ORDINANCE NO. 6586

AN ORDINANCE TO AMEND CHAPTER 3.15 ADULT ENTERTAINMENT BUSINESS-LICENSE REQUIRED OF THE 2020 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING SECTION 3.15.010 "ADULT ENTERTAINMENT BUSINESS"; SECTION 3.15.050 "LICENSE RENEWAL"; SECTION 3.15.070 "APPLICATION FOR ADULT ENTERTAINMENT BUSINESS LICENSE-CONTENTS, RENEWALS, REQUIRED FEES"; SECTION 3.15.080 "PROHIBITED ACTIVITIES OF ADULT ENTERTAINMENT BUSINESS"; AND BY REPEALING SECTION 3.15.090 "ESCORTS/MODELS-PERMIT REQUIRED"; SECTION 3.15.100 "TERM OF PERMIT; SECTION 3.15.110 "PERMIT RENEWAL"; SECTION 3.15.120 "PERMIT IDENTIFICATION CARD"; SECTION 3.15.130 "PERMIT RENEWAL APPLICATION"; SECTION 3.15.140 "UNLAWFUL ACTS"; SECTION 3.15.150 "SIGN REQUIRED"; SECTION 3.15.160 "SALE OR TRANSFER"; SECTION 3.15.170 "CHANGE OF LOCATION OR NAME"; SECTION 3.15.180 "SUSPENSION OR REVOCATION OF A LICENSE OR PERMIT"; SECTION 3.15.190 "CONDUCTING AS A NUISANCE" AND SECTION 3.15.200 "PENALTY".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Chapter 3.15 Adult Entertainment Business-License Required of the 2020 Municipal Code of Council Bluffs, Iowa, is hereby amended to now read as follows:

Chapter 3.15 - ADULT ENTERTAINMENT BUSINESS - LICENSE REQUIRED

3.15.010 Definitions - Adult Entertainment Business
3.15.020 License
3.15.030 Display Of License
3.15.040 License Term
3.15.050 License Renewal
3.15.060 Exception
3.15.070 Application For Adult Entertainment Business License - Contents, Renewals, Required Fees
3.15.080 Prohibited Activities Of Adult Entertainment Business

3.15.010 Definitions - Adult Entertainment Business

For the purposes of this chapter, the definitions listed in CBMC 15.03 are adopted by reference and in addition, the following words, terms and phrases shall be deemed to have the following meanings:

Introductory service: A service offered or performed by any person for consideration, the principal purpose of which is to aid persons to become socially acquainted or to otherwise assist persons to meet for social purposes, or which service is generally known or should be known by the offering or performing party to be used by the recipients thereof for the purpose of obtaining information about other persons to be used for social purposes and which involves sessions or other activities where materials distinguished or characterized by an emphasis on matter depicting, describing or relating to

specified sexual activities or specified anatomical areas are provided for observation by or communications to the persons paying such consideration or where models are used.

Nude or seminude: A state of dress in which any specified anatomical area is displayed.

Specified anatomical areas: Any of the following:

A. Less than completely opaquely covered pubic hair, pubes, perineum, anus or buttocks of a male or female; less than completely and opaquely covered female nipple, areola or breast below a point of immediately above the top of the areola, except as is necessary in the feeding of an infant; and

B. Male genitals in a discernibly turgid state, even if completely opaquely covered.

Specified sexual activities: Any of the following:

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts or representations of acts of human masturbation, sexual intercourse, sodomy, bestiality, oral copulation or flagellation;

C. Fondling or erotic touching of human genitals, pubic region, buttock or female breast;

D. Excretory functions as part of or in connection with any of the activities set forth in paragraph G,1 through G,4 above.

(Ord. 5104 § 1 (part), 1992)

3.15.020 License

It is unlawful for any person to engage in, conduct or carry on, in or upon any premises or real property located or situated within the city, the activities of an adult entertainment business or adult entertainment activities as set out in CBMC 15.03.024, unless there has been granted to such person a valid license, pursuant to the provisions of this chapter. A separate license shall be required for each location within the city at which an adult entertainment business it to be established.

(Ord. 5121 § 1, 1993)

3.15.030 Display Of License

Every adult entertainment business shall display a valid license in a conspicuous place within the business so that the same may be readily seen by persons entering the premises.

(Ord. 5104 § 1 (part), 1992)

3.15.040 License Term

The term of an adult entertainment business license shall be for a period of one year; provided, however, that all licenses shall expire on June 30th of each year unless sooner suspended or revoked.

(Ord. 5104 § 1 (part), 1992)

3.15.050 License Renewal

An adult entertainment business license, issued pursuant to the provisions of this chapter, which has not been suspended or revoked, may be renewed for a period not to exceed one year upon written application to the city clerk made prior to the expiration date of the current valid license. The application of renewal of a license shall contain all of the information required by CBMC 3.15.070 and shall be processed in accordance with the provisions of this chapter.

(Ord. 5104 § 1 (part), 1992)

3.15.060 Exception

The requirements of this chapter shall have no application and no effect upon and shall not be construed as applying to a person in the lawful business of:

A. An employment agency licensed under the laws of the state of Iowa;

B. To the state of Iowa or any of its political subdivisions;

C. To any private school as defined in Iowa Code § 261A.4;

D. To a person who, as a part of his or her regular employment duties for a business enterprise that is not an adult entertainment business, occasionally escorts people for or on behalf of the business enterprise.

(Ord. 5104 § 1 (part), 1992)

3.15.070 Application For Adult Entertainment Business License - Contents, Renewals, Required Fees

A. Any person desiring to obtain a license, or renew an existing license, to operate an adult entertainment business, shall make application to the city clerk. Prior to submitting such application for a license, or renewal of a license, a nonrefundable fee as listed in the Schedule of Fees in CBMC 2.08 shall be paid to the city clerk to defray the cost of the investigation and report required by this chapter. The city clerk shall issue a receipt showing that such application or renewal fee has been paid. License issuance or renewal fees required under this chapter shall be in addition to any license, permit or fee required under any other chapter of this code.

B. Neither the filing of an application for a license or renewal thereof, nor payment of an application or renewal fee, shall authorize the conducting of an adult entertainment business until such license has been granted or renewed.

C. Each applicant for an adult entertainment business license or renewal shall furnish the following information:

    1. The present or proposed address where the business is to be conducted;

    2. The full true name under which the business will be conducted;

    3. The full true name and any other names used by the applicant;

    4. The present residence and business addresses, telephone numbers and email of the applicant;

5. Acceptable written proof that the applicant, manager or other person principally in charge of the operation of the business is at least eighteen years of age;

6. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter, together with the state and date of incorporation, and the names, residence addresses, of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the names, residence addresses, of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this paragraph pertaining to corporations shall apply. The corporation or partnership applicant shall designate one of its officers or general partners to act as its responsible managing officer. The designated person shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged;

7. In the event the applicant is not the owner of record of the real property upon which the adult entertainment business is or is to be located, the application must be accompanied by a notarized statement from the owner of record of the property acknowledging that an adult entertainment business is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the adult entertainment business is or will be located;

8. The applicant's business, occupation or employment history for the three-year period immediately preceding the date of filing the application. If the applicant is a corporation or partnership, the applicant shall supply this information for each officer, director or partner;

9. The permit history of the applicant, or in the case of a corporation or partnership, of each director, officer, or partner, for the five-year period immediately preceding the date of filing the application, including whether the applicant has ever had a similar license issued by this or any other city, county, state or agency, and whether that license has been suspended or revoked;

10. All criminal convictions and civil infraction violations of the applicant or each corporate director, officer, or partner, excluding simple misdemeanor traffic offenses, including the date, place, nature and sentence of each conviction or infraction; and

11. Such other identification and/or information as the city clerk may require in order to discover the truth of the matters required to be set forth in the application.

D. The city clerk shall refer the application to the chief of police or designee, fire department, and planning department. These officials shall recommend to the clerk whether or not to grant or renew the license.

E. The city clerk, within thirty (30) days after receiving the application, shall grant the license or renewal license only if the clerk finds that all of the following requirements have been met:

1. The required fees have been paid;
2. The application and location conforms in all respects to the provisions of this chapter and other applicable provisions of the city and state codes;
3. The applicant has not knowingly made a material misrepresentation of fact in the application;
4. The applicant has fully cooperated in the investigation of the application; and
5. The applicant, manager or other person principally in charge of the operation of the business is at least eighteen years of age.

F. If the city clerk does not find that all of the requirements set forth in paragraphs F,1 through F,5 of this section have been met, the clerk shall deny the application for the license or renewal thereof. In the event the application for the license or renewal is denied by the city clerk, written notice of the denial shall be given to the applicant, specifying the ground or grounds of such denial. Notice of denial of the application for the license or renewal shall be deemed to have been served if it in fact is personally served on the applicant or when deposited in the United States mail with postage prepaid and addressed to the applicant at the residence address set forth in the application for the permit or renewal thereof. Any applicant whose application for an adult entertainment business license or renewal has been denied by the city clerk, may appeal such denial to the city council within twenty (20) days of such denial. Applicants may seek prompt judicial review of this administrative action in any court of competent jurisdiction.

(Ord. 5241 § 1, 1995)

3.15.080 Prohibited Activities Of Adult Entertainment Business

A. No holder of an adult entertainment business license shall employ any person under eighteen years of age.

B. No holder of an adult entertainment business license shall furnish any merchandise or services to any person who is under eighteen years of age, except that escort services may be provided at the special instance and request of a parent, guardian or other person in lawful custody of the person upon whose behalf the escort service is engaged.

C. No adult entertainment business shall be conducted in any manner that permits the observation of model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use.

D. No holder of an adult entertainment business license or any officer, associate, member, representative, agent or employee of such licensee shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the licensed premises which is prohibited by this code or any laws of the state or the United States.

E. No part of the interior of the adult entertainment business shall be visible from the outside of the premises.

(Ord. 5104 § 1 (part), 1992)

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its publication, as by law provided.

PASSED
AND November 13, 2023.
APPROVED

_____
MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-23-23
Second Consideration: 11-13-23
Public Hearing: N/A
Third Consideration: _____