

CHAPTER 116: ADULT USES

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§ 116.01 DEFINITIONS

As used in this chapter, the following terms shall have the following meaning:

ADULT BUSINESS. An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, including mini-motion picture theaters, massage parlors, massage schools, restaurants or food service establishments where persons appear in a state of nudity or semi-nudity, or any combination of such uses. For purposes hereof, the following terms mean:

(1) **ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities.

(2) **ADULT BOOKSTORE.** A commercial establishment which offers for sale or rental, for any form of consideration, the following:

(a) Books, magazines, periodicals, or other printed matter, which depict or describe specified sexual activities.

(b) Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities excluding condoms and other birth control and disease prevention products.

(3) **ADULT CABARET.** A nightclub, bar, restaurant, or similar commercial establishment or any other commercial establishment which features:

(a) Persons who appear in a state of nudity; or

(b) Live performances characterized by specified sexual activities.

(4) **ADULT MOTEL.** A hotel, motel, or similar commercial establishment which offers a room for rent for a period of time that is less than 12 hours.

(5) **ADULT MOTION PICTURE THEATER.** Any theater or similar commercial establishment where any films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of or describe specified sexual activities.

(6) **SEMI-NUDITY.** A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

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SPECIFIED SEXUAL ACTIVITIES

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Acts of bestiality, bondage, sadism, or masochism; or
- (5) The depiction of human genitals in a state of sexual stimulation or arousal.
(Ord. 00-02-10-04, passed 2-10-00)

§ 116.02 LOCATION RESTRICTIONS

No license shall be issued for an adult business that is located within 500 feet of any residence, church, school, hospital, library, homes for the aged, orphans, indigent persons, veterans, their wives or children, halfway house, correctional facility, government office, or any other adult business. No adult business license may be located except within an "M" Manufacturing District in accordance with the Zoning Ordinance of the Village of Huntley. An adult business may be located in a "B-3" or "O" Office District if the petitioner establishes that reasonable diligence to locate in an "M" Manufacturing District has been attempted and if all other provisions of this chapter have been met.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

§ 116.03 LICENSE REQUIRED

No person, firm, or corporation shall engage in or carry on any adult business in the Village without first obtaining an adult business license issued by the Village pursuant to the provisions of this section for each and every separate office or place of business conducted by such person.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

§ 116.04 APPLICATION FOR ADULT BUSINESS LICENSE

Any person, firm, or corporation desiring an adult business license shall file a written application with the Chief of Police on a form to be furnished by the Chief of Police. The applicant shall accompany the application of the correct license fee as hereinafter provided and shall, in addition, furnish the following:

- (A) The type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise.

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- (B) The name or other designation under which the business is to be conducted.
- (C) The business address and all telephone numbers where the business is to be conducted.
- (D) A complete list of the name and residence addresses of all employees of the business and the name and residence addresses of the manager or other person principally in charge of the operation of the business.
- (E) The following personal information concerning the applicant, if an individual; and concerning each stockholder holding more than ten percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business:
- (1) Name, complete residence address, and residence telephone numbers.
 - (2) The two previous addresses immediately prior to the present address of the person.
 - (3) Written proof of age.
 - (4) Citizenship, place of birth, and if a naturalized citizen, the time and place of his naturalization.
- (F) The character of business of the applicant; and in case of a corporation, the objects for which it was formed.
- (G) The length of time that applicant has been in business of that character, or in the case of a corporation, the date on which its charter was issued.
- (H) The location and description of the premises of place of business of that character, or in the case of a corporation, the date on which its charter was issued.
- (I) A statement whether applicant has made similar application for a similar other licenses on premises other than described in this application, by any state or subdivision thereof, and the disposition of such application.
- (J) A statement that applicant is not disqualified to receive a license by reason of any matter or thing contained in this section, laws of this state, or the ordinances of this Village.
- (K) A statement whether a previous license by any state of subdivision thereof, or by the federal government, has been revoked, and the reasons therefore.
- (L) A statement that the consumption of alcoholic liquor will not be permitted on the premises.

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(M) A statement that gambling devices or gambling will not be permitted on the premises except video gaming terminals or devices pursuant to the Illinois Video Gaming Act.

(N) A statement that the applicant will not violate any of the laws of the State of Illinois or of the United States or any ordinance of the Village in the conduct of his place of business.

(O) Such other information and identification as deemed necessary by the Chief of Police in order to discover the truth of the matters herein required to be set forth in the application.

(P) Authorization for the Village, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(Q) No minors as defined by the statutes of the State of Illinois shall be allowed upon the premises during business hours.

(R) The names, addresses, and phone numbers of three adult residents of McHenry or Kane County who will serve as character references. These references must be persons other than relatives or business associates.

(S) A statement that the applicant will promptly notify the Chief of Police of any changes in the information required under this section.

(T) A written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Village.

(Ord. 00-02-10-04, passed 2-10-00; updated 6.14.12) Penalty, see § 116.99

§ 116.05 APPROVAL BY THE CHIEF OF POLICE

(A) Upon receiving the application for an adult business license, the Chief of Police shall conduct an investigation into the information provided in the application. The Chief of Police may, in his discretion, require a personal interview of the applicant and such further information and identification as shall bear on the investigation.

(B) The Chief of Police shall also cause to be conducted an investigation of the premises where the adult business is to be carried on for the purposes of assuring that such premises comply with all the sanitation requirements as set forth in this section and with all ordinances and regulations of the Village relating to the public health, safety, and welfare.

(Ord. 00-02-10-04, passed 2-10-00)

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§ 116.06 ISSUANCE OR DENIAL OF ADULT BUSINESS LICENSE

The Chief of Police shall issue an adult business license within 45 days of receipt of the application unless he finds that:

(A) The correct license fee has not been tendered to the Village, and in the case of a check or bank draft, honored with payment on presentation.

(B) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the Village's building, zoning, or health regulations, or the provisions of this section.

(C) The applicant has knowingly made false, misleading, or fraudulent statements of fact in the license application or in any document required by the Village in conjunction therewith.

(D) The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business is not over the age of 18 years.

(E) The applicant has had an adult business license or other similar permit or license denied, revoked, or suspended for any of the above causes by the Village or any other state or local agency within five years prior to the date of the application.
(Ord. 00-02-10-04, passed 2-10-00)

§ 116.07 DISPLAY OF LICENSE

The adult business licensee shall display his license in an open and conspicuous place on the premises of the adult business.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

§ 116.08 FEE

The license fee for an adult business shall be \$5,000 per year or any part thereof.
(Ord. 00-02-10-04, passed 2-10-00)

§ 116.09 TRANSFERS PROHIBITED

No adult business licenses are transferable, separate, or divisible, and such authority as a license confers shall be conferred only upon the licensee and for the premises named therein.
(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

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§ 116.10 LIABILITY OF LICENSEE

A licensee shall have the premises supervised at all times when open for business. The licensee shall personally supervise the adult business and shall not violate, or permit others to violate, any applicable provisions of this section. The violation of any such provision by any officer, director, manager, agent, or employee of the licensee, or the failure to report a violation of any such provision by any patron of the adult business within the constructive or actual knowledge of the licensee or its officers, directors, managers, agents, or employees, or the reckless disregard for such violations by the licensee, its officers, directors, managers, agents, or employees, shall constitute a violation by the licensee as if said act or omission had been done or omitted by him personally.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

§ 116.11 PERSONS UNDER EIGHTEEN

No person, firm, or corporation licensed under the provisions of this section shall permit any person under the age of 18 years to come or remain on the premises of any adult business.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

§ 116.12 SUSPENSION OF REVOCATION

The President and Board of Trustees may suspend for not more than 30 days or revoke any license by it if it is determined that the licensee has violated any provision of this section upon a recommendation from a hearing officer designated by the President and Board of Trustees to hear complaints of violations of this section by any licensee. No such license shall be suspended or revoked except after a public hearing before a hearing officer designated by the President and Board of Trustees upon a 3-day written notice to the licensee affording the licensee the opportunity to appear and defend. The hearing officer shall make a recommendation of the President and Board of Trustees, who after determining that the license should be suspended or revoked, state the reason or reasons for the determination in a written order of suspension or revocation and serve a copy of such order within five days of its entry upon the licensee.

(Ord. 00-02-10-04, passed 2-10-00)

§ 116.13 USE AFTER REVOCATION

When any license under this section shall have been revoked for any cause, no license shall be granted under this section to any person for the premises described in such revoked license.

(Ord. 00-02-10-04, passed 2-10-00) Penalty, see § 116.99

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§ 116.14 ENFORCEMENT

The President and Board of Trustees of the Village hereby authorize any law enforcing officer of the Village to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this section or whether any of the rules and regulations adopted by the President and the Board of Trustees of the Village or the State of Illinois have been or are being violated and at such time to examine the premises of said licensee in connection therewith, Further, the President and the Board of Trustees of the Village authorize any law enforcing officer of the Village to receive complaints form any citizen within the jurisdiction of the Village, and any of the provisions of this section or any rules or regulations adopted pursuant to, have been or are being violated, and to act upon complaints in the matter provided.
(Ord. 00-02-10-04, passed 2-10-00)

§ 116.99 PENALTY

Any person, firm, or corporation violating the provisions of this section may have his or her license suspended or revoked, in addition to any penalty imposed under the Code of Ordinances of the Village.
(Ord. 00-02-10-04, passed 2-10-00)