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ORDINANCE NO: \_\_\_\_\_

AN ORDINANCE OF PUTNAM COUNTY, FLORIDA; ESTABLISHING A REASONABLE AND UNIFORM CONTENT NEUTRAL REGULATION THAT WILL REDUCE THE NEGATIVE SECONDARY EFFECTS THAT ADULT ENTERTAINMENT ESTABLISHMENTS HAVE UPON THE COUNTY THEREBY PROTECTING THE HEALTH, SAFETY AND WELFARE OF THE CITIZENRY, TO BE KNOWN AS THE ADULT ENTERTAINMENT ESTABLISHMENT ORDINANCE; STATING THE INTENT OF THE ORDINANCE; PROVIDING DEFINITIONS AND FINDINGS OF FACT; REGULATING THE LICENSING AND LOCATION OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING GENERAL PROVISIONS; PROVIDING FOR LICENSING OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR THE INVESTIGATION OF APPLICATIONS FOR LICENSING; PROVIDING FOR THE ISSUANCE AND DENIAL OF LICENSES; PROVIDING FOR APPLICATION FEES; PROVIDING FOR MAINTENANCE OF RECORDS AND REPORTS; PROVIDING FOR THE TRANSFER, SUSPENSION, REVOCATION AND APPEAL OF APPLICATIONS; PROVIDING FOR IMMUNITY FROM PROSECUTION; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR DISTANCE AND ZONING RESTRICTIONS OF ADULT ENTERTAINMENT ESTABLISHMENTS; PROVIDING FOR OPERATIONAL RULES OF ADULT THEATERS, ADULT PERFORMANCE ESTABLISHMENTS, SEXUALLY ORIENTED BUSINESSES, ESCORT SERVICES AND PHYSICAL CONTACT PARLORS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING PROHIBITED ACTS BY CUSTOMERS, WORKERS, OPERATORS AND ESCORTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING SPECIFIED SEXUAL ACTS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING ADVERTIZING AND SOLICITATION; PROVIDING FOR CRIMINAL PROVISIONS REGARDING FALSE AND MISLEADING STATEMENTS AND FAILURE TO MAINTAIN, PRODUCE AND DISPLAY RECORDS; PROVIDING FOR CRIMINAL PROVISIONS REGARDING OPERATION AND EMPLOYMENT BY UNLICENSED ESTABLISHMENTS; PROVIDING FOR CRIMINAL PROVISIONS PROHIBITING MINORS; PROVIDING FOR REGULATIONS RESTRICTING HOURS OF OPERATIONS AND USES OF

**RESTROOMS AND DRESSING ROOMS; AND PROVIDING AN  
EFFECTIVE DATE.**

**BE IT ENACTED BY THE PEOPLE OF PUTNAM COUNTY, FLORIDA:**

**ARTICLE I - GENERAL PROVISIONS**

**Section 1. Preamble.**

WHEREAS, sexually oriented businesses require special supervision from the public safety agencies of the County in order to protect and preserve the health, safety, morals, and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, the Board of County Commissioners finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Board of County Commissioners desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the Board of County Commissioners has determined that criteria based on location alone does not adequately protect the health, safety, and general welfare of the people of this County; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses; and

WHEREAS, it is not the intent of the Board of County Commissioners to condone or legitimize the distribution of obscene material, and the Council recognizes that state and federal law prohibit the distribution of obscene materials, and the Board of County Commissioners expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the County.

Pursuant to the authority granted by the Constitution and the Legislature of the State of Florida, be it enacted by the Board of County Commissioners of Putnam County, now therefore,

**Section 2. Title.**

This chapter shall be known and may be cited as the "adult entertainment code."

**Section 3. Authority.**

This chapter is enacted under the police power of the Putnam County in the interest of the health, peace, safety, morals, and general welfare of the people of the County, and under the mandate of the people as expressed by public hearings held before the Board of County Commissioners on \_\_\_\_\_ and on \_\_\_\_\_, and on \_\_\_\_\_ and under the authority of the Putnam County to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States, which authority, in part, was confirmed and specifically delegated to the County by Laws of **Florida Chapters 80-559 (not sure what should take the place of this if anything)**, Florida Statute Chapter 125 and the beverage control laws, Florida Statute Chapter 561 et seq.

**Section 4. Construction**

This chapter shall be liberally construed to accomplish its purpose of licensing and regulating adult entertainment businesses and establishments and related activities. Unless otherwise indicated, all provisions of this ordinance shall apply equally to all persons regardless of gender. The words "he," "his," and "him," as employed in this chapter shall be construed to apply to females as well as to males.

**Section 5. Purpose.**

The intent of the Board of County Commissioners in adopting this chapter is to establish reasonable and uniform regulations that will reduce the negative secondary effects adult entertainment businesses have upon the County, and to protect the health, safety, morals and

general welfare of the people of the Putnam County. It is not the intent of the Board of County Commissioners to legislate with respect to matters of obscenity because such matters are regulated by federal and state law, including Florida Statute, Chapter 847. The provisions of this chapter have neither the purpose nor effect of imposing an unreasonable limitation or unreasonable restriction on the content of any lawful communicative materials including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to unreasonably restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment protected by the First Amendment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene or otherwise illegal material.

### **Section 6. Findings of Fact.**

Based on evidence and testimony presented at public hearings before the Board of County Commissioners on various dates, which included a presentation indicating the negative secondary effects of adult entertainment establishments and sexually oriented businesses in other communities in the United States, and on findings incorporated in the cases of County of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Young v. American Mini Theaters, 426 U.S. 50 (1976); Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991) and on the substance of and findings made or incorporated in studies accomplished in other communities and ordinances enacted in other communities, including, but not limited to, Planning Department - Adult Business Study, Phoenix, Arizona - May 25, 1979, Final Report to the County of Garden Grove - The Relationship Between Crime And Adult Business Operations On Garden Grove Boulevard, Garden Grove, California - October 23, 1991, An analysis by the Department of Metropolitan Development, Division of Planning - Adult Entertainment Businesses in Indianapolis, Indianapolis, Indiana - February 1984, Police Department Report of Special Investigation Unit, Cleveland, Ohio - August 24, 1977, Study by Community Development Department - Planning Division, Adult Entertainment Businesses In Oklahoma County - A Survey of Real Estate Appraisers, Oklahoma County, Oklahoma - March 3, 1986, Report On Adult Oriented Businesses in Austin, prepared by Office of Land Development Services, Austin, Texas - May 19, 1986, Planning Department Study, Regulation of Adult Uses, Beaumont, Texas - September 14, 1982, Director's Report and Recommendation on a Proposed Land Use Code Amendment by the Department of Construction and Land Use, Seattle, Washington - March 24, 1989, Report prepared by Insight Associates, Report on the Secondary Effects of the Concentration of Adult Use Establishments in the Times Square Area, New York, New York (Times Square) - April, 1994, Report by the Malin Group, An Analysis of the Effects of SOB's on the Surrounding Neighborhoods in Dallas, Texas, Dallas, Texas - April 1997, Police Memorandum, Tucson, Arizona - May 1, 1990, Study by the Manatee County Planning and Development Department, Adult Entertainment Businesses Study For Manatee County, Manatee County, Florida - June, 1987, Sexually Oriented Business Ordinance Revision Committee Legislative Report, Houston, Texas - January 7, 1997, Report by Retired Sergeant Oklahoma County Police Department, Quality of Life: A Look at Successful Abatement of Adult Oriented Business, Oklahoma

County, Oklahoma - June, 1992, along with memorandums, letters, photographs, affidavits, and other documents submitted at those public hearings relating to the ordinance, along with the Board's knowledge of actual conditions in the Putnam County, the Board of County Commissioners hereby find:

- (1) Establishments exist, have existed, or may exist within the County where adult material constitutes a substantial portion of the material displayed, exhibited, distributed, rented or sold, or offered for rent or sale.
- (2) Establishments exist, have existed, or may exist within the County:
  - (a) Where the superficial tissues of one (1) person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
  - (b) Where the business is distinguished by an emphasis on, or the promotion of, dancers, entertainers, performers, or other individuals, who, for any form of commercial gain, perform or are presented while displaying or exposing any specified anatomical area or perform or are presented while simulating or otherwise giving the appearance of the display or exposure of any specified anatomical areas;
  - (c) Where workers dance or perform with or within three (3) feet of customers in consideration for tips, remuneration or compensation from or on behalf of those customers, or offer, solicit or contract to do the same, and the product, service or entertainment is intended to provide sexual stimulation or sexual gratification to such customers; or
  - (d) Where straddle dancing, private modeling, prostitution, unlawful drug transactions, or lewd and lascivious touching occurs between customers and workers or performers.
- (3) Establishments exist, have existed, or may exist within the County and surrounding counties where sexually oriented services are offered for commercial or pecuniary gain in the form of commercial physical contact, or escort services. The workers of such sexually oriented businesses engage in physical contact or touching with customers, including acts of prostitution, or encourage or entice customers to engage in acts of lewdness.
- (4) The activities described in subsections (1), (2) and (3) occur at establishments for the purpose of making a profit, and, as such, are subject to regulation by the County in the interest of the health, safety, morals and general welfare of the people of the Putnam County.
- (5) When the activities described in subsections (1), (2) and (3) are present in establishments within the County, other activities which are illegal, immoral, or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other

activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property.

- (6) When the activities described in subsections (1), (2) and (3) are present in establishments within the County they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote crime, particularly the kinds detailed in subsection (5), and ultimately lead residents and businesses to move to other locations.
- (7) The establishments in which the activities described in subsections (1), (2) and (3) occur are usually constructed, in part or in whole, of substandard materials, and are usually maintained in a manner reflecting disregard for the health and safety of the occupants, and have exterior appearance and/or signage that depreciates the value of adjoining real property and otherwise contributes to urban decline.
- (8) The activities described in subsections (1), (2) and (3) frequently occur in establishments concurrent with the sale and consumption of alcoholic beverages.
- (9) The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections (1), (2) and (3) leads to an increase in criminal activity, moral degradation, and disturbances of the peace and order of the County.
- (10) The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections (1), (2) and (3) is hazardous to the health and safety of those persons in attendance, depreciates the value of adjoining real property, harms the economic welfare of the County and adversely affects the public's interest in the quality of life, tone of commerce, and community environment in the County.
- (11) In order to preserve and safeguard the health, safety, morals, and general welfare of the people of the County it is necessary and advisable for the County to prohibit the sale and consumption of alcoholic beverages at establishments where the activities described in subsections (1), (2) and (3) occur.
- (12) Workers of establishments at which the activities described in subsections (1), (2) and (3) engage in a higher incidence of certain types of criminal behavior than workers of other establishments, including prostitution and lewdness in violation of Florida Statute Chapter 796 operating without an occupational license, and operating unlicensed massage parlors and cosmetology businesses.

- (13) Physical contact within establishments at which the activities described in subsections (1), (2) and (3) occur between workers exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and sexually transmissible diseases.
- (14) In order to preserve and safeguard the health, safety, morals, and general welfare of the citizenry of the County, it is necessary and advisable for the County to regulate the conduct of owners, managers, operators, agents, workers, entertainers, performers, and customers at establishments where the activities described in subsections (1), (2) and (3) occur.
- (15) The potential dangers to the health, safety, morals, and general welfare of the citizenry of the County posed by permitting an establishment at which the activities described in subsections (1), (2) and (3) occur to operate without first obtaining a license under this chapter are so great as to require the licensure of such establishments prior to their being permitted to operate. A thorough but prompt investigation and review of a license application will facilitate this public purpose. Suspension or revocation of adult entertainment licenses at which repeated specified criminal acts, as defined in Section 7, are allowed to occur upon adequate proof at administrative proceedings of the occurrence of such acts, will serve to protect the community from such danger by deterring or ending the use of the establishment for future specified criminal acts. Access to prompt judicial review by the Circuit Court of administrative suspension and revocation proceedings will protect the rights of the licensee.
- (16) Requiring licensees of establishments at which the activities described in subsections (1), (2) and (3) occur to keep a list of information concerning current workers and certain past workers will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by preventing minors from working in such establishments.
- (17) Prohibiting establishments at which the activities described in subsections (1), (2) and (3) occur from operating within set distances of educational institutions, religious institutions, areas zoned for residential use, and parks, at which minors are customarily found, will serve to protect minors from the adverse effects of the activities that accompany such establishments.
- (18) Straddle dancing and lewd and lascivious touching between customers and workers or performers does not contain any element of communication, and is therefore conduct rather than expression.
- (19) Straddle dancing, prostitution, sexual activity, and lewd and lascivious touching between customers and workers or performers in adult entertainment establishments poses a threat to the health of the participants and promotes or actually causes the spread of communicable and sexually transmitted diseases.

- (20) The practice of not paying workers at sexually oriented businesses and requiring them to earn their entire income from tips or gratuities from customers who are predisposed to desire or want sexual activity has resulted in a high incidence of prostitution and crimes related to lewdness.
- (21) Sexually oriented businesses involve activities that are pure conduct engaged in and for the purpose of making a profit, rather than speech or expressive activity, and therefore are subject to and require increased regulation to protect the health, welfare and safety of the community.
- (22) Requiring sexually oriented businesses to post a listing of services provided and restrict services to those listed as well as to maintain worker records will discourage incidents of criminal behavior such as lewdness and prostitution, thereby further safeguarding the health of both workers and customers and assisting in the facilitation of the identification of potential witnesses or suspects if criminal acts occur.
- (23) Close personal or physical contact between customers and performers at adult entertainment establishments who are displaying or exposing specified anatomical areas, facilitates and encourages the exchange of money for prostitution, lewd touching, and other illegal activity which poses a danger to the community and the participants.
- (24) Requiring performers at adult entertainment establishments, who are displaying or exposing specified anatomical areas, to remain on stage and at least three (3) feet away from customers who are in the establishment will serve to protect the public by discouraging and making more difficult direct physical contact which results in incidents of criminal behavior, such as prostitution, and unlawful lewd or lascivious touching between performers and customers.
- (25) Operators or workers of adult entertainment establishments who have the authority to direct or control other workers at, or the operation of, an adult entertainment establishment, should be subject to penalties for allowing violations of this chapter to occur in order to deter and discourage such operators from allowing or encouraging violations of this article to occur for the purpose of increasing profits at the establishment to the detriment of the community and contrary to the purposes of this chapter.
- (26) When reviewing applications for adult entertainment licenses, the Zoning Administrator's consideration of all information received in a timely manner from any of the investigating or reviewing departments will best protect the public and facilitate proper licensing consistent with the purposes of this chapter.
- (27) The purpose of the suspension and revocation proceedings will be undermined if such suspensions or revocations are avoided by licensees being allowed to incorporate under new names or by attempts to transfer licenses or by change in control of land or

establishments during a pending suspension or revocation proceeding.

### **Section 7. Definitions.**

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

*Adult bookstore* shall mean an establishment where a substantial portion of the items, material, goods or products sold or rented, offered for sale or rent, displayed or exhibited constitutes adult material.

- (1) For purposes of the definition of "adult bookstore," the term "substantial portion" means more than an insignificant or incidental portion. The term "substantial portion" does not necessarily mean a majority or predominant amount.
- (2) Whether the adult material constitutes a "substantial portion" of the items sold, rented, offered for sale or rent, displayed, or exhibited at a commercial establishment does not depend upon a specific percentage or ratio.
- (3) Whether the adult material that is "sold or rented, offered for sale or rent, displayed, or exhibited" constitutes a "substantial portion" may be determined by evidence relating to some, but not necessarily all, of the following factors:
  - (a) The amount of floor space, wall space, or display area dedicated to adult material;
  - (b) The amount of adult material sold or rented, offered for sale or rent, displayed, or exhibited in any category or type of product;
  - (c) The visibility, prominence, or accessibility to customers of adult material;
  - (d) The retail value of the adult material sold or rented, offered for sale or rent, displayed, or exhibited;
  - (e) Whether minors are excluded from the establishment;
  - (f) Any other fact, circumstance, or evidence that is relevant to demonstrate the type and quantity of merchandise that the establishment sells, rents, offers for sale or rent, displays or exhibits.
- (4) Packages, boxes, containers, or the like, displaying photographs or text on the outside thereof that fall under the definition of adult material, shall be considered as a category or type of adult material separate and distinct from their contents (or former

contents) that may likewise fall under the definition of adult material.

*Adult booth* shall mean a small enclosure inside an adult entertainment establishment accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a peep show booth, or other booth used to view adult material. The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.

*Adult entertainment establishment* shall mean an adult bookstore, an adult motel, an adult performance establishment, an adult theater, an escort service, or a physical contact parlor, operated for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license. An establishment with an adult entertainment license or an establishment advertising itself as an adult entertainment establishment is deemed to be an adult entertainment establishment.

*Adult material* shall mean any one (1) or more of the following, regardless of whether it is new or used:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videotapes, slides, computer digital graphic recordings or other visual representations, or compact discs, audio recordings or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- (2) Instruments, novelties, devices or paraphernalia that are designed for use in connection with specified sexual activities, excluding bona fide birth control devices.

*Adult motel* shall mean any motel, hotel, boardinghouse or other place of temporary lodging:

- (1) Where the word "adult" is used or included by the establishment to identify or name the establishment; or
- (2) Where the predominant or exclusive business or attraction of the establishment is the offering to customers of a product, service or entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, including an establishment which is distinguished by an emphasis on, or the promotion of specified sexual activities or the presentation or rental of films, motion pictures, videocassettes, slides or other photographic reproductions, which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas; or
- (3) Where any room with sleeping accommodations is rented or otherwise made available to a customer for a period of eight (8) hours or

less and the customer is required to vacate such room before the eight o'clock (8:00) a.m. which follows the time of rental.

*Adult performance establishment* shall mean as follows:

- (1) An establishment where a worker:
  - (a) Engages in a private performance, acts as a private model, or displays or exposes any specified anatomical areas to a customer;
  - (b) Wears and displays to a customer any covering, tape, pastie, or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas;
  - (c) Offers, solicits or contracts to dance or perform with a customer in consideration for or accepts any tip, remuneration or compensation from or on behalf of that customer; or
  - (d) Dances or performs with or within three (3) feet of a customer in consideration for or accepts any tip, remuneration or compensation from or on behalf of that customer.
- (2) This definition is not intended to apply, and it is an affirmative defense to an alleged violation of this chapter regarding operating an adult performance establishment without a license, if the alleged violator demonstrates either
  - (a) that the establishment is a bona fide private club whose membership as a whole engages in social nudism or naturalism as in a nudist resort or camp, or
  - (b) that the predominant business or attraction of the establishment is not the offering to customers of a product, service, or entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and the establishment and its advertising is not distinguished by an emphasis on, or the promotion of, matters or persons depicting, describing, displaying, exposing, simulating or relating to specified sexual activities or specified anatomical areas.
- 3) Consistent with the decision of the Supreme Court of Florida in the case of Hoffman v. Carson, 250 So. 2d 891, 893 (Fla. 1971), appeal dismissed 404 U.S. 981 (1971), an adult dancing establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of Florida Statute § 800.03, the state's indecent exposure statute.

*Adult theater* shall mean an establishment which, except as set forth in the final sentence of this paragraph, consists of an enclosed

building, or a portion or part of an enclosed building, or an open-air area which is predominantly or exclusively used for viewing by persons of films, motion pictures, video cassettes, slides, or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. An establishment that has adult booths is also considered to be an adult theater.

*Alcoholic beverage* shall mean a beverage containing more than one (1) percent of alcohol by weight. It shall be prima-facie evidence that a beverage is an alcoholic beverage if there is proof that the beverage in question was or is known as whiskey, moonshine whiskey, shine, rum, gin, tequila, vodka, scotch, scotch whiskey, brandy, beer, malt liquor, or by any other similar name or names, or was contained in a bottle or can labeled as any of the above names, or a name similar thereto, and the bottle or can bears the manufacturer's insignia, name, or trademark. Any person who, by experience in the handling of alcoholic beverages, or who by taste, smell, or drinking of such alcoholic beverages has knowledge of the alcoholic nature thereof, may testify as to his opinion about whether such beverage is an alcoholic beverage.

*County* or "the County" or "this County" shall be construed as if the word "Putnam" preceded the word County, and shall extend to and include its several officers, agents and employees.

*Conviction* or *convicted* shall mean the finding of guilt or the entry of a plea, of guilt or nolo contendere for a violation of a municipal or county ordinance or state or federal law, regardless of whether adjudication is withheld, or, the forfeiture of a bond or bail when charged with a violation of a municipal or county ordinance or state or federal law.

*Customer* shall mean any person, excluding a worker or operator, who does any of the following:

- (1) Is present at an establishment, regardless of whether that person has given any consideration or spent any money for goods or services; or
- (2) Has paid, or has offered, agreed, been solicited, or had someone else offer or agree on that person's behalf, to pay any consideration, fee, gratuity, or tip to an adult entertainment establishment or to an operator or worker of an adult entertainment establishment.

*Department* shall mean the building department, fire and rescue services department, health department, sheriff's department, Putnam County police department or zoning department. When used in this chapter, the term "department" includes but is not necessarily limited to the directors, managers, employees, officers, agents, department, bureau, division, or section of same.

*Educational institution* shall mean a premises or site upon which there is an institution of learning for minors, whether public or private, which conducts regular classes and/or courses of study required

for eligibility to, certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools. The term "educational institution" includes a premises or site upon which there is a nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning. However, the term "educational institution" does not include a premises or site upon which there is a vocational institution, professional institution or an institution of higher education, including a community college, junior college, four-year college or university.

*Escort* shall mean any person who, for commercial or pecuniary gain, compensation, or tips, agrees to or offers to go to any place, including but not limited to a business, hotel, motel, residence, room, booth, or conveyance, to do any of the following acts:

- (1) Act as a companion or date for or converse with a customer;
- (2) Engage in physical contact with another person;
- (3) Provide private adult entertainment;
- (4) Engage in private modeling or lingerie modeling;
- (5) Display specified anatomical areas, strip naked or go topless; or
- (6) Engage in any specified sexual activity.

Nothing in this definition shall be construed to legalize conduct prohibited by this chapter or other law.

*Escort service*, also known as *escort agency*, shall mean a person, business, establishment or place, operated for commercial or pecuniary gain, which does any of the following:

- (1) Advertises as an "escort service" or "escort agency" or otherwise offers or advertises that it can furnish escorts, private dancers, or private models; or
- (2) Offers or actually provides, arranges, dispatches, or refers workers to act as an escort for a customer.

Exception: It is an affirmative defense that a business is not an escort service if a person seeking to invoke this defense can demonstrate that the business is a bona fide dating or matching service which arranges social matches or dates for two persons who each wish to meet a compatible companion when neither person solicits, accepts, or receives any financial gain or any monetary tip, consideration, or compensation from any person for the meeting or date.

*Establishment* shall mean a site or premises, including any building, structure or parking lot, on such site or premises, upon which any activities or operations are conducted for commercial or pecuniary

gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, "operated for commercial or pecuniary gain" shall be presumed where the establishment has an occupational license.

*Law enforcement officer* shall mean any person who is elected, appointed, or employed full-time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrest; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law-enforcement officers but does not include support personnel employed by the employing agency.

*Licensee* shall mean any person whose application for an adult entertainment establishment has been granted and who owns, operates or controls the establishment.

*Nudity* shall mean to display or expose at an adult entertainment establishment less than completely and opaquely covered human genitals or pubic region, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Operator* shall mean any worker or other person who has the authority to direct or otherwise control workers at, or the operation of, an adult entertainment establishment, including but not necessarily limited to the owner, manager or supervisor.

*Park* shall mean a tract of land within the municipality which is kept for ornament and/or recreation and which is maintained as public property.

*Physical contact* shall mean to manipulate, wash, scrub, stroke or touch, for commercial or pecuniary gain, another person's body, directly or indirectly (through a medium using any object, instrument, substance, or device).

Exception: It is an affirmative defense to an alleged violation of this chapter regarding engaging in physical contact if the alleged violator can establish membership in one (1) of the following classes of persons or businesses and the activity alleged to be physical contact is part of the bona fide practice of the profession or business of the person, which overlaps into the field regulated by this chapter:

- (1) A person licensed as a massage therapist or apprentice massage therapist pursuant to Florida Statute Chapter 480, if providing massage services only in a massage establishment licensed under Florida Statute Chapter 480;

- (2) A person licensed under the laws of the state to practice medicine, surgery, osteopathy, chiropracty, naturopathy, or podiatry, or persons licensed as a physician's assistant or holding a drugless practitioner's certificate;
- (3) A nurse registered under the laws of the state;
- (4) A barber or beautician licensed under the laws of the state;
- (5) A cosmetologist licensed under the laws of the state;
- (6) A person performing services in any hospital, clinic, nursing home or sanitarium licensed under the laws of the state;
- (7) An instructor, coach, or trainer employed by, or on behalf of, any bona fide professional, Olympic or sanctioned amateur athletic team, governmental entity or any bona fide state, County, or private educational institution; or
- (8) A physical therapist licensed under the laws of the state.

*Physical contact parlor* shall mean a business, establishment or place, operated for commercial or pecuniary gain, where any worker engages in physical contact, or any business or establishment for which any portion is set aside, advertised, or promoted as a place where physical contact occurs, including a "body scrub salon" or "relaxation salon."

*Preexisting* shall mean as follows:

- (1) When used together with the term "adult entertainment establishment," "religious institution," "educational institution," "commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption," or "residence," the word "preexisting" shall mean as follows:
  - (a) The establishment, institution or residence is already being lawfully used or lawfully occupied; or
  - (b) A building permit for the establishment, institution or residence has been lawfully issued, all fees associated with the permit have been paid, and the permit has not expired; or
  - (c) An application or plan to allow the establishment, institution or residence to be constructed, used or occupied has been filed and approved, with or without conditions, and all fees associated with the application or plan have been paid; or
  - (d) An application or plan to allow the establishment, institution or residence to be constructed, used or occupied has been filed, all fees associated with the application or plan have been paid, and the application or plan is undergoing review.

(2) When used together with the term "park," the word "preexisting" shall mean as follows:

- (a) The park is already being used; or
- (b) The park site has been approved or otherwise designated by the appropriate governing body.

*Private model* shall mean any worker who, for commercial or pecuniary gain, offers, suggests or agrees to engage in a private performance, modeling or display of lingerie, bathing suits, undergarments, or specified anatomical areas to a customer.

*Private performance* shall mean modeling, posing, or the display or exposure of any specified anatomical area by a worker of an adult entertainment establishment to a customer while the customer is in an area not accessible during such display to all other persons in the establishment or while the customer or worker is in an area of the establishment which is intended, offered, advertised or used for private performances or in which the customer or worker is totally or partially screened or partitioned during such display from the view of persons outside the area. For purposes of this definition, the word "private" shall mean that less than four (4) customers are present during the performance or access to additional customers during the performance is prevented, whether actively or passively.

*Religious institution* shall mean a premises or site which is used primarily or exclusively for religious worship and related religious activities.

*Sexual gratification* means the engaging in or committing of an act of sexual intercourse, oral-genital contact, masturbation, or the touching of the covered or uncovered sexual organ, pubic region, buttock, breast, chest or inner thigh of a person, any of which is for the purpose of arousing or gratifying the sexual desire of another person.

*Sexual stimulation* means either to excite or arouse the prurient interest or to offer, propose, solicit, or suggest to provide an act of sexual gratification to a customer, including but not limited to all conversations, statements, advertisements and acts which would lead a reasonable person to conclude that an act of sexual gratification was to be provided.

*Sexually oriented business* shall mean an escort service or a physical contact parlor.

*Specified anatomical areas* shall mean:

- (1) Less than completely and opaquely covered:
  - (a) Human genitals or pubic region;
  - (b) Human buttocks;

- (c) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed;
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified criminal act* shall mean:

- (1) A violation of this chapter;
- (2) Any felony;
- (3) An offense under Florida Statute Chapter 794 (sexual battery);
- (4) An offense under Florida Statute Chapter 796 (prostitution);
- (5) An offense under Florida Statute Chapter 800 (lewdness; indecent exposure);
- (6) An offense under Florida Statute Chapter 826 (bigamy; incest);
- (7) An offense under Florida Statute Chapter 847 (obscene literature; profanity); or
- (8) An offense under an analogous statute of a state other than Florida, or under an analogous ordinance of another County or County.

*Specified sexual activity* shall mean:

- (1) Human genitals in a state of sexual stimulation, arousal or tumescence; or
- (2) Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy or algolagnia; or
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in subsections (1) through (3).

*Straddle dance*, also known as a lap dance, face dance, or friction dance shall mean either of the following acts:

- (1) The use by a worker of any part of his or her body to touch the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of any worker to another person while at the establishment. It shall be a straddle dance regardless of whether the touch or touching occurs while the worker is displaying or exposing any specified anatomical area. It shall also be a straddle dance regardless of whether the touch or touching is direct or indirectly (through a medium).
- (2) The straddling of the legs of a worker over any part of the body of a person other than another worker at the establishment, regardless of whether there is a touch or touching.

*Tax collector* shall mean the Putnam County Tax Collector, including but not necessarily limited to the director, manager, employees, officers, and agents thereof or department, bureau, or division of same.

*Worker* shall mean a person who works or performs in or for an adult entertainment establishment, irrespective of whether such person is paid a salary or wage. "Worker" includes, but is not necessarily limited to, an employee, independent contractor, subcontractor, performer, entertainer, lessee or sublessee who works or performs at or for an adult entertainment establishment. A "worker" may also be an "operator."

*Zoning Administrator* shall mean the person authorized by the Putnam County to administer and enforce the County's zoning ordinance, including but not necessarily limited to the director, manager, County Planner, employees, officers, and agents thereof of the Zoning department.

#### **Section 8. Regulation of obscenity subject to state law.**

It is not the intent of the Board of County Commissioners to legislate with respect to matters of obscenity. These matters are preempted to the state and are subject to state regulation pursuant to Florida Statute Chapter 847. Nothing in this chapter shall be construed to allow or permit conduct prohibited by Chapter 847 and its amendments or successor statutes. Nothing in this chapter nor the grant of any license or permit pursuant to the provision of this chapter shall be construed to mean that any operations or activities tolerated by the provisions of this chapter are in conformity with local community standards.

#### **Section 9. Regulation of massage establishments subject to state law.**

It is not the intent of the Board of County Commissioners to legislate with respect to matters of massage establishments. These

matters are regulated by state agency, the department of professional regulation, board of massage, and by Florida Statute Chapter 480.

#### **Section 10. Responsibilities.**

Ultimate responsibility for the administration of this chapter is vested in the Zoning Administrator or his designee as set forth in this Chapter. The responsibilities of the Zoning Administrator and other departments are as follows:

- (1) The Zoning Administrator is responsible for granting, denying, revoking, renewing, suspending, and canceling adult entertainment licenses for proposed or existing adult entertainment establishments as set forth in Article II of this chapter.
- (2) The Zoning Administrator is responsible for verifying the accuracy and completeness of the information contained on or with an application and any other documentation required under this chapter; for inspecting any proposed, licensed or non-licensed establishment in order to ascertain whether it is in compliance with applicable criminal statutes and ordinances, including those set forth at Article V of this chapter, for determining whether any applicant for a license has been convicted of a felony or specified criminal act within the previous five (5) years, and for enforcing applicable criminal statutes and ordinances, including those set forth at Article V of this chapter.
- (3) The building department is responsible for inspecting any proposed or existing establishment in order to ascertain whether it complies with or is complying with Article IV of this chapter and all applicable building codes, statutes, ordinances, and regulations.
- (4) The fire and rescue services department is responsible for inspecting any proposed or existing establishment in order to ascertain whether it complies with or is complying with Article IV of this chapter and all applicable fire codes, statutes, ordinances, and regulations.
- (5) The health department is responsible for inspecting any proposed or existing establishment in order to ascertain whether it complies with or is complying with Article IV of this chapter and all applicable health codes, statutes, ordinances, and regulations.
- (6) The zoning department is responsible for ascertaining whether any proposed or existing establishment complies with all location requirements of this chapter, applicable portions of Articles III and IV of this chapter, all applicable zoning regulations, and whether a licensed establishment is complying with Article IV of this chapter and all applicable zoning regulations and land use laws.

#### **Section 11. Review of decisions by Zoning Administrator.**

Any decision of the Zoning Administrator pursuant to Article II of this chapter, or any failure of the Zoning Administrator to render a decision in accordance with the outermost time requirements of Article II of this chapter, may be immediately reviewed as a matter of right by a court of competent jurisdiction upon the filing of an appropriate pleading by an aggrieved party.

**Section 12. Notice.**

Any notice required under this chapter shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license or permit. This mailing address shall be considered the correct mailing address unless the Zoning Administrator has been otherwise notified in writing.

**Section 13. Immunity from prosecution.**

Putnam County or any department, agent or employee of the County shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon an adult entertainment establishment while acting within the scope of its authority under this chapter.

**Section 14. Injunctive relief.**

The Board of County Commissioners may bring suit in the circuit court to restrain, enjoin or otherwise prevent the violation of this chapter.

**Section 15--25. Reserved.**

**ARTICLE II. LICENSING**

**Section 26. Required classifications.**

- (a) *Requirement.* No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment license by the Zoning Administrator under this chapter.
- (b) *Classifications.* Adult entertainment establishment licenses referred to in this chapter shall be classified as follows:
  - (1) Adult bookstore;
  - (2) Adult motel;
  - (3) Adult theater;

- (4) Adult performance establishment;
  - (5) Escort service; or
  - (6) Physical contact parlor.
- (c) Single classification of license. An adult entertainment license for a particular adult entertainment establishment shall be limited to one (1) classification of license.
- (d) Limit of one (1) license. An adult entertainment establishment shall be limited to one (1) adult entertainment license.

**Section 27. Application for license required; contents; application fee; consent by applicant.**

- (a) *Required.* Any person desiring to operate an adult entertainment establishment shall file with the Zoning Administrator a sworn license application on standard application forms supplied by the Zoning Administrator.
- (b) *Contents of application.* The completed application shall contain the following information and shall be accompanied by the following documents:
- (1) If the applicant is:
    - (i) An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is at least eighteen (18) years of age;
    - (ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, the name and address of at least one (1) person in Florida who is authorized to accept service of process, and a copy of the partnership agreement; or
    - (iii) A corporation, the corporation shall state its complete name, state the date of its incorporation, evidence that the corporation is in good standing, provide a copy of the articles of corporation and by-laws, state the name and capacity of all officers and directors, the name of the registered corporate agent, the address of the registered office for service of process, and the name and title or capacity of the person who makes the application on behalf of the corporation;
  - (2) If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name and the County of registration under Florida Statute Section 865.09;

- (3) Whether the applicant or any of the other individuals listed pursuant to subsection (1) has, within the five-year period immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date of conviction and the place of conviction;
- (4) Whether the applicant or any of the other individuals listed pursuant to subsection (1) has had a previous license under this chapter suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection (1) has been a partner in a partnership or an officer or director of a corporation whose license under this chapter has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation;
- (5) Whether the applicant or any other individuals listed pursuant to subsection (1) holds any other licenses under this chapter and, if so, the names and locations of such other licensed establishments;
- (6) The single classification of license for which the applicant is filing;
- (7) The location of the proposed establishment, including a legal description of the property site, and a legal street address;
- (8) The names of each person who has the right or authority to manage or control the day-to-day operation of the proposed establishment, and such person's business address and business telephone number, or, if the person is a corporation, the same information shall be provided for its officers and directors;
- (9) The applicant's mailing address and business telephone number;
- (10) A site plan drawn to appropriate scale of the proposed establishment, including, but not limited to:
  - (i) All property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways;
  - (ii) All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, concession booths, stands, counters and similar structures;

(iii) All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;

(11) If the applicant is not the owner of the subject real property, the applicant shall provide the name of the owner along with a copy of the lease or other rental agreement along with any related documentation between the applicant and real property owner; and

(c) *Application fee.* Each application shall be accompanied by a nonrefundable fee of five hundred dollars (\$500.00), subject to adjustment from time to time by resolution of the Board of County Commissioners. Such application fee shall be used to defray the costs and expenses incurred by the various departments in reviewing the application. If the application for a license is approved and a license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to Section 31 of this chapter.

(d) *Consent.* By applying for a license under this chapter, the applicant shall be deemed to have consented to the provisions of this chapter and to the exercise by the Zoning Administrator and the departments of their respective responsibilities under this chapter.

## **Section 28. Processing of application; investigation of application; findings.**

*Processing.* Upon receipt of an application properly filed with the Zoning Administrator under this article and upon payment of the nonrefundable application fee, the Zoning Administrator shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the County Manager, the building department, the fire and rescue services department, the health department, and the zoning department.

*Investigation.* Each department shall promptly conduct an investigation of the applicant, application and the proposed establishment in accordance with its responsibilities described at section 10 of this chapter.

*Findings.* At the conclusion of its investigation, each department shall prepare a report or memorandum and forward such report or memorandum to the Zoning Administrator no later than thirty (30) days from the date of the proper filing of the application with the Zoning Administrator, and state therein whether the department finds that false, incorrect or incomplete information was provided on the application and whether the proposed establishment will be in violation of any provision of Article III or IV of this chapter or of any building, criminal, fire, health, or zoning statute, code, ordinance, or regulation, or any court order.

**Section 29. Granting or denial of license.**

(a) *Time period for granting or denying license.*

(1) The Zoning Administrator shall grant or deny an application for a license under this article within forty (40) days from the date of its proper filing, and pursuant to subsection (b) or (c)(2) below, shall notify the applicant within seven (7) days of the granting or denying of the application. If the applicant claims that the decision of the Zoning Administrator has not been received within fifty (50) days from the date of the application's proper filing, the applicant may make written demand upon the Zoning Administrator for a copy of the decision. Within three (3) days of receipt of such written demand, the Zoning Administrator shall provide the applicant such copy by, at the applicant's option, hand delivery or certified mail, return receipt requested.

(2) Notwithstanding the granting of an adult entertainment license under subsection 29(a)(1), nothing in this chapter exempts or excuses the licensee or applicant, whatever the case may be, from having to obtain any other required permits, licenses, or certificates needed to lawfully operate a business, including a land use permit, building permit, occupational license or certificate of occupancy.

(b) *Granting of application for license.* If none of the departments that timely forwarded a report or memorandum has made a finding that would require that the application be denied, the Zoning Administrator shall grant the application and notify the applicant within seven (7) days of the granting by certified mail, return receipt requested. Upon payment of the appropriate annual license fee provided in sections 30 and 31, with credit as provided in section 27(c), the Zoning Administrator shall issue the license to the applicant.

(c) *Denying of application for license.*

(1) The Zoning Administrator shall review the findings reported by the departments and deny the application for any of the following reasons:

(i) The application is incomplete or contains incorrect or false information;

(ii) The applicant or any of the other individuals listed pursuant to section 27(b)(1) has a license under this chapter which is under suspension, or is an officer or director of a corporation which has a license under suspension.

(iii) The applicant or any of the other individuals listed pursuant to section 27(b)(1) had a license under this chapter that was revoked during the previous two (2)

years, or was an officer or director of a corporation which had a license under this chapter that was revoked during the previous two (2) years;

- (iv) A license under this chapter at the location of the proposed establishment is the subject of a pending suspension proceeding or is under suspension;
- (v) A license under this chapter at the location of the proposed establishment is the subject of a pending revocation proceeding or has been revoked during the previous two (2) years;
- (vi) The granting of the application would violate a statute, code, or ordinance, or an order from a court of law that effectively prohibits the applicant from obtaining an adult entertainment establishment license.

(2) If the Zoning Administrator denies the application, the Zoning Administrator shall, within seven (7) days notify the applicant of the denial by certified mail, return receipt requested, and state the reason(s) for the denial.

(d) *Reapplication.* In the event an application is denied, nothing herein prohibits or shall be construed as prohibiting an applicant from subsequently filing with the Zoning Administrator another application upon payment of the required application fee.

**Section 30. License contents; term; renewal; expiration; cancellation, replacement.**

(a) *Contents.* An adult entertainment license shall state the name of the licensee, the name of the owner of the real property, the name of the establishment, the street address of the establishment, the classification of the license, the date of issuance, and the date of expiration.

(b) *Term.* All licenses issued under this chapter shall be annual licenses that shall commence running on October first (1<sup>st</sup>), on which date they shall have been paid for, and shall expire on September thirtieth (30<sup>th</sup>) of the following year. If a license is issued after October first (1<sup>st</sup>), but by March thirty-first (31<sup>st</sup>) of the following year, the applicant shall pay the applicable license fee in full. If a license is issued after March thirty-first (31<sup>st</sup>), but by October first (1<sup>st</sup>) of the same year, the applicant shall pay one-half the applicable license fee.

(c) *Renewals.* Licenses shall be renewed annually. Subject to other provisions of this chapter, a licensee under this chapter desiring to renew the license shall by October first (1<sup>st</sup>) present the license for the previous year, update all information and

documentation required for a license application, execute and have notarized a renewal statement on an approved form, and pay the applicable license fee. If the licensee is a corporation, an officer or director shall execute the renewal statement.

- (d) *Expiration.* A license that is not renewed under this chapter by October first (1<sup>st</sup>) of any year shall expire. However, an expired license may be renewed by October thirty-first (31<sup>st</sup>) of the same year upon presentment of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon payment of the applicable license fee, and upon payment of a penalty of ten (10%) percent of the applicable license fee for the month of October, or fraction thereof.
- (e) *Cancellation.* Any expired licenses not renewed by October thirty-first (31<sup>st</sup>) shall be cancelled summarily by the Zoning Administrator.
- (f) *Replacement License.* In the event that a license document issued under this article is lost, stolen or destroyed, the licensee may, unless the license is under suspension or revocation, obtain a replacement license document from the Zoning Administrator which may be used until the expiration date of the original license, upon satisfaction of the following requirements:
  - (1) Submission of a police report documenting a theft or a sworn notarized statement from the licensee describing the circumstances that resulted in the loss of the license; and
  - (2) Payment to the Zoning Administrator of an administrative fee of twenty dollars (\$20.00).

The replacement license document shall be labeled by the Zoning Administrator as a "Replacement License," and shall otherwise have the same information on its face, as did the license document that was lost, stolen or destroyed. Any attempted improper replacement of a license is hereby declared void. Nothing in this section shall be construed to allow more than one (1) license at a single location contrary to section 26(d).

### **Section 31. Annual fee.**

- (a) *Levy.* There are hereby levied the following annual license fees under this chapter for an adult entertainment establishment:
  - (1) An establishment having a license for an adult bookstore--seven hundred fifty dollars (\$750.00);
  - (2) An establishment having a license for an adult motel--seven hundred fifty dollars (\$750.00);
  - (3) An establishment having a license for an adult theater, as follows:

- (i) Having only adult booths--thirty-five dollars (\$35.00) for each booth;
  - (ii) Having only a hall or auditorium--three dollars and fifty cents (\$3.50) for each seat;
  - (iii) Having only an area outdoors designed to permit viewing by customers seated in vehicles--three dollars and fifty cents (\$3.50) for each parking space;
  - (iv) Having a combination of subsections (i), (ii) and/or (iii), the cumulative license fee applicable to each under such subsections;
- (4) An establishment having a license for an adult performance establishment--seven hundred fifty dollars (\$750.00);
  - (5) An establishment having a license for an escort service--seven hundred fifty dollars (\$750.00); or
  - (6) An establishment having a license for a physical contact parlor--seven hundred fifty dollars (\$750.00).
- (b) *Fees regulatory.* The annual license fees collected under this chapter are declared to be regulatory fees that are collected for the purpose of examination and inspection of adult entertainment establishments under this chapter and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other sections of Putnam County's ordinances or state law and other land development or regulatory fees associated with general commercial activities and locations.

**Section 32. Records and reports; consent by licensee.**

- (a) *Records and reports.* Each licensee shall keep such records and make such reports as may be required by this chapter. Whenever the information required by or provided under section 27(b) has changed, the licensee shall promptly provide the Zoning Administrator in writing with the changed information.
- (b) *Consent.* By holding a license under this chapter, the licensee shall be deemed to have consented to the provisions of this chapter and to the exercise by the Zoning Administrator and the departments of their respective responsibilities under this chapter.

**Section 33. Transfer.**

- (a) *Requirements.* A licensee under this article shall not partially or fully transfer his license to another person, and thereby partially or fully surrender possession, control, and operation of the

licensed establishment to such other person, unless and until such other person satisfies the following requirements.

- (1) Obtains a transferred license from the Zoning Administrator which provides that the applicant is now the licensee, which transferred license may be obtained only if the applicant has completed and properly filed an application pursuant to section 27, the application has been investigated under section 28, and the application has been granted by the Zoning Administrator pursuant to section 29;
  - (2) Adduces satisfactory proof that the transfer will be or has been effectuated through a bona fide sale, lease or other transaction; and
  - (3) Pays a transfer fee of ten (10%) percent of the applicable annual license fee.
- (b) *Effect of suspension or revocation procedures.* No license may be transferred pursuant to subsection (a) when the Zoning Administrator has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.
- (c) *No transfer to different location.* A licensee shall not transfer his license to another location.
- (d) *Attempted improper transfer void.* Any attempted transfer of a license either directly or indirectly in violation of this section is hereby declared void.

#### **Section 34. Changing name of establishment.**

No licensee may change the name of an adult entertainment establishment unless and until he satisfies each of the following requirements:

- (1) Gives the Zoning Administrator thirty (30) days' notice in writing of the proposed name change;
- (2) Pays the Zoning Administrator a three-dollar (\$3.00) change-of-name fee; and
- (3) Complies with Florida Statute Section 865.09.

#### **Section 35. Moving location of establishment.**

Subject to all other applicable legal requirements, a licensee may move his licensed premises to a new location and operate at the new location upon approval by the Zoning Administrator of the licensee's application for a change of location. The licensee shall submit to the Zoning Administrator an application for a change of location, accompanied by an application fee of seven hundred fifty dollars

(\$750.00) at the time the application is filed. Upon approval, which approval shall be subject to all other applicable legal requirements, of the application, there shall be issued to the licensee a license for the proposed location without the payment of any further fee other than the application fee for a change of location. The licensee's application for a change of location shall be approved or denied by the zoning administrator within the time constraints provided in section 29 regarding the granting or denying of a license.

### **Section 36. Suspension.**

- (a) *Violation of building, fire, health, or zoning statute, code, ordinance or regulation.* In the event a department learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state, or local, contrary to the respective general requirements of section 101, the department shall promptly notify the licensee of the violation and shall allow the licensee a seven-day (7) period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven-day (7) period the department shall notify the Zoning Administrator, who shall forthwith suspend the license, and shall notify the licensee of the suspension by certified mail, return receipt requested. The suspension shall remain in effect until the department notifies the Zoning Administrator in writing that the violation of the provision in question has been corrected.
- (b) *Illegal transfer.* In the event the Zoning Administrator learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to section 33, the Zoning Administrator shall forthwith suspend the license, and notify the licensee of the suspension by certified mail, return receipt requested. The suspension shall remain in effect until the Zoning Administrator is satisfied that the requirements of section 33(a) have been met.
- (c) *Convictions for violations of chapter.*
  - (1) In the event three (3) or more violations of Article V of this chapter occur at an adult entertainment establishment within a two-year (2) period, and convictions result from at least three (3) of the violations, the Zoning Administrator shall, upon receipt of evidence of the third (3<sup>rd</sup>) conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of thirty (30) days.
  - (2) In the event one (1) or more violations of Article V of this chapter occur at the establishment within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for thirty (30) days under subsection (c)(1), but not including any time during which the license was suspended for thirty (30) days, and a conviction results from one (1) or more of

the violations, the Zoning Administrator shall, upon receipt of evidence of the first (1<sup>st</sup>) conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of ninety (90) days.

- (3) In the event one (1) or more violations of Article V of this chapter occur at the establishment within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for ninety (90) days under subsection (c)(2), but not including any time during which the license was suspended for ninety (90) days, and a conviction results from one (1) or more of the violations, the Zoning Administrator shall, upon receipt of evidence of the first (1<sup>st</sup>) conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.
  - (4) The transfer, renewal or amendment of a license pursuant to this chapter shall not frustrate or defeat the terms of subsections (c)(1) through (3).
- (d) *Effective date of suspension.* All periods of suspension shall take effect ten (10) days after the date the Zoning Administrator mails the notice of suspension to the licensee or the Zoning Administrator or his designee posts the notice of suspension at the licensee's establishment, or on the date licensee delivers his license to the Zoning Administrator, whichever happens first. In the event the licensee timely challenges the suspension pursuant to the procedure set forth in section 38 the suspension shall be abated until the hearing officer files the original of the written decision with the Board of County Commissioners pursuant to Section 38(g).

### **Section 37. Revocation.**

- (a) *False information.* In the event the Zoning Administrator learns or finds upon sufficient cause that a license under this article was granted, transferred, or renewed based upon false or incorrect information, misrepresentation of fact, or mistake of fact, the Zoning Administrator shall forthwith revoke the license by certified mail, return receipt requested, and notify the licensee of the revocation.
- (b) *Certain convictions.*
  - (1) In the event one (1) or more violations of Article V of this chapter occur at an adult entertainment establishment which has had a license suspended for a period of one hundred eighty (180) days pursuant to section 36(c)(3), and the violation occurs within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for one hundred eighty (180)

days, but not including any time during which the license was suspended for one hundred eighty (180) days, the Zoning Administrator shall, upon receipt of evidence of a conviction for the subsequent violation, forthwith revoke the license, and notify the licensee of the revocation.

- (2) The transfer, renewal or amendment of a license pursuant to this chapter shall not defeat the terms of subsection (b)(1).
- (c) *Effect of revocation.* If a license is revoked, the licensee shall not be allowed to obtain another adult entertainment license for a period of two (2) years.
- (d) *Effective date of revocation.* The revocation shall take effect ten (10) days after the date the Zoning Administrator mails the notice of revocation to the licensee, or the Zoning Administrator or his designee posts the notice of revocation at the licensee's establishment, or on the date the licensee delivers his license to the Zoning Administrator, whichever happens first. In the event the licensee timely challenges the revocation pursuant to the procedure set forth in section 38 the revocation shall be abated until the hearing officer files the original of the written decision with the Board of County Commissioners pursuant to Section 38(g).

**Section 38. Challenge of suspension or revocation notification; determination by hearing officer.**

- (a) *Challenge of suspension or revocation notification.* If a licensee decides to challenge a notice of suspension or revocation, the licensee shall, within ten (10) days after receipt or the posting of such notice, file with the Zoning Administrator a notice requesting a hearing pursuant to subsection (b). The licensee shall set forth therein the reasons why the licensee believes the suspension or revocation would be in error.
- (b) *Appointment of hearing officer.* From time to time, the Board of County Commissioners shall appoint and retain three (3) or more hearing officers to hear applications for determinations of suspensions and revocations. Each of the hearing officers shall be a licensed attorney with the Florida Bar who has practiced law in the state for at least five (5) years, and who has experience in land use law, real estate law, local governmental law, or administrative law. None of the hearing officers shall be representing clients before any agency of the County government during the period in which they serve as hearing officers. None of the hearing officers or the law firms with which they may be associated shall be representing clients in any judicial or administrative proceeding in which the Putnam County is an adverse party.
- (c) *Term, compensation.* Each hearing officer shall serve at the pleasure of the board and shall be compensated at a rate or rates to be fixed by the Board of County Commissioners.

(d) *Ex parte communication.*

- (1) No County employee, elected official, or other person who is or may become a party to a proceeding before a hearing officer shall engage in an ex parte communication with the hearing officer. However, the foregoing does not prohibit discussions between the hearing officer and County staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the application.
- (2) If a person engages in an ex parte communication with the hearing officer, the hearing officer shall place on the record of the pending case all ex parte written communications received, all written responses to such communications, a memorandum stating the substance of all oral communications received, and all oral responses made, and shall advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be entitled to do so, but only if such party requests the opportunity for rebuttal within ten (10) days after notice of such communication. If he or she deems it necessary due to the effect of an ex parte communication received by him, the hearing officer may withdraw from the case.
- (3) Any person who makes an ex parte communication prohibited by subsection 38(d)(1), and any hearing officer who fails to place in the record any such communication, is acting in violation of this Article and may be assessed a civil penalty not to exceed five hundred dollars (\$500.00).

(e) *Prohibited from acting as agent or attorney for subject matter.* A hearing officer, and any firm with which he or she is or may become associated, is prohibited for a period of three (3) years after rendition of a decision on a licensee's request from acting as an agent or attorney on any matter involving property which was the subject of the proceeding in which the hearing officer presided. Violations of this subsection shall be prosecuted in the manner provided by general law.

(f) *Hearings.*

- (1) All hearings shall be conducted within a reasonable time after appointment of a hearing officer, shall be open to the public, and shall be advertised in a newspaper of general circulation not less than seven (7) days prior to the date of the hearing.
- (2) The participants before the hearing officer shall be the licensee, the licensee's witnesses, if any, County staff, interested members of the public, if any, and witnesses of the interested members of the public, if any. Any interested member of the public who participates at the hearing shall leave his mailing address with the hearing officer.

- (3) The licensee and his witnesses, if any, shall present the licensee's case within a reasonable period of time, including rebuttal, as shall County staff, as shall all interested members of the public and their witnesses, if any.
- (4) Testimony and evidence shall be limited to matters directly relating to the pending suspension or revocation. Irrelevant, immaterial or unduly repetitious testimony or evidence may be excluded.
- (5) All testimony shall be under oath. The order of presentation of testimony and evidence shall be as follows:
  - (i) The licensee and his witnesses, if any.
  - (ii) Any interested member of the public, if any, and his witnesses, if any.
  - (iii) Comments and witness testimony presented by the staff, if any.
  - (iv) Rebuttal and summation by the licensee, if any.
  - (v) Surrebuttal by the staff.
- (6) To the maximum extent practicable, the hearings shall be informal. Reasonable cross examination of witnesses shall be permitted, but questioning shall be confined as closely as possible to the scope of direct testimony. The hearing officer may call and question witnesses or request additional evidence as he or she deems necessary and appropriate. To that end, if during the hearing the hearing officer believes that any facts, claims, or allegations necessitate review and response by either the licensee, staff, or both, then the hearing officer may order the hearing continued until a date certain. The hearing officer shall decide all questions of procedure and standing.
- (7) The County shall arrange, at the County's expense, for the attendance at the hearing of a licensed court reporter that shall record the proceedings. In the event any party files an appeal of the hearing officer's decision, the party filing the appeal shall be responsible for obtaining, at the party's own expense, a transcript of the hearing.
- (8) The hearing officer shall render a written decision on the application within thirty (30) days after the hearing concludes.
- (g) *Filing of decision.* The original of the hearing officer's written decision shall be filed with the Board of County Commissioners, and copies shall be mailed to the Zoning Administrator, the licensee, and to any interested member of the public who participated at the hearing and requested a copy of the written decision.

**Section 39. Appeal procedure.**

- (a) *Judicial review.* An adverse decision of the hearing officer may be challenged by the licensee, or Putnam County, or any other person who was a party at the hearing, in the Circuit Court for the Eleventh Judicial Circuit. To challenge the hearing officer's decision, a petition for writ of certiorari shall be filed with the clerk to the circuit court not later than thirty (30) days after the decision of the hearing officer has been filed with the Board of County Commissioners. The complete record of the proceedings before the hearing officer, including all evidence and a complete transcript of the proceedings, shall be filed with the circuit court as the record from below.
- (b) *Requirement of exhaustion of procedures.* Judicial review of a suspension or revocation shall only be available after the procedures set forth in section 38 have been exhausted.

**Section 40--75. Reserved.**

**ARTICLE III. DISTANCE AND ZONING RESTRICTIONS**

**Section 76. Distance Requirements.**

- (a) Notwithstanding any other provision of this chapter (except section 79) or any provision of chapter 94 (Zoning) of the Municipal Code of the Putnam County, no person shall propose, cause or permit the operation of, or enlargement of (except when an enlargement may be required by law), an adult entertainment establishment which, while in operation or after enlargement, would or will be located within:
  - (1) Twenty five hundred (2,500) feet of a preexisting adult entertainment establishment;
  - (2) Twenty five hundred (2,500) feet of a preexisting religious institution;
  - (3) Twenty five hundred (2,500) feet of a preexisting educational institution;
  - (4) Three hundred (300) feet of an area zoned within the County for residential use;
  - (5) Three hundred (300) feet of an area designated as Rural Residential on the future land use map of the County's comprehensive plan;
  - (6) One thousand (1000) feet of a preexisting park; or

- (7) Three hundred (300) feet of a preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption.
- (b) In addition to the distance requirements set forth in subsection (a), an adult entertainment establishment shall not be allowed to open, operate or be enlarged (except when an enlargement may be required by law) anywhere except in a C-4 commercial zoned district where adult entertainment establishments are an expressly permitted use.

**Section 77. Measurement of distance.**

The distance from a proposed or existing adult entertainment establishment to a preexisting adult entertainment establishment, a preexisting religious institution, a preexisting educational institution, an area zoned for residential use, an area designated on the future land use map of the comprehensive plan as residential, a preexisting residence, a preexisting park, or a preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the preexisting adult entertainment establishment, preexisting religious institution, preexisting educational institution, area zoned for residential use, area designated on the future land use map of the comprehensive plan as residential, preexisting residence, preexisting park, or preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption.

**Section 78. Nonconforming establishments--Distance requirements.**

Any adult entertainment establishments existing and operating as of the effective date of this section, which do not conform to the distance requirements set forth herein, shall be deemed to be nonconforming, and the distance requirements set forth herein shall not apply to those establishments. If any such nonconforming adult entertainment establishment voluntarily ceases to do business for a period of fifteen (15) consecutive days, then it shall be deemed abandoned and thereafter shall not reopen except in conformance with all requirements of the appropriate codes of Putnam County. Further, no such nonconforming adult entertainment establishment may be extended to occupy any greater area of land or extended to occupy any land outside any buildings on the same parcel.

**Section 79. Location requirements.**

An adult entertainment establishment located within the County limits shall be allowed only in the following land use districts or defined areas:

- (a) C-4 (Commercial Zoning District)

**Section 80-100. Reserved.**

**ARTICLE IV. GENERAL OPERATIONAL RULES**

**Section 101. General requirements.**

Regardless of whether it is licensed under this chapter, each adult entertainment establishment is subject to all of the following general requirements:

- (1) An establishment shall keep the adult entertainment license posted in a conspicuous place at the establishment at all times, which license shall be available for inspection upon request at all times by the public.
- (2) An establishment shall opaquely cover each area through which a person outside the establishment may otherwise see inside the establishment.
- (3) An establishment shall, on the first Monday of each month, provide the Sheriff with a listing of each person who is or has been a worker at the establishment since the first Monday of the previous month, and his or her position, legal name, stage name and date of birth.
- (4) An establishment shall not allow any of the exterior walls of the establishment, excluding signs, to be any color other than a single color (either white or a pastel). If the single color chosen is white, the establishment shall not allow any of the awnings, canopies, window shutters, or other trim or window treatment to be any color other than white or a single pastel color. If the single color chosen is a pastel, it shall not allow any of the awnings, canopies, window shutters or other trim or window treatment to be any color other than white or a different shade of the single pastel color of the walls. The trim color shall not exceed twenty (20) percent of the entire exterior surface of the building. However, nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment.
- (5)
  - (a) Notwithstanding the County's code regulating signs, or any other regulation to the contrary, an establishment shall not erect, construct, keep or maintain any sign for the establishment other than as provided in this subsection (9). Except as provided in this subsection (9), such signs shall be subject to Chapter 62.
  - (b) A sign shall not contain any flashing lights, photographs, silhouettes, drawings or pictorial representations of any manner (except for the logo of the establishment, provided the logo shall not contain any specified anatomical areas, or

any male or female forms at or below the clavicle), and the sign shall contain only the following:

- (1) The name of the establishment; and/or
- (2) One (1) or more of the following applicable phrases:
  - (i) "Adult bookstore";
  - (ii) "Adult theater";
  - (iii) "Adult performance establishment";
  - (iv) "Adult motel";
  - (v) "Escort service" or "escort agency";
  - (vi) "Physical contact parlor";
  - (vii) "Adult entertainment";
  - (viii) "Movie titles posted within premises."
- (c) Each letter forming a word on a sign shall be of a solid color, and each such letter shall be the same print-type, size and color, except any word that is normally capitalized shall be allowed to use a capital letter at the beginning of the word. The background behind such lettering on the display surface shall be of a uniform solid color.
- (6) Each entrance and exit at the establishment shall remain unlocked when any person who is not a worker is inside the establishment.
- (7) Immediately inside the entrance of an adult entertainment establishment their shall be posted a well-lighted sign which shall read as follows:

NOTICE

THIS ESTABLISHMENT OFFERS MATERIAL OR ENTERTAINMENT HAVING ADULT  
CONTENT. SUCH MATERIALS OR ENTERTAINMENT ARE FOR ADULTS ONLY.  
IF THIS OR NUDITY WOULD OFFEND YOU, DO NOT ENTER.

Such sign shall be clear and legible and the text thereof shall be set forth in letters of uniform size that are at least three (3) inch high black or red bold capital letters on a white background.

**Section 102. Adult theaters.**

In addition to the general requirements for an adult entertainment establishment contained in section 101, an adult theater shall, regardless of whether it is licensed, observe the following special requirements:

- (1) If the adult theater contains a hall or auditorium area, the area shall comply with each of the following provisions:
  - (a) Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the area;
  - (b) Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times;
  - (c) Have a sign posted in a conspicuous place at or near each entranceway to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area; and
  - (d) Have sufficient illumination so that persons in all areas of the auditorium can be seen.
- (2) If the adult theater contains adult booths, each adult booth shall comply with each of the following provisions:
  - (a) Have a sign posted in a conspicuous place at or near the entranceway which states the maximum number of persons who may occupy the booth, which number shall correlate with the number of seats in the booth;
  - (b) Have a permanently open entranceway not less than thirty-two (32) inches wide and not less than six (6) feet high, which entranceway shall not have any curtain rods, hinges, rails, or the like which would allow the entranceway to be closed or partially closed by any curtain, door, or other partition;
  - (c) Have individual, separate seats, not couches, benches, or the like, which correlate with the maximum number of persons who may occupy the booth;
  - (d) Have a well-illuminated, continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times;
  - (e) Have, except for the entranceway, walls or partitions of solid construction without any holes or openings in such walls or partitions; and
  - (f) Be illuminated by a light bulb of no less than twenty-five (25) watts.
- (3) If the adult theater is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by the theatre's patrons may not be seen from any public right-of-way, property zoned for

residential use, religious institution, educational institution, or park.

### **Section 103. Adult performance establishments.**

In addition to the general requirements for an adult entertainment establishment contained in section 101, an adult performance establishment shall, regardless of whether it is licensed, observe the following special requirements:

- (1) It shall have a stage provided for the display or exposure of any specified anatomical area by a worker to a customer consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet; and
- (2) Any area in which a private performance occurs shall:
  - (a) Have permanently open interior entranceways not less than thirty-two (32) inches wide and not less than six (6) feet high, which entranceways shall not have any curtain rods, hinges, rails, or the like which would allow the entranceway to be closed or partially closed by any curtain, door, or other partition;
  - (b) Have a wall to wall, floor to ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the worker from any person viewing the private performance.
  - (c) Not have any two-way mirrors, calling systems or other mechanisms or methods used to warn or forewarn a worker or customer inside the private performance area that another person is entering or may be about to enter the private performance area.
  - (d) Have a notice prominently posted within all customer areas which reads as follows in uniform size at least three (3) inch high black or red bold capital letters on a white background: "TIPPING OR THE PAYMENT OF GRATUITIES ABOVE THE PERFORMANCE FEE IS PROHIBITED BY THE MUNICIPAL CODE OF THE PUTNAM COUNTY."
  - (e) Have videotape equipment that continuously records the customer and the performer during all performances. The video tape shall record the actual time and date of each performance on the recorded image. The videotape equipment shall be kept in good working order. Videotapes shall be maintained for at least thirty (30) days after each performance and shall be made available for inspection upon request by a law enforcement officer.

- (f) Have a notice prominently posted within all customer areas which states as follows in at least three (3) inch high black or red bold capital letters on a white background: "THE CUSTOMER AND PERFORMER ARE BEING VIDEOTAPED DURING ALL PERFORMANCES AS REQUIRED BY THE PUTNAM COUNTY CODE."
- (g) Have at least one (1) manager's station configured and positioned in a manner that allows an unobstructed view from the station to every area in the adult performance establishment in which any worker displays or exposes specified anatomical areas to any customer and every area in which any customer is permitted to observe or interact with any worker. The view required by this subsection shall be by direct line of sight from the manager's station. Such view shall enable each worker and any customer to see the manager and the manager to see each worker and customer. Each manager's station shall be continuously staffed by a person designated as a manager during all performances and shall not be staffed by any adult entertainment performers. The name of the manager on duty shall be prominently displayed at each manager's station in at least three (3) inch high black or red bold capital letters on a white background.
- (h) It shall be the duty of each operator of an adult performance establishment to ensure that the view of or from each manager's station required under subsection (g) above remains unobstructed at all times and to ensure that no customer is permitted access to any area of the adult performance establishment which has been designated as an area in which customers are not routinely permitted access.

#### **Section 104. Sexually oriented businesses.**

In addition to the general requirements for an adult entertainment establishment contained in section 101, a sexually oriented business shall, regardless of whether it is licensed, observe the following special requirements:

- (1) Post in an open and conspicuous place and file with the police department, a list of services provided by the sexually oriented business described in readily understandable language with a specification of the cost of such services.
- (2) Provide each customer, in advance, with a written customer contract setting forth the service or services to be rendered, the cost of such service, the actual full name of the worker to provide such service, and the actual full name of the customer to which such service is rendered.
- (3) Maintain a daily register recording all transactions on a form provided by the police department containing records of all customers with actual full names, time expended, services purchased and mode of payment and actual full names of all workers who provided services, together with a copy of each customer contract.

- (4) Not increase the incentive or temptation for workers to engage in prostitution or lewdness by allowing any worker of the sexually oriented business to accept any tips or gratuities directly from a customer in addition to the service fee specified in the customer contract.

**Section 105. Escort services.**

In addition to the general requirements for an adult entertainment establishment contained in section 101 and the special requirements for a sexually oriented business contained in section 104, an escort service shall, regardless of whether it is licensed, observe the following additional special requirements:

- (1) If offering or providing escorts within the County, an escort service shall notify the Zoning Administrator of an authorized physical location, which may or may not be within the County, from where the escort service operates and dispatches escorts.
- (2) Include in all advertising or promotional literature posted, placed, published, or distributed within the County, the number of a valid adult entertainment establishment/escort service license issued by the Zoning Administrator unless the escort service does not refer, send, or dispatch escorts to a location within the County.
- (3) Ensure that every escort or worker of an escort service is provided or obtains, carries while working as an escort, and displays upon the request of any law enforcement officer, an occupational license to engage in the occupation of escort within the County.

Exception: An escort or worker of an escort service, who is a paid employee for whom taxes and social security payments are withheld and paid by the escort service, and who is not an independent contractor, may substitute and carry a copy of the adult entertainment escort service license of the employing escort service.

**Section 106. Physical contact parlors.**

In addition to the general requirements for an adult entertainment establishment contained in section 101 and the special requirements for a sexually oriented business contained in section 104, a physical contact parlor shall, regardless of whether it is licensed, observe the following additional special requirements:

- (1) Operate only from a fixed physical location at which are displayed its sexually oriented business license and all other required occupational licenses.
- (2) Provide clean linens and towels for each customer without any reuse of towels or linens before re-laundering, provided, however, that

heavy white paper may be substituted for sheets, provided such paper is used by only one (1) customer and then is discarded into a sanitary receptacle.

- (3) Provide closed cabinets for the storage of clean linens, towels and other materials used in connection with administering physical contact.
- (4) Disinfect and sterilize all non-disposable instruments and materials after use on each customer.
- (5) Require each worker to wear a clean outer garment in the nature of a surgical gown when providing physical contact, and during all other working hours to conceal, with a fully opaque covering, all specified anatomical areas of his or her body.
- (6) Inform each customer in the customer contract that he or she must cover his or her specified anatomical areas with a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material while in the presence of a worker.
- (7) Not permit, suffer, or allow any animal, except a seeing eye guide dog, to be on the premises of the physical contact parlor.
- (8) If both male and female customers are to be served simultaneously, provide two (2) separate work areas for providing physical contact, one for males and the other for females.
- (9) Configure each work area where physical contact is to be provided so that the area is readily visible at all times from common areas of the establishment outside the work area.

#### **Section 107. Records and inspection of records.**

- (a) An adult entertainment establishment shall maintain a worker record for each worker who currently works or performs at the establishment, and for each worker who worked at the establishment, during the preceding one (1) year period.
  - (1) The worker record shall contain the current or former worker's full legal name, including any aliases and date of birth.
  - (2) The worker record shall also describe the status of each worker; that is whether the worker is or was a paid employee for whom income taxes and social security payments are or were withheld or is or was a lessee, sublessee, independent contractor, or subcontractor.
  - (3) The worker record shall also contain a copy of all valid occupational licenses for each worker of the establishment.
- (b) The original worker records and the original customer contracts and daily registers required by Article IV, or true and exact

photocopies thereof, shall be kept at the establishment at all times.

- (c) Each operator of the establishment shall be responsible for knowing the location of the originals, or the true and exact photocopies thereof, of each worker record, customer contract, and daily register.
- (d) Each operator of the establishment shall, upon request by a law enforcement officer, when the establishment is open for business, immediately make available for inspection the original, or the true and exact photocopies thereof, of any worker record, customer contract, or daily register.

**Section 108. Providing additional information.**

The owner or operator of any commercial establishment that sells or rents books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, DVDs, slides or other representations or recordings or novelties and devices may be required, if so requested by the Zoning Administrator, to provide additional information regarding the requirements under this chapter including, but not limited to, inventory listings and sales records for the purpose of determining if said commercial establishment is an adult entertainment establishment. The owner or operator shall have a thirty (30) day period from the date of the written request within which to provide the requested information. Failure to provide said materials upon written request of the Zoning Administrator shall be sufficient cause for the suspension of the commercial establishment's license as provided by Article II. The owner or operator of any commercial establishment may be released from the obligation of providing the additional information required by this section by submitting to the Zoning Administrator statement of acknowledgment of acceptance that the establishment is an adult entertainment establishment as defined in this Chapter and is therefore bound by the regulations contained herein, said acknowledgment shall be signed by the owner or operator before a notary.

**Section 109--125. Reserved.**

**ARTICLE V. CRIMINAL PROVISIONS**

**Section 126. Penalty.**

Whoever violates any section of this article may be punished as provided in **section 1-10 of the Municipal Code** (*need proper cite*) of the Putnam County, except that any person who violates any section of this article only vicariously without any direct involvement may be punished only by a fine as provided in section 1-10.

**Section 127. Operation of establishment without valid adult entertainment license.**

It shall be unlawful for any person to be an operator of an adult entertainment establishment where the person knows or should know:

- (1) That the establishment does not have an adult entertainment license for any applicable classification;
- (2) That the establishment has a license that is under suspension;
- (3) That the establishment has a license that has been revoked or cancelled; or
- (4) That the establishment has a license that has expired.

**Section 128. Operation contrary to certain provisions.**

- (a) It shall be unlawful for any person to be an operator of an adult entertainment establishment that does not satisfy all of the general requirements of section 101, regardless of whether the establishment is licensed under this chapter.
- (b) It shall be unlawful for any person to be an operator of an adult theater that does not satisfy all of the special requirements of section 102, regardless of whether the establishment is licensed under this chapter.
- (c) It shall be unlawful for any person to be an operator of an adult performance establishment that does not satisfy all of the special requirements of section 103, regardless of whether the establishment is licensed under this chapter.
- (d) It shall be unlawful for any person to be an operator of a sexually oriented business (an escort service or physical contact parlor) which does not satisfy all of the special requirements of section 104, regardless of whether the establishment is licensed under this chapter.
- (e) It shall be unlawful for any person to be an operator of an escort service that does not satisfy all of the special requirements of section 105, regardless of whether the establishment is licensed under this chapter.
- (f) It shall be unlawful for any person to be an operator of a physical contact parlor that does not satisfy all of the special requirements of section 106, regardless of whether the establishment is licensed under this chapter.
- (g) It shall be unlawful for any person to be an operator of an adult entertainment establishment while the entrance or exit of the establishment is locked when a person other than a worker is inside the establishment, regardless of whether the establishment is licensed under this chapter.

**Section 129. Engaging in prohibited acts.**

It shall be unlawful for any worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to commit any of the following acts, or for an operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly or with reason to know, permit, suffer, or allow any worker to commit any of the following acts:

- (1) Engage in a straddle dance with a person at the adult entertainment establishment;
- (2) Offer, contract or otherwise agree with a person to engage in a straddle dance with a person at the adult entertainment establishment;
- (3) Engage in any specified sexual activity at the adult entertainment establishment;
- (4) Operate or work in an adult entertainment establishment where alcoholic beverages are sold, offered for sale, or consumed;
- (5) Display or expose specified anatomical areas unless such worker is continuously positioned at least three (3) feet away from every customer and unless such worker is in an area as described in section 103(1);
- (6) Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the adult entertainment establishment, including with another worker;
- (7) Engage in a private performance at the adult entertainment establishment unless such worker is in an area that complies with the special requirements of section 103(2) (a) and (b);
- (8) Intentionally touch any customer at the adult entertainment establishment, while engaged in the display or exposure of any specified anatomical areas;
- (9) Intentionally touch the clothed or unclothed body of any customer at the adult entertainment establishment, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person;
- (10) Solicit or accept the payment of a tip or gratuity for, or in connection or relation to, a private performance;
- (11) Engage in any private performance when a manager is not on duty observing from a manager's station.

### **Section 130. Advertising prohibited activity.**

It shall be unlawful for an operator or worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to advertise the presentation of, encourage or promote any

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

**Section 131. Minors prohibited.**

It shall be unlawful for an operator or worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer, or allow:

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

**Section 132. Working at unlicensed establishment or at establishment that does not conspicuously display license.**

It shall be unlawful for any person to act as a worker of an adult entertainment establishment that he knows or should know is not licensed under this chapter, or which has a license which is under suspension, has been revoked or canceled, or has expired, or which does not have the adult entertainment license conspicuously displayed.

**Section 133. Failure to maintain, produce or display records.**

- (a) It shall be unlawful to be an operator or worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, at which the license required by Article II of this chapter and each record required by Article IV, including every worker record, customer contract, and daily register, have not been compiled, are not maintained, or are not produced for inspection by a law enforcement officer upon request when the establishment is open for business.
- (b) It shall be unlawful for a worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to fail to obtain, carry, and produce for inspection by a law enforcement officer upon request, an occupational license for the occupation in which the worker is engaged.

Exception: It is an affirmative defense to an alleged violation of this subsection and this subsection does not apply to a worker of an adult entertainment establishment who is a paid employee for whom income taxes and social security payments are withheld and paid by the adult entertainment establishment, and who is not an

independent contractor, except an employee who is an escort working away from the establishment's premises, who shall be required to obtain, carry, and produce for inspection by a law enforcement officer upon request, a copy of the adult entertainment license of the employing escort service.

**Section 134. Reserved.**

**Section 135. Touching of workers.**

- (a) It shall be unlawful for any customer in an adult entertainment establishment to intentionally touch a worker who is displaying or exposing any specified anatomical area at the establishment.
- (b) It shall be unlawful for any customer in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of any worker, or to touch the clothed body of any worker of the establishment at any point below the waist and above the knee of the worker.

**Section 136. Exceeding occupancy limit of adult booth.**

It shall be unlawful for any person to occupy an adult booth in which booth there are more people than that specified on the posted sign required by section 102.

**Section 137. Use of restrooms or dressing rooms.**

Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any worker or operator of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to expose any specified anatomical area during the worker's or operator's bona fide use of a restroom, or during the worker's or operator's bona fide use of a dressing room which is accessible only to workers and/or operators.

**Section 138. Hours of operation.**

- (a) It shall be unlawful for any operator of an adult entertainment establishment to allow such establishment to remain open for business, or to permit any worker to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of one o'clock (1:00) a.m. and eleven o'clock (11:00) a.m. of any particular day.
- (b) It shall be unlawful for any worker of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of one o'clock (1:00) a.m. and eleven o'clock (11:00) a.m. of any particular day.

**Section 139. Alteration or mutilation of license.**

It shall be unlawful for any person other than the Zoning Administrator to alter or otherwise change the contents of an adult entertainment license. It shall be unlawful for any person to mutilate, cover, obstruct or remove a license from display.

**Section 140. False or misleading statement or false or misleading information.**

- (a) It shall be unlawful for any person applying for, renewing or transferring an adult entertainment license to make a false or misleading statement which is intended to facilitate the issuance, renewal or transfer of a license, or to provide false or misleading information which is intended to facilitate the issuance, renewal or transfer of a license.
- (b) It shall be unlawful for any person to provide false or misleading information in the monthly reports required under subsection 101(7).
- (c) It shall be unlawful for any person to provide false or misleading information in the worker records, customer contracts and daily registers required under section 104 and section 107.

**Section 141. Solicitation or personal advertising.**

It shall be unlawful for any worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, while situated outside any structure at the adult entertainment establishment or at a place at the adult entertainment establishment where the worker is visible from any public right-of-way or sidewalk, to display or expose specified anatomical areas or to engage in personal advertising, pandering or soliciting, whether passive or otherwise, on behalf of the worker, any other worker, or the adult entertainment establishment. For purposes of this section, "personal advertising" means encouraging or enticing, by whatever direct or indirect means, potential customers beyond the adult entertainment establishment to enter the adult entertainment establishment. Additionally, it shall be unlawful for any worker to suffer, permit or allow any door that is visible from a public right-of-way or sidewalk to be opened or remain opened except when a person is entering or exiting the establishment. It also shall be unlawful for an operator to permit, suffer, or allow any worker to violate this section.

**Section 142. Allowing customers to engage in specified sexual activity.**

It shall be unlawful for a worker of an adult entertainment establishment, regardless of whether it is licensed under this chapter, to knowingly, or with reason to know, permit, suffer or allow any person or customer to engage in any specified sexual activity at the

establishment. It also shall be unlawful for an operator to permit, suffer, or allow any worker to violate this section.

**Section 143. Prohibited acts by customers, workers and operators of sexually oriented businesses.**

It shall be unlawful for a customer of a sexually oriented business to do any of the following acts, or for a worker or operator of a sexually oriented business to knowingly permit, suffer, aid, assist, or allow a customer to do any of the following acts:

- (1) Touch, massage, or manipulate, directly or indirectly (through a medium), the body of any worker or operator of the sexually oriented business;
- (2) Touch, massage, manipulate, display or expose any of the customer's specified anatomical areas while in the presence of a worker or operator of the sexually oriented business; or
- (3) Engage in any specified sexual activity while in the presence of a worker or operator of the sexually oriented business.

**Section 144. Prohibited acts by escorts.**

It shall be unlawful for an escort or escort service worker to commit any of the following acts, or for an operator of an escort service to knowingly or with reason to know, permit, suffer, aid, assist, or allow any escort or escort service worker to commit any of the following acts:

- (1) Enter a hotel, motel or other transient place of lodging for the purpose of meeting or serving a customer without immediately meeting with an employee of the hotel, motel or other place of lodging who is working at the front desk or reception area and doing each of the following:
  - (a) Provide the time of arrival and the estimated time of departure;
  - (b) Present a copy of the escort service's adult entertainment license and escort's occupational license;
  - (c) Identify himself or herself, identify the escort service that sent him or her, state the name of the customer he or she is meeting or servicing; and
  - (d) Describe the location of the meeting, including any applicable room number; and
  - (e) Notify an employee at the front desk or reception area upon departing the premises;

- (2) Distribute, place, post, or leave any unsolicited business cards, advertisements, or promotional material on or within the premises of any other business;
- (3) Begin a meeting with a customer between ten o'clock (10:00) p.m. any day of the week and nine o'clock (9:00) a.m. of the following day;
- (4) Begin a meeting or service with a customer without first meeting the customer in a public place, such as a bar or restaurant, before accompanying the customer to any place which is not open and occupied by the public, such as a hotel room or residence;
- (5) Display or expose specified anatomical areas to a customer of an escort service;
- (6) Require, entice or solicit a customer to remove any article of clothing;
- (8) Solicit a tip or gratuity from a customer in exchange for a promise or suggestion of any act or service.

**Section 145. Prohibited acts by workers of physical contact parlors.**

It shall be unlawful for a worker of a physical contact parlor to commit any of the following acts, or for an operator of a physical contact parlor to knowingly or with reason to know, permit, suffer, aid, assist, or allow any worker to commit any of the following acts:

- (1) Fail to, while engaged in providing physical contact, wear a clean outer garment in the nature of a surgical gown;
- (2) Display or expose any specified anatomical areas to a customer at a physical contact parlor;
- (3) Fail to require, at all times, each customer to cover such customer's specified anatomical areas with a towel, cloth, robe, undergarment, swimsuit or other similar fully opaque material while in the presence of a worker;
- (4) Perform physical contact on a customer while not on the premises of a physical contact parlor licensed under this chapter;
- (5) Engage in, or offer to engage in, any escort service or private modeling in relation to the physical contact parlor;
- (6) Solicit or require a customer to remove any item of clothing as a prerequisite to providing physical contact;
- (7) Solicit a tip or gratuity from a customer in exchange for a promise or suggestion of any act or service.

**Section 146. Presumptions.**

The following shall be presumed in actions brought for violations of this chapter:

- (1) Any establishment that has received an occupational license to operate commercially is presumed to be an adult entertainment establishment.
- (2) Any person who operates or maintains an adult entertainment establishment shall be presumed to be aware of the activities that are conducted in said establishment upon a showing that said person negligently or willfully fails or refuses to monitor conduct at the establishment.

**Section 147. Effective date.**

This ordinance shall become effective pursuant to general law.

**Section 148-160. Reserved.**

ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2001.

\_\_\_\_\_  
PUTNAM COUNTY, FLORIDA  
By: Board of County Commissioners