

O R D I N A N C E

OJP-005-09

ADULT ENTERTAINMENT ORDINANCE

WHEREAS, in order to promote the health, welfare, and safety of the residents of DuPage County, the County Board is desirous of regulating adult entertainment facilities; and

WHEREAS, the County of DuPage has the authority to regulate adult entertainment facilities in unincorporated areas of the county pursuant to 55 ILCS 5/5-1097.7; and

WHEREAS, the DuPage County Code Chapter 20 Law Enforcement is amended by creating Article XV to enable the regulation of adult entertainment facilities in DuPage County; and

WHEREAS, the County Board has conducted hearings and reviewed documents and materials which support its findings as set forth in Sec. 20-250.1 of the Adult Entertainment Ordinance(attached hereto and made a part hereof); and

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County that the Adult Entertainment Ordinance is hereby enacted by the DuPage County Board; and

BE IT FURTHER ORDAINED that the County Clerk shall publish notice hereof and send copies to: Auditor, Treasurer, Finance Department, Sheriff's Department, State's Attorney, Zoning, Health Department, and the County Board.

Enacted and approved this 10th day of February, 2009, in Wheaton, Illinois.

Robert J. Schillerstrom, Chairman
DuPage County Board

Ayes: 17
Vacancy: 1

Attest: _____
Gary A. King, County Clerk

Chapter 20. Law Enforcement
Article XV. Regulation of Adult Entertainment Facilities.

Sec. 20-250.0. SHORT TITLE.

This Article may be cited as the "Adult Entertainment Ordinance."

Sec. 20-250.1. FINDINGS.

The County Board finds that:

- (a) The presence of alcoholic beverages on the premises of an adult entertainment facility exacerbates the deleterious secondary effects of such businesses on the community;
- (b) A prohibition of alcoholic beverages on the premises of an adult entertainment facility neither limits nor prohibits the accessibility or availability of adult entertainment;
- (c) Adult entertainment facilities have a disparate impact on local emergency service agencies; and
- (d) The General Assembly has specifically empowered counties to adopt reasonable regulations concerning the operation of adult entertainment facilities, roadhouses, or any business that offers or provides activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities in view of any patron, client, or customer of the business.

Sec. 20-250.5. DEFINITIONS.

As used in this Article:

- (a) "Adult entertainment employee," means any person employed by an adult entertainment facility on a full-time, part-time, or contractual basis, in any capacity including, but not limited, to any adult entertainer, bouncer, doorman, floor staff, private security officer or detective, manager, general manager, partner, director, owner, bartender, or wait staff member;
- (b) "Adult entertainment facility," means (i) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or

distribution of sexually explicit material, shows, or other exhibitions, (ii) an adult bookstore or adult video store whose primary business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions, or (iii) any business which offers or provides activities by employees, agents, or contractors of the business that involve exposure of specified anatomical areas or performance of specified sexual activities in view of any patron, client, or customer of the business;

- (c) "Adult entertainer," means any person who, at an adult entertainment facility, whose performance is distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities. It includes persons who perform dances such as "stage dances," "lap dances," "table dances," and "couch dances," whether or not the entertainer is exposing a specified anatomical area;
- (d) "Specified anatomical area" means human genitals or pubic region, buttocks, anus, or the female breast below a point immediately above the top the areola that is less than completely or opaquely covered, or human male genitals in a discernibly turgid state even if completely or opaquely covered; and
- (e) "Specified sexual activities" means (i) human genitals in a state of sexual stimulation or excitement; (ii) acts of human masturbation, sexual intercourse, fellatio, or sodomy; (iii) fondling, kissing, or erotic touching of specified anatomical areas; (iv) flagellation or torture in the context of a sexual relationship; (v) masochism, erotic or sexually oriented torture, beating, or the infliction of pain; (vi) erotic touching, fondling, or other such contact with an animal by a human being; or (vii) human excretion, urination, menstruation, or vaginal or anal irrigation as part of or in connection with any of the activities set forth in items (i) through (vi).

Sec. 20-251. PROHIBITION OF ALCOHOLIC BEVERAGES.

It shall be unlawful for any person to consume or be in possession of any open alcoholic beverages while on the premises of any adult entertainment facility. It shall be unlawful for any adult entertainment employee

to permit the consumption or possession of alcoholic beverages on the premises of any adult entertainment facility under their ownership, management, or control. The prohibition provided herein is intended to regulate the use of adult entertainment facilities pursuant to Section 5-1097.7 of the Counties Code and shall be independent of any criminal statutes or other laws regulating conduct related to the use, consumption or possession of alcohol. A person who violates this section shall be assessed a minimum fine of one thousand dollars (\$1000).

Sec. 20-257. INJUNCTIVE RELIEF.

The State's Attorney may in his discretion institute civil actions to restrain violations of this Article. In that proceeding, the court shall enter such orders as it considers necessary to abate the violation and to prevent the violation from continuing or from being renewed in the future. In addition to any injunctive relief granted, the court is authorized to assess fines of up to one thousand dollars (\$1,000) per day for each violation of the ordinance, with each day in violation constituting a new and separate offense.

Sec. 20-258. RULES OF CONSTRUCTION.

The following rules of construction apply to the text of this article:

- (a) Words used in the present tense shall include the future, and the words used in the singular number shall include the plural number, and the plural the singular.
- (b) The word "shall" is mandatory and not discretionary.
- (c) The word "may" is permissive.
- (d) The masculine gender includes the feminine and neuter.
- (e) The word "person" includes individual, partnership, firm corporation or association.
- (f) In the case of any difference of meaning or application between the text of this article and any caption or illustration, the text shall control.
- (g) Terms not herein defined shall have the meaning customarily assigned

Sec. 20-259. SEVERABILITY.

The provisions of this Article are severable. If any section, sentence, subsection, clause or phrase of this Article is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance.

Sec. 20-259.9 EFFECTIVE DATE.

This ordinance shall take effect thirty (30) days after enactment.

Enacted Ordinance OJP-005-09, _____, 2009.