

**CHAPTER 3
BUSINESSES**

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CHAPTER 3

BUSINESSES

ARTICLE I. SALE OF ALCOHOLIC BEVERAGES

Sec. 3-1. Sales.

- A. The definitions contained in the alcoholic beverage laws of the State of Florida, as set forth in Chapters 561, 562, and 564, Florida Statutes, shall apply to the terms in this chapter.
- B. Packaged sales for off-premises consumption of malt beverages and unfortified wine shall be permitted on all days between the hours of 7:00 a.m. and 2:00 a.m. on the following day.
- C. Packaged sales for off-premises consumption of all alcoholic beverages except malt beverages and unfortified wine shall be permitted on all days between the hours of 7:00 a.m. and 11:00 p.m.
- D. It shall be unlawful for any person to sell to or to consume or to permit the consumption of any alcoholic beverage on the premises of any business or club open to the public, which business or club caters to or allows the consumption of alcoholic beverages, between the hours of 2:00 a.m. and 7:00 a.m. immediately following on Tuesday, Wednesday, Thursday, Friday, or Saturday; or between the hours of 2:00 a.m. and 1:00 p.m. on Sunday; or between the hours of 11:00 p.m. on Sunday and 7:00 a.m. on all days. Within this section, the term "premises" shall mean the physical facilities, improvements, or buildings where the business or club is located and conducted, and any parking lot or other real property available to the business or club. As used herein, the terms "business" and "club" shall mean any place which is open to the public or to which the public is invited. The provisions of this section shall apply whether or not such premises hold a valid beverage license.

[History: Ord. No. 1-84; 2013-04]

Sec. 3-2. Churches and Schools.

- A. No license for the sale of alcoholic beverages shall be issued to any applicant where the place of business to be licensed is within five hundred (500) feet of an established church, which distance shall be measured by extending a straight line from the main entrance of the building of the licenced premises of the applicant to the main entrance of said church building.

- B. No license for the sale of alcoholic beverages shall be issued to any applicant where the place of business to be licensed is within five hundred (500) feet of a public or private school, duly accredited and offering any of the grades from kindergarten through the twelfth grade, which distance shall be measured by extending a straight line from the main entrance of the building of the licenced premises of the applicant to the nearest part of the school grounds normally and regularly used in connection with such school program.
- C. Any person violating the provisions of this Section shall, upon conviction, be punished by fine of not more than \$500.00 or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment.

[History: Ord. No. 3-74]

Sections 3-3 through 3-9 reserved.

**ARTICLE II. ADULT PERFORMANCE ESTABLISHMENT,
ESCORT SERVICE AND ESCORT LICENSES**

Part 1. General Provisions

Sec. 3-10. Authority.

This Article is enacted under the home rule power of the City of Waldo, Florida, in the interest of the health, peace, safety, and general ,welfare of the people of the city, and under the authority of the city to regulate the sale and consumption of alcoholic beverages under the 21st Amendment to the Constitution of the United States.

[History: Ord. 2001-7A]

Sec. 3-11. Scope.

This Article shall be effective throughout the City of Waldo, Florida.

[History: Ord. 2001-7A]

Sec. 3-12. Purpose and Findings.

- A. The intent of city council in adopting this Article is to establish reasonable and uniform regulations for adult performance establishments and escort services that will protect the health, safety, property values, and general welfare of the people of the city. It is not the intent of the city council to legislate with respect to matters of obscenity. The issues of obscenity are regulated by federal and state law, including Chapter 847 Florida Statutes

and according to *Hoffman v. Carson*, 250 So.2d 891, 893 (Fla. 1971), *appeal dismissed* 404 U.S. 981 (1971).

B. The city council hereby finds:

1. Commercial establishments exist or may exist within the city and other nearby cities or counties in north central Florida where dancers, entertainers, performers, or other individuals, for commercial gain, perform or are presented while displaying or exposing specified anatomical area; or who engage in straddle dancing or touching with customers.
2. The activities described in B 1 above occur at establishments which operate for the purpose of making a profit, and, as such, are subject to regulation by the city in the interest of the health, safety, economy, property values and general welfare of the people, businesses, and industries of the city. Promoting tourism is important to the community's continued economic welfare, including tourism by persons seeking to bring children to visit attractions who wish to stay in a community with a family atmosphere.
3. When the activities described in B 1 above are present in establishments, other activities which are illegal, unsafe, or unhealthy 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 and possession of controlled substances, and violent crimes against persons and property.
4. When the activities described in B 1 above are competitively exploited in establishments, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote the particular crimes described in B 3 above, and ultimately lead residents and businesses to move to other locations.
5. The establishments in which the activities described in B 1 above occur have exterior signs or appearance that lower the surrounding property values and contribute to the decline of small communities such as Waldo.
6. The concurrence of the sale and consumption of alcoholic beverages with the activities described in B 1 above leads to a further increase in criminal activity, unsafe activity, and disturbances of the peace and order of the surrounding community.

7. The concurrence of the sale and consumption of alcoholic beverages with the activities described in B 1 above creates additional hazards to the health and safety of persons in attendance and further depreciates the value of adjoining property harming the economic welfare of the surrounding community and adversely affecting the quality of life, tone of commerce, and community environment.
8. In order to preserve and safeguard the health, safety, property values, and general welfare of the people, businesses, and industries of the city, it is necessary and advisable for the city, to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in B 1 above occur.
9. Employees of establishments at which the activities described in B 1 above occur engage in a higher incidence of certain types of unhealthy or criminal behavior than employees of other establishments.
10. Physical contact or touching within establishments at which the activities described in B 1 above occur between employees exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.
11. In order to preserve and safeguard the health, safety, and general welfare of the people of the city, it is necessary and advisable for the city to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in B 1 above occur.
12. Straddle dancing, unregulated private performances, and enclosed adult booths in establishments at which the activities described in B 1 above occur have resulted in indiscriminate commercial sex between strangers and poses a threat to the health of the participants and promotes the spread of communicable sexually transmitted diseases including the transmission of human immunodeficiency virus (HIV). Straddle dancing is primarily conduct rather than communication or expression.
13. The potential dangers to the health, safety, and general welfare of the people of the city posed by permitting an establishment at which the activities described in B 1 above occur to operate without meeting the requirements for obtaining a license under this Article are so great as to require the licensing of such establishments prior to their being permitted to operate.
14. Requiring employees of establishments at which the activities described in B 1 above occur to keep a list of information concerning current employees and certain recent past employees 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. This requirement will also assist the Health Department to trace those who may have been exposed to sexually transmitted diseases.

[History: Ord. 2001-7A]

Sec. 3-13. Definitions.

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

Adult performance establishment means an establishment where any employee or participant in an event sponsored by the establishment:

- (1) engages in a private performance or displays or exposes any specified anatomical areas to a patron, regardless of whether the employee actually engages in dancing;
- (2) wears any covering, tape, pastie or other device that simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas, regardless of whether the employee actually engages in dancing;
- (3) offers, solicits, or contracts to dance or perform with a patron and accepts any consideration, tip, remuneration or compensation from or on behalf of that person;
or
- (4) dances or performs within 3 feet of a patron while displaying or exposing any specified anatomical areas and accepts any consideration, tip, remuneration, or compensation from or on behalf of that person.

It is an affirmative defense that an establishment is not an adult performance establishment if the establishment is a bonafide private club whose membership as a whole engages in social nudism or naturism as in a nudist resort or camp, or such other establishment in which the predominant business or attraction of the establishment is not the offering to customers of a product, service, or entertainment that is intended to provide sexual stimulation or sexual gratification to customers, and the establishment is not distinguished by an emphasis on or the advertising or promotion of materials relating to or employees depicting, describing, displaying, exposing, or simulating specified sexual activities or specified anatomical areas. An adult performance establishment shall not be deemed a place provided or set apart for the purpose of exposing a person's sexual organs in a manner contrary to the first sentence of section 800.03, Florida Statutes, the State's indecent exposure statute, as set forth in the decision of the Supreme Court of

Florida in the case *Hoffman v. Carson*, 250 So.2d 891, 893 (Fla. 1971), *appeal dismissed* 404 U.S. 981 (1971).

Alcoholic Beverage means any beverage described in Sections 563.01, 564.01, and 565.01, *Florida Statutes*.

City Manager shall mean City Manager or designee unless otherwise indicated.

Conviction means a determination of guilt resulting from plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

Employee means a person who works, performs, dances or provides other services at an adult performance establishment or for an escort service, irrespective of whether said person is paid a salary or wage, and shall include, but is not limited to, independent contractors, subcontractors, lessees, sub-lessees who work or perform at an adult performance establishment or for an escort service.

Escort service means a business that

- (1) advertises as an “escort service” or advertises that it can send or provide “escorts,” private (one-on-one) dancers or private (one-on-one) models; or
- (2) offers or provides for a fee or gratuity employees, other than massage therapists licensed under Ch. 480, *Florida Statutes*, for pre-arranged private (one-on-one) sessions with customers at a place of business (other than the escort service), hotel room or motel room for the purpose of companionship, entertainment, modeling, massage, conversation or sexual activities.

Law enforcement officer means an officer who is on official duty for a law enforcement agency.

Licensee means any person whose application for an adult performance establishment has been granted and who owns, operates or controls the establishment; or whose application for an escort service has been granted and who owns, operates or controls the escort service; or whose application for an escort license has been granted.

Operator means any person who engages in or performs any activity necessary to, or which facilitates, the operation of an adult performance establishment, including but not limited to the licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticket taker, or movie projectionist.

Patron or *customer* means any person at an establishment other than employees or operators of the establishment, regardless of whether that person has actually given any consideration or spent any money for goods or services.

Private performance means modeling, posing, or the display or exposure of any specified anatomical area by an employee of an adult performance establishment to a patron, while the patron is in an area not accessible during such display to all other persons in the establishment or while the patron is in an area in which the patron is totally or partially screened or partitioned during such display from the view of all persons outside the area.

Specified anatomical areas shall mean less than completely and opaquely covered:

- (1) Human genitals;
- (2) Pubic region;
- (3) Buttock; and
- (4) Female breast below a point immediately above the top of the areola; and
- (5) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall mean:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy; and
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified violation or criminal act means:

- (1) A violation of this Article;
- (2) An offense under the following chapters of the Florida Statutes: chapter 794 regarding sexual battery, chapter 796 regarding prostitution, chapter 800 regarding lewdness and indecent exposure and chapter 847 regarding obscene literature; or
- (3) An offense under an analogous statute of a state other than Florida, or under an analogous ordinance of another county or city.

Straddle dance also known as a *lap dance*, *face dance* or *friction dance*, means either of the following acts at an establishment:

- (1) the use by an employee of any part of his or her body to touch the genital or pubic area of another person, or the touching of the genital or pubic area of any employee by a person. It shall be a straddle dance regardless of whether the "touch" or "touching" occurs while the employee 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 through a medium.
- (2) the straddling of the legs of an employee over any part of the body of another person at the establishment, regardless of whether there is a touch or touching, or the touch or touching is direct or through a medium.

[History: Ord. 2001-7A]

Sec. 3-14. Enforcement and Review.

- A. Unless otherwise specified, the provisions of this Article may be enforced by:
 1. a suit brought by the City Attorney, with the consent of the City Council, in the Circuit Court of the Eighth Judicial Circuit to restrain, enjoin, or prevent a violation of this Article; or
 2. enforcement proceedings by the Waldo Code Enforcement Board; or
 3. prosecution in a court of competent jurisdiction; or
 4. civil citation process.
- B. Any final decision of the city pursuant to Part 2 of this Article ("Licensing Provisions") may be immediately reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

[History: Ord. 2001-7A]

Sec. 3-15. Notice.

Any notice required under this Article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license, which shall be considered the correct address for service unless the City Manager has been otherwise notified in writing, or by personal service or delivery to the applicant or licensee.

[History: Ord. 2001-7A]

Sec. 3-16. Immunity from prosecution.

The city or any of its departments or agents or any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon an adult performance establishment or escort service while acting within the scope of the authority under this Article.

[History: Ord. 2001-7A]

Sec. 3-17. Construction.

This Article shall be liberally construed to accomplish its purpose of licensing and regulating adult entertainment and related activities.

[History: Ord. 2001-7A]

Part 2. Licensing Provisions

Sec. 3-18. Adult Performance Establishment License Required.

No adult performance establishment or escort service is permitted to operate without having been first granted an adult performance establishment license or escort service license, respectively, by the City Manager under this Article.

[History: Ord. 2001-7A]

Sec. 3-19. Application for license; Application Fee; Consent by Applicant.

- A. Any person desiring to operate an adult performance establishment or an escort service shall file with the City Manager a sworn license application on a standard application form supplied by the City Manager.
- B. The completed application shall contain the following information and shall be accompanied by the following documents:
 - 1. if the applicant is:
 - a. an individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he or she is 18 years of age or older; or
 - b. a partnership, the partnership shall state its complete name, and the names and residential addresses and residential telephone numbers of all partners whether general or limited, the residence address of at least one person authorized to accept service of process, and provide a copy of any existing partnership agreement; or

- c. a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing, the names and capacity of all officers, directors and stockholders holding 5 percent or more of the voting shares of the corporation, the name and address of the registered corporate agent for service of process, the name, residential address, and residential telephone number of the person making the application for the corporation and provide a copy of its articles of incorporation;
2. if the applicant intends to conduct the establishment or escort service under a name other than that of the applicant, the fictitious name registration under § 865.09 Florida Statutes;
3. whether the applicant or any of the other individuals listed pursuant to paragraph 3-19 B 1 has, within the 5 year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or any specified violation or criminal act, and, if so, the specified violation or 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 paragraph 3-19 B 1 has had a previous license under this Article suspended or revoked, including the name and location of the business 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 paragraph 3-19 B 1 has been a partner in a partnership or an officer, director or stockholder of 5 percent or more of the voting shares of a corporation whose license under this Article has previously been suspended or revoked, including the name and location of the business 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 paragraph 3-19 B 1 holds any other licenses under this Article and, if so, the names and locations of such other licensed businesses;
6. the single classification of license for which the applicant is filing;
7. the commercial location of the proposed business, including a legal description of the property site, and a legal street address;
8. the applicant's mailing address, business address, and business telephone number;
9. if an adult performance establishment, building plans drawn to appropriate scale of the proposed establishment, including, but not limited to:

- a. 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;
 - b. all proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;
10. a recent photograph of the applicant; and
11. the applicant's social security number or employer's tax identification number and either the applicant's driver's license number or the number of a state or federally issued identification card.
- C. Each application shall be accompanied by a non-refundable fee of \$200.00. 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 3-22 of this Article.
- D. In the event the City Manager determines or learns at any time that the applicant has not properly completed the application for a proposed establishment or escort service, the applicant shall promptly be notified of such fact and shall be allowed 10 days to properly complete the application. The time period for granting or denying a license under this Article shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.
- E. By applying for a license under this Article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager of the responsibilities under this Article.
- F. Upon receipt of a complete application properly filed with the City Manager and upon payment of the non-refundable application fee, the City Manager shall immediately stamp the application as received and shall begin processing of the application.

[History: Ord. 2001-7A]

Sec. 3-20. Grant; denial; rejection.

- A. The City Manager shall grant or deny an application for a license under this Article within 30 days from the date of its proper filing. Upon the expiration of the thirtieth day the applicant shall be permitted to begin operating the business for which a license is sought, unless and until the City Manager notifies the applicant of a denial of the application and states the reason(s) for the denial.

- B. If the City Manager has not made a finding that would require that the application be denied, the City Manager shall grant the application, notify the applicant of the granting, and issue the license to the applicant upon payment of the appropriate annual license fee provided in Section 3-22, with credit as provided in Subsection 3-19 C.
- C. The City Manager shall review staffs findings and deny the application for any of the following reasons:
 - 1. the application contains material false information, is incomplete, or the applicant has failed to comply with Chapter 607 Florida Statutes regarding corporations, Chapter 620 Florida Statutes regarding partnerships, or § 895.09 Florida Statutes regarding fictitious names.
 - 2. the granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits the applicant from obtaining an adult performance establishment or escort service license.
 - 3. the applicant or any other individual listed pursuant to Subsection 3-19 B has had a license under this Article or under an analogous ordinance of another jurisdiction suspended or revoked within the past 3 years.
 - 4. the applicant or any other individual listed pursuant to Subsection 3-19 B has been convicted of a specified violation or criminal act as defined herein or an analogous statute of a state other than Florida within the last 5 years.
- D. If the City Manager denies the application, the applicant shall be notified of the denial and the reason(s) for the denial.
- E. If a person applies for a license at a particular location within a period of 9 months from the date of denial of a previous application for a license at the location, and there has not been an intervening change in the circumstances which will probably lead to a different decision regarding the former reason(s) for denial, the application shall be rejected.

[History: Ord. 2001-7A]

Sec. 3-21. Licenses; terms; renewal; expiration; cancellation; reports; consent.

- A. A license granted under this Article shall state the name of the licensee name of the business, the street address of the business of issuance, and the date of expiration.
- B. Terms. All licenses issued under this Article shall be annual licenses which shall commence running on October 1, if they have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1 the applicant

shall pay the applicable license fee. If a license is issued after March 31, but by October 1 of the same year, the applicant shall pay one-half the applicable license fee.

- C. Licenses shall be renewed annually. Subject to other provisions of this Article, a licensee under this Article shall be entitled to a renewal of its annual license from year to year, as a matter of course, by October 1, by presenting the license for the previous year, restating and updating all information required for a license application, and by paying the appropriate license fee.
- D. A license that is not renewed under this Article by October 1 of each year shall expire. An expired license may be renewed by November 30 of the same year upon presentation of an affidavit stating that the business has conducted no activity regulated by this Article subsequent to expiration payment of a penalty of 10 percent of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of 5 percent of the appropriate license fee for the month of November, or fraction thereof.
- E. All expired licenses not renewed by November 30 shall be canceled summarily by the City Manager. Notice of the cancellation shall be mailed by U.S. Mail to the business address indicated in the records of the City.
- F. Each licensee shall keep such records and make such reports as may be required by the City Manager to implement this code and to carry out its purpose. Whenever the information required by or provided under Subsection 3-19 B has changed, the licensee shall promptly report to the City Manager the changed information.
- G. By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager of responsibilities under this Article.

[History: Ord. 2001-7A]

Sec. 3-22. Annual License Fee.

- A. There is hereby levied for an adult performance establishment license an annual license fee of \$500.00 and for an escort service license an annual license fee of \$200.00.
- B. The annual license fees collected under this Article are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult performance establishments and escort services under this Article and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other ordinances.

[History: Ord. 2001-7A]

Sec. 3-23. Transfer; Change of Name.

- A. No adult performance establishment license or escort service license is transferable to another person by surrendering or transferring possession, control, or operation of the licensed business. For the purposes of this provision, the change of ownership of more than 10 percent interest of the business shall be considered a transfer of the licensed business.
- B. A licensee shall not transfer a license to another location.
- C. Any attempted transfer of a license either directly or indirectly in violation of this section is hereby declared void, and the license shall be deemed void.
- D. No licensee may change the name of an adult performance establishment or escort service unless and until the licensee satisfies each of the following requirements:
 - 1. gives the City Manager 30 days notice in writing of the proposed name change, accompanied by an affidavit stating there has been no change of ownership of the business since the last reporting to the city;
 - 2. pays the City Manager a \$3.00 change-of-name fee; and
 - 3. complies with Section 865.09, Florida Statutes, if applicable.

[History: Ord. 2001-7A]

Sec. 3-24. Suspension.

- A. In the event the City Manager learns or finds upon sufficient cause that a licensed business 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 Subsection 3-26 A, the City Manager shall promptly notify the licensee of the violation and, unless the violation is a life-safety violation, shall allow the licensee a reasonable period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the reasonable period or if the violation is a life shall remain in effect until the City Manager finds that the violation of the provision in question has been corrected.
- B. In the event the City Manager learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to Section 3-23, the City Manager shall forthwith suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect until the City Manager is satisfied that the ownership has been restored to that licensed.

- C. In the event 3 or more violations of any specified violation or criminal act occur at an adult performance establishment or escort service within a 2 year period, and convictions result from at least 3 of the violations, the City Manager shall, upon receiving evidence of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of 30 days.
- D. In the event 1 or more violations of any specified violation or criminal act occur at the establishment or escort service within a period of 2 years from the date of the violation from which the conviction resulted for which the license was suspended for 30 days under Section 3-24, but not including any time during which the license was suspended for 30 days, and a conviction results from 1 or more of the violations, the City Manager shall, upon receiving evidence of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of 90 days.
- E. In the event 1 or more violations of any specified violation or criminal act occur within a period of 2 years from the date of the violation from which the conviction resulted for which the license was suspended for 90 days under Section 3-24, but not including any time during which the license was suspended for 90 days, and a conviction results from 1 or more of the violations, the City Manager shall upon receiving evidence of the first conviction, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of 180 days.
- F. The transfer or renewal of a license pursuant to this Article shall not defeat the terms of Section 3-24.
- G. All periods of suspension shall begin 10 days after the date the City Manager mails the notice of suspension to the licensee or on the date the licensee delivers the license to the City Manager, whichever occurs first.

[History: Ord. 2001-7A]

Sec. 3-25. Revocation.

- A. In the event the City Manager receives evidence that a license was granted based upon false information, misrepresentation of fact, or mistake of fact, the City Manager shall forthwith revoke the license, and notify the licensee of the revocation.
- B. In the event 1 or more violations of any specified violation or criminal act occur at an adult performance establishment or escort service which has had a license suspended for a period of 180 days pursuant to Subsection 3-24 E, and the violation(s) occur within a period of 2 years from the date of the violation from which the conviction resulted for which the license was suspended for 180 days, but not including any time during which

the license was suspended for 180 days, the City Manager shall, upon receiving evidence of a conviction for the subsequent violation, forthwith revoke the license, and notify the licensee of the revocation.

- C. The renewal of a license pursuant to this Article shall not defeat the terms of Subsection 2-25 B.
- D. If a license is revoked, the licensee shall not be allowed to obtain another adult performance establishment license or escort service license and no license shall be issued again to any other person for the location upon which the adult performance establishment or escort service was situated for a period of 3 years.
- E. The revocation shall take effect 10 days after the date the City Manager mails the notice of revocation to the licensee or on the date the licensee delivers the license to the City Manager, whichever happens first.

[History: Ord. 2001-7A]

Part 3. General Operational Rules

Sec. 3-26. Requirements.

- A. Each adult performance establishment and escort service is subject to all of the following general requirements and shall:
 - 1. conform to all applicable building ordinances, and regulations, whether federal, state or local;
 - 2. on the first Monday of each month provide the City Manager with a report of all persons who are employees or who were employees during the previous month, which report shall contain the name, date of birth, and stage name, if any, of such persons.
 - 3. keep its license posted in a conspicuous place at the licensed location available for inspection by the public at all times;
 - 4. install, construct, keep, maintain or allow only those signs at the licensed location which comply with the city sign ordinances. In addition, no sign shall 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);

- B. In addition to the above general requirements for an adult entertainment establishment contained, an adult performance establishment shall comply with the following special requirements:
1. cover opaquely each window or other opening through which a person outside the establishment may otherwise see inside the establishment; and
 2. have a stage provided for the display or exposure of any specified anatomical area by an employee to a patron consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet; and
 3. any area in which a private performance occurs shall:
 - a. have a permanently open entrance not less than 32 inches wide and not less than 6 feet high, which entrance shall not have any curtain rods, hinges, rails, or the like which would allow the entrance to be closed or partially closed by any curtain, door, or other partition; and
 - 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 employee from the person viewing the private performance; and
 4. maintain the exterior walls and surfaces of the establishment, excluding signs, a single achromatic or light pastel color, and maintain all awnings, canopies, window shutters, window treatments, or other trim the same color or a single different shade of the same achromatic or light pastel color. The trim color shall not exceed 20 percent of the entire exterior surface of the building. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone.

[History: Ord. 2001-7A]

Sec. 3-27. Employee records.

- A. An adult performance establishment or escort service shall maintain a record of all employees who currently work for or perform at the business, and of all former employees who worked for or performed at the business during the preceding 1 year period. The record shall contain the current or former employee's full legal name, including any aliases, date of birth, and a recent photograph of the employee. The record shall also state whether each employee is a paid employee for whom income taxes are

withheld or is a lessee, sublessee, independent contractor, or subcontractor who is allowed to work for or perform at the business.

- B. The original records required by A above, or true and exact photocopies thereof, shall be kept at the licensed location at all times.
- C. All operators of the establishment shall be responsible for knowing the location of the original records, or the true and exact photocopies thereof.
- D. An operator of the licensed business shall, upon request by a law enforcement or code enforcement officer when the business is open, immediately make available for inspection the original records, or the true and exact photocopies thereof.

[History: Ord. 2001-7A]

Part 4. Violations

Sec. 3-28. Operation without valid license, etc.

- A. It shall be unlawful for any person to be an operator of an adult performance establishment or escort service when:
 - 1. the business does not have the appropriate license;
 - 2. the license of the business is under suspension;
 - 3. the license of the business has been revoked or canceled; or
 - 4. the business has a license which has expired.
- B. It shall be unlawful for any person to be an operator of an adult performance establishment or escort service:
 - a. which does not satisfy all of the general requirements of Subsection 3-26 A;
 - b. which is an adult performance establishment and does not satisfy all of the special requirements of Subsection 3-26 B; or,
 - c. while the entrance or exit of the establishment is locked when a patron is inside the establishment.

[History: Ord. 2001-7A]

Sec. 3-29. Prohibited acts.

- A. It shall be unlawful for an employee of an adult performance establishment to commit any of the following acts or for an operator of an adult performance establishment to knowingly or with reason to know, permit, suffer, or allow any employee to commit any of the following acts:
1. engage in a straddle dance with a person at the establishment;
 2. offer, contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;
 3. engage in any specified sexual activity at the establishment;
 4. display or expose at the establishment specified anatomical areas while such employee is not continuously positioned at least 3 feet away from all other persons or while such employee is not in an area as described in Subsection 3-26 B;
 5. display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale, distributed, or consumed;
 6. display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment;
 7. engage in a private performance unless such employee is in an area which complies with the requirements of Subsection 3-26 B 3;
 8. intentionally touch any person at the adult performance establishment while engaged in the display or exposure of any specified anatomical area; or
 9. intentionally touch the clothed or unclothed body of any person at the adult performance 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.
- B. Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an adult performance establishment to expose any specified anatomical area during the employee's bona fide use of a restroom, or bona fide use of a dressing room that is used and occupied only by other employees.

- C. It shall be unlawful for any person in an adult performance establishment to intentionally touch an employee 'who is displaying or exposing any specified anatomical area at the adult performance establishment.
- D. It shall be unlawful for any person in an adult performance establishment, other than another employee, to intentionally touch the clothed or unclothed breast of any employee, or to touch the clothed body of any employee at any point below the waist and above the knee of the employee.
- E. It shall be unlawful for an operator of an adult performance establishment to advertise, encourage or promote any activity prohibited by this Article.
- F. It shall be unlawful for an operator or employee of an adult performance establishment or escort service to knowingly, or with reason to know, permit, suffer, or allow a person under 18 years of age to:
 - 1. enter or remain in the establishment; or
 - 2. purchase goods or services at the establishment; or
 - 3. work at the business as an employee.
- G. It shall be unlawful to be an operator of a licensed adult performance establishment or escort service at which all records for employees required by Section 3-26 have not been compiled, are not maintained, or are not made available for inspection by a law enforcement or code enforcement officer upon request when the establishment is open for business.
- H. It shall be unlawfu1 for any person other than the City Manager to alter or otherwise change the contents or appearance of an adult performance establishment or escort service license.
- I. It shall be unlawful for any person applying for an adult performance establishment or escort service license pursuant to this Article to make a false statement or provide false information which is intended to facilitate the issuance of a license on the application required by Section 3-19, to provide false information in the reports required by Section 3-21, or to falsify the records required by Sections 3-26 or 3-27.
- J. It shall be unlawful for any employee of an adult performance establishment while situated outside any structure at the adult performance establishment, or at a place at the adult performance establishment where the employee 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 solicitation, whether passive or otherwise, on behalf of the

employee, any other employee, or the adult performance establishment. Personal advertising is defined as encouraging or enticing, by whatever direct or indirect means, potential customers beyond the adult performance establishment to enter the adult performance establishment. Additionally, it shall be unlawful for an operator or any employee 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.

- K. It shall be unlawful for an operator or an employee of an adult performance establishment to knowingly or with reason to know, permit, suffer, or allow any person or patron to engage in any specified sexual activity at the establishment. It is an affirmative defense to a violation of this section that the operator or employee immediately left the establishment and notified the police of the illegal activity.

[History: Ord. 2001-7A]

Sec. 3-30. Existing establishments.

- A. All adult performance establishments and escort services that are in existence and open to the public as of August 21, 2001, shall apply for a license by 5 P.M. on August 31, 2001, and complete all required building modifications by December 21, 2001.
- B. All escort services that are in existence and providing service to the public under a valid, current home occupation permit as of August 21, 2001 may continue to provide service under that permit until it expires on September 30, 2001. No new home occupation permit shall be issued for an escort service after August 21, 2001, and no home occupation permit for an escort service shall be renewed.

[History: Ord. 2001-7A]

Sec. 3-31. Penalties.

Anyone who is convicted of violating the provisions of this Article shall be punished as provided by § 162.22, Florida Statutes. Each day the violation continues shall be considered a separate offense.

[History: Ord. 2001-7A]

Part 5. Escort License Provisions

Sec. 3-32. License required.

On and after August 21, 2001, no person shall become or remain an employee of an escort

service and meet any customer within the city limits of the City of Waldo without having been first granted an escort license by the City Manager. Persons who are employees of more than one escort service must obtain a separate license for each escort service for whom they meet any customer within the city limits.

[History: Ord. 2001-7A]

Sec. 3-33. Application for license; application fee; consent by applicant.

- A. Any person desiring to obtain a escort license shall file with the City Manager a sworn license application on a standard application form supplied by the City Manager.
- B. The completed application shall contain the following information and be accompanied by the following documents:
 - 1. the person's legal name and any aliases;
 - 2. proof that the person is 18 years of age or older;
 - 3. a statement of whether the applicant has, within the 5 year period immediately preceding the date of the application, been convicted of a felony within any state or of a federal felony or any specified violation or criminal act, and, if so, the specified violation or criminal act involved, the date of conviction and the place of conviction;
 - 4. a statement of whether the applicant has had a previous escort license suspended or revoked, including the date of the suspension or revocation;
 - 5. the name and location of the escort service or services for which the applicant will be working;
 - 6. the applicant's mailing address, and business telephone number;
 - 7. a recent photograph of the applicant; and
 - 8. the applicant's social security number and either the applicant's driver's license number or the number of a state or federally issued identification card.
- C. Each application shall be accompanied by a non-refundable fee of \$50.00. If the application for license is approved, and the license is granted, the fee shall be applied as a credit towards the annual license fee required for the first year pursuant to Section 3-35.

- D. In the event the City Manager determines or learns at any time that the applicant has not properly completed the application for an escort license, the applicant shall promptly be notified of such fact and shall be allowed 10 days to properly complete the application. The time period for granting or denying a license shall be stayed during this period.
- E. By applying for an escort license, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager of the responsibilities under this Article.

[History: Ord. 2001-7A]

Sec. 3-34. Processing of application.

- A. Upon receipt of a complete application properly filed with the City Manager and upon receipt of the non-refundable application fee, the City Manager shall immediately stamp the application as received and shall begin processing of the application.
- B. The City Manager shall grant or deny an application for an escort license within 5 business days from the date of its proper filing.
- C. If the City Manager has not made a finding that would require the application be denied, the City Manager shall grant the application, notify the applicant of the decision, and issue the license to the applicant upon payment of the appropriate annual license fee.
- D. The City Manager shall review staffs findings and deny the application for any of the following reasons:
 - 1. the application contains material false information or is incomplete;
 - 2. the granting of the application would violate a statute or ordinance, or an order from a court of law that prohibits the applicant from obtaining an escort license.
 - 3. the applicant has had a license under this Article or under an analogous ordinance of another jurisdiction suspended or revoked within the past 3 years.
 - 4. the applicant has been convicted of a specified violation or criminal act as listed in Section 3-13 or an analogous statute of a state other than Florida within the last 5 years.
- E. If the City Manager denies the application, the applicant shall be notified of the denial and the reason(s) for the denial.

[History: Ord. 2001-7A]

Sec. 3-35. Licenses; terms; renewal; expiration; cancellation; reports; consent.

- A. An escort license shall state the name of the Licensee, the date of issuance, name of escort service and the date of expiration, and shall contain a photograph and signature of the licensee. The license shall be laminated or enclosed in plastic so that it may be attached to a garment.
- B. All licenses issued under this Article shall be annual licenses which shall commence running on October 1, if they have been paid for, and shall expire on September 30 of the following year. If a license is issued after October 1, but by March 31 of the following year, the applicant shall pay the applicable license fee. If a license is issued after March 31, but by October 1 of the same year, the applicant shall pay one-half the applicable license fee.
- C. Licenses shall be renewed annually. Subject to other provisions of this Article, a licensee under this Article shall be entitled to a renewal of its annual license from year to year, as a matter of course, by October 1, by presenting the license for the previous year, restating and updating all information required for a license application, and by paying the appropriate license fee.
- D. A license that is not renewed under this Article by October 1 of each year shall expire. An expired license may be renewed by November 30 of the same year upon payment of the appropriate license fee, and upon payment of a penalty of 10 percent of the appropriate license fee for the month of October, or fraction thereof, and an additional penalty of 5 percent of the appropriate license fee for the month of November, or fraction thereof.
- E. All expired licenses not renewed by November 30 shall be canceled summarily by the City Manager.
- F. By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the City Manager of responsibilities under this Article.

[History: Ord. 2001-7A]

Sec. 3-36. Annual License Fee.

- A. There is hereby levied for an escort license an annual license fee of \$100.00.
- B. The annual license fee is declared to be a regulatory fee collected for the purpose of administration of this Article. The fee is in addition to and not in lieu of the occupational license tax imposed by other ordinances.

[History: Ord. 2001-7A]

Sec. 3-37. Transfer.

The escort license is personal not transferable to another person. Any use of the license by a person other than the licensee shall result in revocation of the license.

[History: Ord. 2001-7A]

Sec. 3-38. Regulations.

- A. Licensees must have their licenses attached to an outer garment while they are inside a place of business, hotel or motel for the purpose of, or subsequent to, meeting a customer.
- B. Licensee must notify the front desk of any hotel or motel that they have entered for the purpose of meeting a customer, and provide the name and room number of the customer. They must again notify the front desk immediately before leaving the hotel and motel.
- C. No escort shall engage in any specified sexual activity or display or expose any specified anatomical area to a customer while on duty.

[History: Ord. 2001-7A]

Sec. 3-39. Suspension or revocation.

- A. An escort license issued under the provisions of this Article may be revoked or suspended for a specified period of time by the City Manager if the holder has been convicted of any specified violation or criminal act.
- B. Prior to suspension or revocation, the licensee shall be given reasonable notice of the proposed action to be taken, and shall have an opportunity to present to the City Manager evidence as to why the escort license should not be revoked or suspended.

[History: Ord. 2001-7A]