager to monitor the number of occupants in each viewing room. Monitoring shall be accomplished by one of the following methods:
- (1) The manager shall designate employees to monitor the number of occupants in each viewing room by visually inspecting the interior of each viewing room at least once every thirty (30) minutes. A designated employee shall be on the premises at all times the business is open to the public. The manager shall make a record of the monitoring required by this subsection by use of video cameras and video recorders, which shall be operated continuously at all times that the premises are open for business. The manager shall make a videotape of such monitoring that shall provide a constant and current date and time display. The manager shall maintain and, upon request by any law enforcement officer or any city official whose duties are related to licensing, make available for inspection and copying the most recent seventy-two (72) hours of videotape of the monitoring required by this subsection (n)(1). Such officer or official may use the videotapes of monitoring for law enforcement and licensing purposes only. The videotapes shall be returned to the manager within thirty (30) days after delivery to the officer or official unless the videotapes are required as evidence. If the videotapes are required as evidence, the officer or official shall make a copy of the videotapes for the manager upon the manager's request. If a video camera or video recorder is not in operation for any reason, then it shall be the duty of the operator, manager and any designated employee to immediately secure each viewing room monitored by such equipment and prevent entry into the viewing room by any patron until such time as the equipment is repaired and fully operational; or
  - (2) The manager shall designate employees to monitor the number of occupants in each viewing room by use of video cameras, video recorders and monitors that provide an ability to inspect the interior of each viewing room. A designated employee shall be on the premises at all times the business is open to the public. The monitors shall be installed within a manager's station of thirty-two (32) square feet or less of floor area. The video

cameras, recorders and monitors shall be operated continuously at all times that the premises are open for business. The manager shall keep a record of the monitoring required by this subsection (n)(2) by making a videotape of such monitoring that shall provide a constant and current date and time display. The manager shall maintain and, upon request by any law enforcement officer or any city official whose duties are related to licensing, make available for inspection and copying the most recent seventy-two (72) hours of videotape of the required monitoring. Such officer or official may use the videotapes of monitoring for law enforcement and licensing purposes only. The videotapes shall be returned to the manager within thirty (30) days after delivery to the officer or official, unless the videotapes are needed as evidence. If the videotapes are needed as evidence, the officer or official shall make a copy of the videotapes for the manager upon the manager's request. If a video camera, monitor or recorder is not in operation for any reason, then it shall be the duty of the operator, manager and any designated employee to immediately secure each viewing room monitored by such equipment and prevent entry into the viewing room by any patron until such time as the equipment is repaired and fully operational; or

(3) The operator and manager shall comply with section 21.2-52

(o) It shall be the duty of the operator and manager to ensure that any seating within a viewing room is designed so as to accommodate only one person.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-52. - Configuration of premises for new adult arcades.

(a) The provisions of this section shall apply to any adult arcade that is established after the effective date of the ordinance codified in this section. For purposes of this section, "established" shall mean any of the following:

(1) The opening of an adult arcade as a new business;

(2) The conversion of any existing business to an adult arcade; or

(3) The expansion, extension or enlargement of the floor area of any viewing rooms in an adult arcade beyond the floor area previously occupied by such rooms.

(b) Any adult arcade that is established prior to the effective date of the ordinance codified in this section may elect to comply with section 21.2-52(c) in lieu of complying with sections 21.2-51(b) and (n).

(c) Any adult arcade which is specified in subsection (a) of this section shall comply with the following requirements:

(1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose.

(2) If the premises have more than one manager's station designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose from at least one (1) of the manager's stations.

(3) A manager's station shall not exceed thirty-two (32) square feet of floor area. The view required by this subsection (c) must be by direct line of sight from the manager's station.

(4) It is the duty of the operator to ensure that at least one (1) manager is on duty and situated in each manager's station at all times that any patron is on the premises.

(5) It shall be the duty of the operator and manager to ensure that the view area specified in this subsection (c) remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials at all times that the business is open, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which

patrons will not be permitted in the operator's current diagram of the premises submitted pursuant to sections 21.2-27 And 21.2-42

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.5-53—21.2-59. - Reserved.

DIVISION 3. - BOOKSTORES OR NOVELTY STORES

Sec. 21.2-60. - No sexual conduct allowed.

It shall be the duty of the operator and manager to ensure that no act of "sexual intercourse," "oral sexual contact" or "sexual contact," including masturbation, as defined in A.R.S. section 13-1401, as amended, occurs on the adult business premises.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-61. - Trash.

It shall be the duty of the operator and manager, at least once every eight (8) hours during each business day, to inspect the outside of the adult business premises for trash and, if any trash is found, to pick up such trash for proper disposal.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-62—21.2-69. - Reserved.

DIVISION 4. - CABARETS

Sec. 21.2-70. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Clearly designated area in which patrons may be present: That portion of the adult business premises, excluding lobbies and restrooms, which is available to any member of the general public lawfully on the premises without payment of any consideration other than a cover charge or other consideration payable to gain admittance to the premises generally.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-71. - Manager's duty to ensure compliance by performers.

- (a) An adult cabaret manager shall not allow any person to work as an adult cabaret performer on the adult business premises until such person has displayed to the manager a valid adult cabaret performer's license and identification card. The manager shall require that all persons employed as adult cabaret performers maintain current licenses and identification cards at all times during which such persons work at the adult cabaret. On or before January 31 of each year, the manager shall verify with each adult cabaret performer that such person has renewed his or her license and identification card.
- (b) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were employed as adult cabaret managers or performers within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-72. - Regulations for businesses featuring nudity or live performances.

An adult business which features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities shall be operated in accordance with the following regulations:

- (a) An employee shall not appear in a state of nudity or engage in a live performance that is characterized by the exposure of specified anatomical areas or by specified sexual activities except upon a stage elevated at least eighteen (18) inches above floor level. All parts of the

stage in which the employee appears in a state of nudity or performs shall be a distance of at least three (3) feet from all parts of the clearly designated area in which patrons may be present. The stage shall be separated from the clearly designated area in which patrons may be present by a barrier or railing, the top of which is at least three (3) feet above floor level. No employee appearing in a state of nudity or engaging in such live performance, and no patron, may extend any part of his or her body over and beyond the barrier or railing.

- (b) No employee shall perform an act which constitutes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (c) No employee may touch the breasts, buttocks, anus or genitals of any other person.
- (d) No patron, using any part of his or her body including the hands, may knowingly make contact with the breasts, buttocks, anus or genitals of any employee.
- (e) A patron may not place any money on the person or in or on the costume of an employee, provided that incidental hand-to-hand contact occurring during the act of tipping while the patron is in the clearly designated area in which patrons may be present is not prohibited.
- (f) A person below the age of eighteen (18) years may neither observe a person in a state of nudity in a live performance on the premises of an adult business, nor appear in a state of nudity in a live performance on the adult business premises.
- (g) A sign, in the following form, shall be posted near the entrance of the adult business in such a manner as to be clearly visible to patrons upon entry:

#### RULES AND REGULATIONS

1. You must be at least 18 years of age to enter these premises.
  2. No patron may place any money on the person of, or on the costume of, an employee of this business.
  3. Hand-to-hand tipping of employees is permitted.
  4. No patron may touch or make contact with the breasts, buttocks, anus or genitals of any employee of this business.
- (h) No person may be employed who is under the age of eighteen (18) years.
  - (i) All performances shall be visible to a manager in a manager's station by direct line of sight. No patron shall be permitted in a manager's station at any time.
  - (j) The adult business shall provide training to all employees which shall consist of:
    - (1) A description of the clearly designated area in which patrons may be present and the stage area in which performances may be conducted for the business.
    - (2) Written verification from each employee, to be kept on the adult business premises, that he or she has received a current copy of this chapter 21.2 from the manager or that he or she already has such current copy.
    - (3) Written verification from each employee, to be kept on the adult business premises, that he or she has received a current copy of Arizona Revised Statutes, title 13, chapters 14, 32, 35 and 35.1 from the manager or that he or she already has such current copy.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-73. - Employee index.

An adult cabaret operator and manager shall maintain on the adult business premises at all times an index of all adult cabaret performers employed by such business during the last two (2) years. Such index shall be made available for inspection on the business premises, upon demand, to any law enforcement officer or any city official whose duties are related to licensing. The adult cabaret may require such officer

or official to complete an inspection log with name, serial or badge number, title, time, date and purpose for the inspection.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-74- Operating requirements – Use of EBT Prohibited:

An adult cabaret operator shall disable the ability of any automatic teller machines and point-of-sale terminals on the business' premises to accept the electronic benefit transfer card or process an electronic benefit transfer card transaction.

Secs. 21.2-75 - 21.2-79. - Reserved.

#### DIVISION 5. - ESCORT BUREAUS

Sec. 21.2-80. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Escort patron:* A customer or any person who contracts with, employs or for consideration hires an escort bureau, escort runner or escort for purposes of hiring an escort.

*Offer to provide acts of sexual conduct:* To offer to provide sexual conduct to a patron, including any conversations, advertisements and acts which would lead a reasonably prudent person to conclude that such acts were to be provided.

*Open office:* An office at the licensed escort bureau address from which escort business is transacted; to qualify as an open office it is required that:

- (a) Business hours be established and posted and that the office be open to the public, patrons or prospective patrons during such business hours and, if different from the posted hours, during the hours of 9:00 a.m. to 4:00 p.m. on all days that escort services are being provided;
- (b) Each manager has the authority to bind the bureau to escort and patron contracts and resolve patron and consumer complaints;
- (c) All telephone lines and numbers listed to the escort bureau or advertised as escort bureau numbers terminate at the open office and at no other location; and
- (d) All business records be kept in the open office including records of escort calls and referrals, stating the name and address, including hotel or motel room, of the patron, the date and time of referral, name of escort sent, whether the referral resulted in an escort service and the total fee received from the patron.

*Service-oriented escort:* Any escort who:

- (a) Operates from an open office; and
- (b) Does not employ or use any escort runner; and
- (c) Does not advertise that sexual conduct will be provided or work for an escort bureau which so advertises; and
- (d) Does not offer, agree to provide, or provide sexual conduct.

*Service-oriented escort bureau:* Any escort bureau which:

- (a) Maintains an open office at an established place of business; and
- (b) Does not employ or use any escort runner; and
- (c) Does not advertise, offer, agree to provide, or provide sexual conduct to a patron; and
- (d) Employs only licensed escorts.

Sexual conduct: Engaging in the commission of an act of sexual intercourse, oral-genital contact or the touching of the sexual organs, pubic region, buttocks, anus or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

Sexually oriented escort: Any escort who:

- (a) Employs any escort runner; or
- (b) Is employed by or is referred to a patron by a sexually oriented escort bureau; or
- (c) Advertises that sexual conduct will be provided, or is employed by or is referred to a patron by an escort bureau which so advertises; or
- (d) Solicits, offers, agrees to provide, or provides acts of sexual conduct to an escort patron; or
- (e) Accepts an offer to provide acts of sexual conduct for any consideration in addition to the consideration charged by the escort bureau.

Sexually oriented escort bureau: Any escort bureau which:

- (a) Engages in advertising to make the prospective patron believe that acts of sexual conduct will be provided; or
- (b) Uses as escorts persons known to have violated the law regarding prostitution within the last five (5) years; or
- (c) Does not maintain an open office; or
- (d) Employs or uses any escort runner; or
- (e) Offers, agrees to provide, or provides acts of sexual conduct to a patron; or
- (f) Employs or refers unlicensed escorts; or
- (g) Does not deliver contracts to every patron; or
- (h) Employs, refers or provides to a patron a sexually oriented escort.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-81. - Applicability to certain organizations and agencies.

- (a) Notwithstanding any other provision of this chapter to the contrary, the following persons are exempt from licensing pursuant to this chapter:
  - (1) Any organization which is qualified for exemption from taxation of income under Arizona Revised Statutes, sections 43-1201 (1), (2), (4), (5), (6), (7), (10) or (11), as amended;
  - (2) Any profession, occupation and business which is licensed by the State of Arizona or any political subdivision thereof pursuant to a specific statute or ordinance, which performs an escort bureau function as a service incidental to the primary function of such business and which does not hold itself out to the public as an escort bureau; and
  - (3) Any employee of any such business who performs escort functions as a service incidental to the primary function of such business and who does not hold himself or herself out to the public as an escort.
- (b) Any employment agency licensed by the state which provides escorts must obtain a license as required by this chapter.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-82. - Escort runners and sexually oriented escort bureaus prohibited.

- (a) It shall be unlawful for any person to operate, manage or be employed by a sexually oriented escort bureau within the city, regardless of any license which such person may hold, including any escort bureau's or escort's licenses issued under this chapter.

- (b) It shall be unlawful for any person to act as an escort runner within the city.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-83. - Manager's duty to ensure compliance by escorts.

- (a) An escort bureau manager shall not allow any employee to work as an escort until such escort has displayed to the manager a valid escort's license and identification card. The manager shall require that all persons employed as escorts maintain current licenses and identification cards at all times during which such escorts work for the escort bureau. On or before January 31 of each year, the manager shall verify with each escort that such licensee has renewed his or her license and identification card.
- (b) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were employed as escort bureau managers or escorts within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-84. - Escort bureau duties; local open office required.

- (a) An escort bureau manager shall provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
- (b) The escort bureau shall operate only from an open office located within Maricopa County. The street address of that office shall be included in all patron contracts. The escort bureau operator or manager shall not provide private rooms or booths where the patron may meet with the escort at the open office or at any other location.
- (c) The escort bureau operator and manager, in terms of licensing consequences, are responsible for the acts of all of their employees, including managers, telephone receptionists, and escorts who are referred by such bureau while the escort is with the patron.
- (d) The escort bureau operator and manager shall maintain at the open office at all times an index of all escorts employed by such business during the last two (2) years. Such index shall be made available for inspection, upon demand, to any law enforcement officer or any city official whose duties are related to licensing. The escort bureau may require such officer or official to complete an inspection log with name, serial or badge number, title, time, date and purpose for the inspection.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-85. - Prohibited activities.

It shall be unlawful for any person to engage in any of the following activities within the city:

- (a) Acting as an escort, furnishing or offering to furnish escorts, or conducting business as an escort bureau or escort under any name not listed in such person's license.
- (b) Operating as an escort bureau on the same premises at which is located a cocktail lounge, bar, liquor store, telephone answering service, adult arcade, adult bookstore, adult cabaret, adult motel, adult theater, nude model studio, semi-nude business or topless bar, or soliciting business as an escort while on such premises.
- (c) Providing an escort to an individual under eighteen (18) years of age unless the escort bureau or escort first obtains express written authorization for the provision of such services from such minor's parent or legal guardian.
- (d) Publishing, disseminating or displaying, directly or indirectly, by hire, contract or otherwise, in or on any newspaper, magazine, publication, radio, television, telephone or other advertising media any oral or written statement, photograph, picture, drawing, sketch or pictorial representation which would suggest to a reasonable and prudent person that sexual conduct or nudity is offered or provided by an escort or escort bureau.

- (e) Providing or offering to provide sexual conduct, nudity or semi-nudity as a part of the business of an escort bureau or escort.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-86—21.2-89. - Reserved.

DIVISION 6. - MOTELS

Sec. 21.2-91. - Short-term rentals; presumption of adult business.

Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated more than once in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as defined in section 21.2-4.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-92. - Sub-renting by non-licensees prohibited.

It shall be unlawful for any person who rents a sleeping room in an adult motel to sub-rent such sleeping room to another patron.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-93—21.2-99. - Reserved.

DIVISION 7. - NUDE MODEL STUDIOS

Sec. 21.2-100. - Regulations for studios featuring nudity.

A nude model studio which features persons who appear in a state of nudity shall comply with all regulations concerning adult cabarets set forth in section 21.2-72.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-101. - Manager's duty to ensure compliance by models.

- (a) A nude model studio manager shall not allow any employee to work as a nude model until such employee has displayed to the manager a valid nude model's license and identification card. The manager shall require that all persons employed as nude models maintain current licenses and identification cards at all times during which such employees work for the nude model studio. On or before January 31 of each year, the nude model studio manager shall verify with each nude model that such person has renewed his or her license and identification card.
- (b) The provisions of this section shall not apply for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were employed as nude model studio managers or models within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-102. - *Employee index.*

A nude model studio operator and manager shall maintain on the adult business premises at all times an index of all nude models employed by such business during the last two (2) years. Such index shall be made available for inspection on the business premises, upon demand, to any law enforcement officer or any city official whose duties are related to licensing. The nude model studio may require such officer or official to complete an inspection log with name, serial or badge number, title time, date and purpose for the inspection.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-103—21.2-109. - Reserved.

DIVISION 8. - SEMI-NUDE BUSINESSES

Sec. 21.2-110. - Manager's duty to ensure compliance by performers.

- (a) A semi-nude business manager shall not allow any employee to work as a semi-nude business performer until such employee has displayed to the manager a valid semi-nude business performer's license and identification card. The manager shall require that all persons employed as semi-nude business performers maintain current licenses and identification cards at all times during which such employees work for the semi-nude business. On or before January 31 of each year, the semi-nude business manager shall verify with each semi-nude business performer that such person has renewed his or her license and identification card.
- (b) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were employed as semi-nude business managers or performers within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-111. - Semi-nude business performers; prohibited activities.

It is unlawful for a semi-nude business performer, while working on the adult business premises, to recklessly or knowingly:

- (a) Use his or her hands, or any other part of his or her body, to make contact with the breasts, buttocks, anus or genitals of any other person.
- (b) Permit his or her breasts, buttocks, anus or genitals to make contact with any other person.
- (c) Perform an act which constitutes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (d) Display any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals.
- (e) Permit a patron to place any money on his or her person or on his or her costume, provided that incidental hand-to-hand contact occurring during the act of tipping shall not be unlawful.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-112. - Employee index.

A semi-nude business operator and manager shall maintain on the adult business premises at all times an index of all semi-nude performers employed by such business during the last two years. Such index shall be made available for inspection on the business premises, upon demand, to any law enforcement officer or any city official whose duties are related to licensing. The semi-nude business may require such officer or official to complete an inspection log with name, serial or badge number, title, time, date and purpose for the inspection.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-113 – Operating requirements – Use of EBT Prohibited:

The operator of a semi-nude business at which performers disrobe or perform in an unclothed state shall disable the ability of any automatic teller machines and point-of-sale terminals on the business' premises to accept the electronic benefit transfer card or process an electronic benefit transfer card transaction.

Secs. 21.2-114 - 21.2-119. - Reserved.

## DIVISION 9. - THEATERS

Sec. 21.2-120. - Regulations for exhibition of explicit films by theaters.

Any adult theater shall comply with the following requirements:

- (a) Restrooms shall not contain any video reproduction equipment.

- (b) It shall be the duty of the operator and manager to ensure that no act of "sexual intercourse," "oral sexual contact" or "sexual contact," including masturbation, as defined in A.R.S. section 13-1401, as amended, occurs on the adult business premises.
- (c) It shall be the duty of the operator and manager to post conspicuous signs in well-lighted entry areas of the business stating that sexual intercourse, oral sexual contact and sexual contact, including masturbation, are unlawful and prohibited.
- (d) It shall be the duty of the operator and manager to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (e) It shall be the duty of the operator and the manager to ensure that all wall surfaces and seating surfaces in restrooms or other rooms or areas providing patron privacy are constructed of or permanently covered by nonporous, easily cleanable material.
- (f) It shall be the duty of the operator and the manager to ensure that the premises are clean and sanitary at all times. The operator and manager shall maintain a regular cleaning schedule, documented by appropriate logs, and shall employ sufficient personnel to assure the establishment is clean.

(Ord. No. 2076, § 1, 5-11-99)

Secs. 21.2-121—21.2-129. - Reserved.

#### DIVISION 10. - TOPLESS BARS

Sec. 21.2-130. - Definitions.

The following words, term and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**General patron area:** That portion of the licensed premises, excluding lobbies and restrooms, which is available to any member of the general public lawfully on the premises without payment of any consideration other than a cover charge or other consideration payable to gain admittance to the premises generally.

**Licensed premises or premises:** The meanings as provided in Arizona Revised Statutes, section 4-101.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-131. - Topless bar performers; prohibited activities.

- (a) It is unlawful on the licensed premises for a topless bar performer, while performing in the general patron area or upon any stage or in any other location used for performing by such performer, to recklessly or knowingly:
  - (1) Use his or her hands, or any other part of his or her body, to make contact with the breasts, buttocks, anus or genitals of any other person.
  - (2) Permit his or her breasts, buttocks, anus or genitals to make contact with any other person.
  - (3) Perform an act which constitutes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - (4) Display any portion of the areola of the female breast, or any portion of his or her pubic hair, anus, vulva or genitals.
  - (5) Permit a patron to place any money on his or her person or on his or her costume, provided that incidental hand-to-hand contact occurring during the act of tipping shall not be unlawful.
- (b) It is unlawful on the licensed premises for a topless bar performer to perform anywhere other than in the general patron area or in any other location which is entirely visible by direct line of sight from the general patron area.

- (c) It is unlawful for any person to work as a topless bar performer unless such person is at least nineteen (19) years old, regardless of whether such person has been issued a performer's/model's license by the city. The topless bar manager shall require all persons to be employed as topless bar performers to display to the manager valid proof of age, in the form of a document specified in section 21.2-26(d), before allowing such persons to work as topless bar performers.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-132. - Manager's duty to ensure compliance by performers.

- (a) A topless bar manager shall not allow any person to work as a topless bar performer on the licensed premises until such person has displayed to the manager a valid topless bar performer's license and identification card. The manager shall require that all persons employed as topless bar performers maintain current licenses and identification cards at all times during which such persons work at the topless bar. On or before January 31 of each year, the manager shall verify with each topless bar performer that such person has renewed his or her license and identification card.
- (b) The provisions of this section shall not apply, for a period of one hundred twenty (120) days after the effective date of the ordinance codified in this chapter, to persons who were employed as topless bar managers or performers within the city prior to such effective date.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-133. - Employee index.

A topless bar operator and manager shall maintain on the licensed premises at all times an index of all topless bar performers employed by such business during the last two (2) years. Such index shall be made available for inspection on the licensed premises, upon demand, to any law enforcement officer or any city official whose duties are related to licensing. The topless bar may require such officer or official to complete an inspection log with name, serial or badge number, title, time, date and purpose for the inspection.

(Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-134. - Operating requirements – Use of EBT Prohibited:

The operator of a topless bar at which performers disrobe or perform in an unclothed state shall disable the ability of any automatic teller machines and point-of-sale terminals on the business' premises to accept the electronic benefit transfer card or process an electronic benefit transfer card transaction.

Secs. 21.2-135 - 21.2-149. - Reserved.

#### ARTICLE IV. - LIVE SEX ACT BUSINESSES

Sec. 21.2-150. - Findings and definitions.

- (a) Findings.
- (1) The operation of a business for purposes of providing the opportunity to engage in, or the opportunity to view, live sex acts is declared to be a disorderly house and a public nuisance per se which should be prohibited.
  - (2) The operation of a live sex act business contributes to the spread of sexually transmitted diseases.
  - (3) The operation of a live sex act business is found to be contrary to the public health, safety, welfare and morals.
  - (4) Evidence in support of these findings may be found in the Sex Clubs, Factual Record and the Sexually Oriented Businesses, Factual Record, Supplement.
- (b) In this article, unless the context otherwise requires:
- (1) Consideration means the payment of money or the exchange of any item of value for:
    - a. The right to enter the business premises, or any portion thereof; or

- b. The right to remain on the business premises, or any portion thereof; or
  - c. The right to purchase any item permitting the right to enter or remain on the business premises, or any portion thereof; or
  - d. The right to a membership permitting the right to enter or remain on the business premises, or any portion thereof.
- (2) Live sex act means any act whereby one or more persons engage in a live performance or live conduct which contains sexual contact, oral sexual contact or sexual intercourse.
  - (3) Live sex act business means any business in which one or more persons may view, or may participate in, a live sex act for a consideration.
  - (4) Operate and maintain means to organize, design, perpetuate or control. Operate and maintain includes providing financial support by paying utilities, rent, maintenance costs or advertising costs, supervising activities or work schedules, and directing or furthering the aims of the enterprise.
  - (5) Oral sexual contact means oral contact with the penis, vulva or anus.
  - (6) Sexual contact means any direct or indirect touching, or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.
  - (7) Sexual intercourse means penetration into the penis, vulva or anus by any part of the body or by any object or manual masturbatory contact with the penis or vulva.

(Ord. No. 2059, § 2, 1-26-99; Ord. No. 2076, § 1, 5-11-99)

Sec. 21.2-151. - Live sex act businesses prohibited.

- (a) It shall be unlawful for any person to operate and maintain a live sex act business.
- (b) Operation of a live sex act business is a public nuisance per se which may be abated by all means authorized by law, including an order of the Glendale municipal court as provided herein.
  - (1) The city attorney, in the name of the City of Glendale, may apply to the municipal city court for an order permitting the city to abate violations of this section.
  - (2) After notice to the operator of a live sex act business, the judge shall conduct a hearing and take evidence as to whether a live sex act business is being operated in violation of this section.
  - (3) If, at the conclusion of the hearing, the judge determines that a live sex act business is being operated in the city in violation of this section, an order shall be entered authorizing the city to abate the violation by closing the business. A copy of the order shall be delivered to the operator of the business and mailed to the owner of the property upon which the business is located.
- (c) Nothing in this section shall be construed to apply to the non-obscene presentation, showing or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion or exploitation of sex for the purpose of advancing the economic welfare of a commercial or business enterprise.

(Ord. No. 2059, § 2, 1-26-99; Ord. No. 2076, § 1, 1-26-99)