

EXPLANATION: Matter underlined is new; matter in brackets and stricken [--] is material to be repealed.

BILL NO. ____

ORDINANCE NO. ____

AN ORDINANCE TO AMEND TITLE 5 OF THE RENO MUNICIPAL CODE ENTITLED “PRIVILEGED LICENSES, PERMITS AND FRANCHISES,” BY AMENDING CHAPTER 5.06 ENTITLED “ADULT INTERACTIVE CABARETS”, TO ADD PURPOSE AND FINDINGS, DEFINITIONS, ADULT INTERACTIVE CABARET LICENSES, AND AMEND AND ADD REGULATIONS REGARDING ADULT INTERACTIVE CABARET OPERATIONS; AND OTHER MATTERS PROPERLY RELATING THERETO.

SPONSORED BY:

THE CITY COUNCIL OF THE CITY OF RENO DOES ORDAIN:

SECTION 1. Title 5, Chapter 5.06, §§ 5.06.005 to 5.06.120, inclusive, of the Reno Municipal Code is hereby modified to read as follows:

Sec. 5.06.005. – Purpose and findings.

1. The purpose of these adult business regulations is to prevent crime, protect the city tourist and retail trade, maintain property values, and preserve the quality of the City's neighborhoods, commercial districts and urban life, and permit reasonable alternative avenues of communication to prevent the proliferation of illegal sex-related businesses. It is not the intent nor effect of this code to restrict or deny access by adults to adult businesses protected by the First Amendment; nor is it to suppress any speech activities protected by the First Amendment. Instead, the intent is to enact a content-neutral ordinance which addresses the adverse secondary effects of adult businesses.

The predominant concern of these regulations is the limitation and prevention of the adverse secondary effects of the operation of adult businesses which manifest through exposure of minors to adult business activities and materials (including in the form of exterior signage), distraction to motorists, harm to neighboring properties, businesses and tourism, spread of disease, commission of crime and exacerbation of these effects by the clustering of adult businesses and allowance and use of alcohol on the premises of adult businesses.

The provisions of these regulations have neither the purpose nor effect of imposing any limitation or restriction on the content of any communication, including adult business-related materials or performances. Similarly, it is neither the intent nor effect of

these regulations to restrict or deny access by adults to adult business-related communication protected by the First Amendment, or to deny access by the distributors, exhibitors, and performers of adult business-related communication to their intended market. Likewise, the City seeks to assure adequate locations within the City of Reno for the conduct of adult businesses, and that regulations governing adult businesses are content neutral reasonable time, place and manner regulations furthering the purpose of these regulations.

2. Based on evidence of the adverse secondary effects of the operation of adult businesses presented in hearings and in reports made available to the City Council, including findings and interpretations incorporated in multiple court cases, and including multiple studies and reports concerning secondary effects occurring in and around adult businesses¹, the City Council finds:

¹The City relies upon the following evidence of adverse secondary effects of adult business uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases and studies listed below:

City of Littleton, Colo. v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); *Ward v. Rock Against Racism*, 491 U.S. 781 (1989); *Boos v. Barry*, 485 U.S. 312 (1988); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976); *California v. LaRue*, 409 U.S. 109 (1972); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *Tollis, Inc. v. County of San Diego*, 505 F.3d 935 (9th Cir. 2007); *Cricket Store 17, L.L.C. v. City of Columbia*, 676 Fed. Appx. 162, 166 (4th Cir. 2017); *BBL, Inc. v. City of Angola*, 809 F.3d 317 (7th Cir. 2015); *Foxxxy Ladyz Adult World, Inc. v. Vill. of Dix, Ill.*, 779 F.3d 706 (7th Cir. 2015); *Green Valley Investments v. Winnebago County, Wis.*, 794 F.3d 864 (7th Cir. 2015); *Entm't Productions, Inc. v. Shelby County, Tenn.*, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River, MA*, 714 F.3d 65 (1st Cir. 2013); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 455 Fed. Appx. 541 (6th Cir. 2011); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *TJS of New York, Inc. v. Town of Smithtown*, 598 F.3d 17 (2d Cir. 2010); *Indep. News, Inc. v. City of Charlotte*, 568 F.3d 148 (4th Cir. 2009); *Richland Bookmart, Inc. v. Knox County, Tenn.*, 555 F.3d 512 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *729, Inc. v. Kenton County Fiscal Court*, 515 F.3d 485 (6th Cir. 2008); *H And A Land Corp. v. City of Kennedale, Tex.*, 480 F.3d 336 (5th Cir. 2007); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir.2003); *Pleasureland Museum, Inc. v. Beutter*, 288 F.3d 988 (7th Cir. 2002); *Excalibur Group, Inc. v. City of Minneapolis*, 116 F.3d 1216 (8th Cir. 1997); *City of Las Vegas v. Eighth Judicial Dist. Court of State ex rel. County of Clark*, 122 Nev. 1041, 146 P.3d 240 (2006); *CDH Food & Beverage, Inc. v. Kane County, Illinois*, 15 C 4282, 2017 WL 4339801, at *1 (N.D. Ill. Sept. 29, 2017); *Phantom Ventures LLC v. DePriest*, 15-CV-13865-IT, 2017 WL 903456 (D. Mass. Mar. 7, 2017); *MJJG Rest. LLC v. Horry County*, 102 F. Supp. 3d 770 (D.S.C. 2015); *Oasis Goodtime Emporium I, Inc. v. City of Doraville*, 297 Ga. 513 (2015); *Showtime Entertainment, LLC v. Town Of Mendon*, 472 Mass. 102 (2015); *Cricket Store 17, L.L.C. v. City of Columbia*, 676 Fed.Appx. 162 (2017); *McKibben v. Snohomish County*, 72 F. Supp. 3d 1190 (W.D. Wash. 2014); *J.L. Spoons, Inc. v. Ohio Dept. of Pub. Safety*, 31 F. Supp. 3d 933 (N.D. Ohio 2014); *Foster v. City of El Paso*, 396 S.W.3d 244 (Tex. App. El Paso 2013); *Borough of Sayreville v. 35 Club L.L.C.*, 208 N.J. 491 (2012); *RCI Entm't (San Antonio), Inc. v. City of San Antonio*, 373 S.W.3d 589 (Tex. App. 2012); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *Uniontown Retail No. 36, LLC v. Board of Com'rs of Jackson County*, 950 N.E.2d 332 (Ind. Ct. App. 2011); and *104 West Washington Street II Corp. v. City of Hagerstown*, 173 Md. App. 553 (2007).

- a. Adult businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, exposure of minors to adult business activities and materials (including in the form of exterior signage), exposure of minors to alcohol and adverse secondary effects associated with adult businesses, decrease in nearby property value in both commercial and residential areas, impairment to the economic vitality of nearby businesses, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of and exacerbating adverse secondary effects.
- b. Adult businesses should be separated by suitable zoning location and reasonably spaced from sensitive land uses to minimize the impact of their secondary effects upon such uses.
- c. Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this section of code, exists independent of any comparative analysis between adult businesses and non-adult businesses. In addition, the City's interest in regulating adult businesses extends to preventing future secondary effects of either

Reports, scholarly literature, and expert testimony concerning secondary effects occurring in and around adult businesses, including, but not limited to:

“Mapping Commercial Sex Advertising around Reno, NV,” (2016) Data Science Lab Creighton University Omaha, NE; *The Association of Adult Businesses with Secondary Effects: Legal Doctrine, Social Theory, and Empirical Evidence*, (2012) Alan C. Weinstein & Richard D. McCleary; “Does the Presence of Sexually Oriented Business Relate to Increased Levels of Crime? An Examination Using Spatial Analyses,” (2012) Eric S. McCord & Richard Tewksbury; Testimony on SB 3348 Before Illinois State Senate Public Health Committee regarding secondary effects of “live entertainment facilities” (2012) Richard McCleary & Lori Sexton; Secondary Effects of Sexually-Oriented Businesses - Testimony on Missouri House Bill 1551 (2010) Richard McCleary; *The First Amendment In Chaos: How The Law Of Secondary Effects Is Applied And Misapplied By the Circuit Courts*, (2009) Daniel R. Aaronson, Gary S. Edinger, & James S. Benjamin; Do ‘Off-Site’ Adult Businesses Have Secondary Effects? Legal Doctrine, Social Theory, and Empirical Evidence (2009) Alan C. Weinstein & Richard D. McCleary; *An Assessment of the Adult Entertainment Industry in Texas – Comprehensive Report* (2009) The Bureau of Business Research, IC Institute, and the Institute on Domestic Violence and Sexual Assault of The University of Texas at Austin; *Survey of Texas Appraisers: Secondary Effects of Sexually-Oriented Businesses on Market Values* (2008) Texas City Attorneys Association Commission, Connie B. Cooper, FAICP, & Eric Damian Kelly, Ph.D., FAICP; *Survey of Florida Appraisers: Effects of Land Uses on Market Values*, (2008) Duncan Associates, Damian Kelly, Ph.D., FAICP, & Connie B. Cooper, FAICP; “Do Peep Shows ‘Cause’ Crime? A Response to Linz, Paul and Yao,” (2006) Richard McCleary & James W. Meeker; *Adult cabarets in Seattle* (2006) Department of Planning and Development Director’s Report; *NLC Summaries of 43 “SOB Land Use” Studies: Crime Impact Studies on Harmful Secondary Effects of Sexually Oriented Businesses*, (2005) National Law Center for Children and Families; *A Report on the Secondary Impacts of Adult Use Businesses in the City of Denver* (1998) Zoning Administration, Office of Planning and Development, Department of Public Safety, Department of Excise and Licenses, Assessor’s Office, & City Attorney’s Office; and *Adult Entertainment Study* (1994) Department of Planning, City of New York.

current or future adult businesses that may locate in the city. The City finds that the cases and documentation relied on in this section of code are reasonably believed to be relevant to said secondary effects.

The City hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult businesses, including the judicial opinions, expert testimony, scholarly literature, and reports related to such secondary effects.

Sec. 5.06.011 – Definitions.

In this chapter the following definitions shall apply unless the context clearly requires otherwise:

- (a) *Adult interactive cabaret performer* also referred to as “performer” means any person male or female who:
- i. is an employee or independent contractor of an adult interactive cabaret and who, with or without any compensation or other form of consideration, performs as a sexually-oriented dancer, exotic dancer, stripper or similar dancer, actor, model, entertainer or worker whose performance on a regular and substantial basis emphasizes exposure of and focus on the adult interactive cabaret performer's specified anatomical areas; ~~or [and whose performance is designed specifically to arouse sexual passions. Adult interactive cabaret performer includes]~~
 - ii. is a person who, while performing or conducting personal or individual grooming, maintenance or hospitality services such as barber, cosmetic, food or beverage service or personal property maintenance (such as car wash or laundry), nevertheless emphasizes exposure of and focus on the person's specified anatomical areas; ~~or [Adult interactive cabaret performer includes.]~~
 - iii. is a patron of an adult interactive cabaret where the patron is performing for other patrons as part of any publicized or promoted event that encourages adult interactive cabaret performance by such patrons such as an "amateur night" or a "tryout night".

The terms “adult interactive cabaret performer” and “performer” are synonymous as used in this chapter.

- (b) *Adult interactive cabaret* means any fixed place of business which offers to patrons on a regular basis or as a substantial part of the premises activity, the opportunity to view adult interactive cabaret performers whose attire, costume, clothing or lack thereof exposes specified anatomical areas, whose performance emphasizes exposure of and focus on specified anatomical areas ~~[and whose performance or exposure of specified anatomical areas while providing services is designed specifically to arouse sexual passions]~~, all of which is typically associated with allowing the performer to solicit from patrons present anything of value such as drinks, ~~[lap dances, table dances,]~~ tips, ~~[or other]~~ gratuities~~[-, bookings dates]~~ or other compensation~~[-]~~ whether monetary or otherwise.
- (c) *Employee* describes and pertains to any person who performs any service on the premises of an adult interactive cabaret, on a full time, part time, or contract basis, regardless of whether the

person is denominated an employee, independent contractor, agent, lessee, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

- (d) *Exposure* means the presentation of a thing or an area to view, with less than a complete or opaque covering. Paint, dye or other coloring directly applied to or on a person's skin is neither complete nor opaque covering and does not prevent exposure.
- (e) *Fondle or fondling* means touching that is intended to sexually arouse or excite; it includes, but is not limited to, rubbing, stroking, licking, or biting.
- (f) *RPD* means the City of Reno Police Department.
- (g) *Security guard* means a person who acts as a doorman or bouncer or performs any function to secure or protect any interests of the business, on premises or in an attendant or assistant capacity.
- (h) ~~(e)~~ *Specified anatomical areas* means:
 - (1) Less than completely or opaquely covered: human genitals or pubic region; buttock~~[-or anus]~~; or female breast below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
- (i) *Regular basis* means the consistent and repeated doing of an act on an ongoing occurrence.

Sec. 5.06.020. – Adult interactive cabaret records; advertising.

- (a) For purposes of obtaining and maintaining a privileged license to operate an adult interactive cabaret, the licensee must ~~[have available at all times, for presentation, upon reasonable request of any authorized city inspector,]~~ maintain and make available upon reasonable request by authorized city personnel the following information for, and as applicable, to each ~~[adult interactive cabaret]~~ employee and performer ~~[conducting business upon the premises of the licensee]:~~
 - (1) Full legal name, aliases and/or stage names, current mailing address and telephone number, ~~[and date of birth]~~ age, business license number, and work card number;
 - (2) A ~~[work schedule, showing hours currently worked during the calendar month and any hours worked which were not scheduled]~~ daily log or record of all adult interactive cabaret employees and performers and the arrival and departure times of their presence on the premises for the conduct of business. Each employee and performer shall provide a signature for each date he or she is present for the conduct of business. The log or record shall contain or be linked to the information required by subsection (a)(1);
 - (3) A daily summary of remuneration of any kind ~~[earned by every]~~ between each ~~[adult interactive cabaret]~~ employee and performer and the licensed business ~~[while on the premises, from whatever source derived];~~
 - a. A record of any payments made by such employee and performer to the licensee~~[-, his]~~ or the licensee's agents~~[-,]~~ or employees ~~[or others]; and~~

- b. A record of any payments, benefits or gratuities provided to any employee and performer by the licensee, ~~his/her~~ or the licensee's agents, or, as applicable, other employees ~~or others~~.
- (b) Each such required record shall be maintained by the licensee for a period of three calendar years;
- ~~[(e) The licensee must ensure that all persons working or providing services upon the premises have a valid business license and/or work card as required.]~~
- ~~[(d)]~~ No person, firm, partnership, corporation or other entity shall advertise, or cause to be advertised, as an adult interactive cabaret without a valid adult interactive cabaret license issued pursuant to Title 4 and this ~~[T]title~~ ~~[5]~~.

Sec. 5.06.030. – Adult interactive cabaret license application.

- (a) ~~[-The]~~ Every person submitting an application for an adult interactive cabaret ~~[licensee must disclose whether]~~ license is subject to a background investigation to determine suitability for the license, including an FBI fingerprint-based investigation prior to the issuance of any license.
 - (1) A business license application will be considered properly completed upon submission of all required application materials and information, including payment of all required application and investigation fees. Required application information includes submission of all fingerprints and information necessary to enable the RPD to complete the background investigation.
 - (2) Pursuant to NRS 239B.010(1)(a) and P.L. 92-544, the police department is authorized to submit the fingerprints of an applicant for an adult interactive cabaret business license, plus any required fees and any information required for the background check, to the Central Repository for Nevada Records of Criminal History for a statewide background check and for submission by the Central Repository to the FBI to obtain the FBI nationwide background check of the applicant. The Nevada Department of Public Safety is hereby authorized to exchange such fingerprint data with the FBI for purposes of the background check.
- (b) An application for an adult interactive cabaret license shall include the following information:
 - (1) A description of all other business conducted or intended to be conducted on the premises;
 - (2) Whether the applicant or anyone having a ten percent or more ownership interest in the business or proposed business has:
 - a. Ever been convicted of any crime, excluding minor traffic offenses and, if so, the application shall state the person involved, the charge, date, court and disposition of the charges;
 - b. ~~[(1)]~~ Ever had a business license denied, revoked or charges filed therefor, and if so, the application shall state the name of the business, date, jurisdiction, and outcome of any hearing; and

- c. ~~[(2)]~~ Ever owned or operated an escort service, an out call promoter establishment, a brothel or adult nightclub, adult theater, adult bookstore or any other adult business and if so, the name of the business and address, dates involved and position of interest therein~~;~~ ~~and~~ ~~[(3) Been convicted within ten years of application or renewal of any crime as listed in section 8.21.050 (b)(2), and, if so, the application shall state the person involved, the charge, date, court and disposition of the charges].~~
- (c) ~~[The]~~ Every applicant[s] shall present herself or himself ~~[themselves]~~ to the RPD for investigation and submit the applicable fingerprint fee, and shall reveal to the RPD such information as is required to properly identify the applicant and to enable the investigation of the applicant's arrests, convictions, and licensing record and verify the accuracy and completeness of the application. The applicant must also provide such information as may be required by the RPD to complete the background investigation.~~[Corporations.]~~
- (1) In all cases where the applicant for a license is a corporation, ~~[it shall be necessary for]~~ all of the principal officers of such corporation ~~[to]~~ must present themselves for investigation and fingerprinting. All stockholders with ten percent or more stock, or who exercise management of the corporation, ~~[are required to]~~ must present themselves for investigation and fingerprinting.
- (2) In all cases where the applicant for a license is a limited liability company, all members having management authority for such limited-liability company must present themselves for investigation and fingerprinting. All members whose effective ownership percentage or beneficial interest in the limited-liability company is ten percent or more must present themselves for investigation and fingerprinting.

Sec. 5.06.035. – Adult interactive cabaret; license issuance or denial; revocation or suspension stayed pending appeal.

- (a) The City shall issue or deny an adult interactive cabaret license to the applicant within thirty days from the date of receipt of a properly completed application. Failure of the City to approve or deny the license application within the thirty days shall result in the license being granted under the following condition:
- (1) Upon the expiration of the thirty days the applicant may demand a license and begin operation of the adult interactive cabaret for which the license is sought, unless and until the City notifies the applicant of a denial of the license application and states the reason for the denial. This provision shall not create a reliance or estoppel situation as to this license or any other provision of this Code.
- (b) The City shall consider the application by examination of:
- (1) The information provided within the submitted application;
- (2) The circumstances of the applicant's criminal and business history;
- (3) The proposed business operation of the applicant;
- (4) The reports of all applicable departmental reviews.
- (c) The license application shall be denied if:

- (1) The applicant, whether an individual or any of the stockholders, officers or directors of a corporation, or any person having a ten percent or more ownership interest in the business or proposed business:
 - a. Has been convicted of any of the following offenses within the five years immediately preceding the date of the application, regardless of the jurisdiction of the conviction:
 - i. A felony or any crime which, under the laws of this state, would amount to a felony;
 - ii. Any crime of which theft, fraud or intent to defraud is an element;
 - iii. Unlawfully possessing or distributing a controlled substance;
 - b. Has been convicted of any of the following offenses within the ten years immediately preceding the date of the application, regardless of the jurisdiction of the conviction:
 - i. Solicitation, prostitution, or pandering; or
 - ii. Any sex offense requiring the applicant to register under NRS 179D.441, et seq.
 - c. Has had a revocation of a business license for violations of code regulations pursuant to RMC Chapters 5.06 (Adult Interactive Cabarets) or 5.10 (Escort and Out Call Services), or RMC 18.08.202(b)(1) (Adult Businesses) within the two years immediately preceding the date of the application.
- (2) The business operation as proposed by the applicant would not comply with all applicable laws, including but not limited to this Title and the City's building, zoning, fire and health regulations.
- (d) Denial. If the applicant is denied, the City shall notify the applicant with the reason(s) stated for denial. Notification of the denial shall be provided by certified mail, mailed to the applicant's address provided on the license application which shall be considered to be the correct address. Each applicant has the burden to furnish any change of address to the City. Notice of the review decision shall officially commence on the day the decision is personally given or the day the decision is deposited into the mail under certification.
 - (1) In the event of denial, the applicant may file or cause to be filed in the district court a petition labeled as a "First Amendment Petition" for judicial review challenging the validity of the denial as provided by NRS Chapter 34.
- (e) Suspension or revocation. An adult interactive cabaret license may be suspended or revoked in accordance with Title 4 and/or Title 5 of this Code. In addition, a license for an adult interactive cabaret may be suspended or revoked on the following grounds:
 - (1) A licensee knowingly commits any act which would have constituted grounds for denial of an application for a license;
 - (2) A licensee has violated, or permitted, allowed or caused a violation of any provision of Title 4 and/or Title 5 of the Reno Municipal Code, any state law, or any condition of approval imposed upon the issuance of the license;

- (3) The licensee has failed to maintain the premises in compliance with the requirements of: any state law, Title 4 and/or Title 5 of the Reno Municipal Code, the building official, the fire chief or any environmental or health department; and
- (4) Any act or omission committed by any employee, agent, or independent contractor that occurs in the course of his or her employment, agency, or contract with the licensee shall be imputed to the licensee for the purpose of imposing any civil penalty, suspension, or revocation on the licensee.
- (f) The holder of an adult interactive cabaret business license that is the subject of revocation or suspension as stated herein and/or under RMC 4.04.160, shall be permitted to conduct business under the license until appeal has been pursued through final decision or the time for appeal has expired without pursuit of appeal. The failure to commence a timely appeal shall be deemed a waiver of any and all objections to revocation or suspension.

Sec. 5.06.040. – License fee Alcohol and other licenses separate application for renewal.

- (a) [All provisions of Chapter 5.07 (Alcohol) apply, whether or not alcohol is being served.]If the holder of an adult interactive cabaret license wishes to sell or serve alcoholic beverages on the business premises, a separate alcoholic beverage license must be obtained.
- (b) Licenses issued under this title shall clearly state on the license "adult interactive cabaret."
- (c) A license allows the licensee to conduct only the business for which the license is obtained. Separate and additional licenses may be required [including but not limited to RMC 4.04.020].

Sec. 5.06.050. – Penalty.

It is unlawful for any person or business entity to engage in business as an adult interactive cabaret within the incorporated areas of the City of Reno without first obtaining a business license as provided for in this title ~~[and as additionally governed by Title 8. It shall be unlawful for any person or business to operate an adult interactive cabaret in violation of section 8.21.060].~~ Any person, firm or corporation violating this section or not complying with applicable adult business regulations contained under the RMC, including but not limited to, Chapters 4.07, 5.05, and 5.06, shall be ~~[guilty of a separate offense]~~ in violation for each and every day ~~[during which the violation is committed, continued or permitted and upon conviction shall be penalized under the provision of section 1.04.010.]~~ that the violation continues to exist or occur. This section does not negate the imposition of other penalties from other titles, chapters, and sections of this [Reno Municipal] Code [sections].

Sec. 5.06.060. – Manager or designated responsible individual required on premises.

A manager or designated responsible individual shall be on duty at an adult interactive cabaret during all times a patron is present on the premises. Such person shall be responsible for all requirements of this chapter during his/her hours of work, and as specifically outlined under section 5.06.110 (responsibility of licensee). The manager or designated responsible individual on duty pursuant to this section shall not be employed or contracted to provide services as an adult interactive cabaret performer on the day that he or she is acting as manager or responsible individual pursuant to this section.

Sec. 5.06.070. – Sufficient lighting.

Adult interactive cabaret premises shall be equipped with lighting of sufficient intensity to illuminate every place in which patrons are permitted. Illumination shall be not less than two foot candles as measured at a point at least 36 inches but not more than 60 inches from the floor. Illumination shall be maintained at all times a patron is present on the premises.

Sec. 5.06.080. – Adult interactive cabaret operations.

- (a) No adult interactive cabaret licensee shall allow an employee to work who does not have a valid work card and a performer to perform who does not have a valid business license and valid work card, as required by Title 4 and Title 5.
- (b) No person, whether patron, performer, or otherwise, under the age of eighteen years shall be admitted to, or permitted to remain on the premises of, an adult interactive cabaret. No person, including employees and performers, under the age of twenty-one years shall be admitted to, or allowed to remain on the premises of, an adult interactive cabaret wherein alcohol is provided, served, sold, or consumed.
- (c) No adult interactive cabaret licensee shall serve, sell, distribute, permit or allow the consumption or possession of any intoxicating liquor, or any beverage represented as containing any alcohol, upon the premises of the licensee without a valid alcoholic beverage license.
- (d) No patron shall be permitted at any time to enter into any of the nonpublic portions of the business, which shall include but are not limited to: dressing rooms, employee restrooms, or other rooms provided solely for the benefit of employees or independent contractors, in addition to the kitchen and storage areas.
- (e) The adult interactive cabaret licensee, its managers, and security personnel shall maintain visual observation of each patron at all times a performer is present in any performance area or area to which patrons have access.
- (f) A performer's allowed exposure of specified anatomical areas shall only take place on a stage or platform ("performance stage"), which is raised at least two feet above floor level. When not on the performance stage, performers shall not expose specified anatomical areas to view by patrons.
- (g) At no time will a performer expose any portion of their pubic region, genitals, vulva and/or anus to view.
- (h) No employee or performer shall fondle any patron. No employee or performer shall encourage or permit any patron to fondle any employee or performer.
- (i) All adult interactive cabaret performance areas must be in complete view from the main floor area and may not be obscured by any design feature or artificial barrier including, but not limited to, curtains, doors, walls, screens and staircases. No booths, stalls, lounges, or similar areas of enclosure shall be installed for the private viewing of adult interactive cabaret performances by patrons. The requirement that performances must be in "complete view from the main floor area" under this section cannot be met through electronic monitoring means.

Further, electronic monitoring does not absolve an area from being deemed “private” under language of this section.

- (j) All areas where adult interactive cabaret performances occur must be open to public access.
- (k) No performances shall be visible from the exterior of an adult interactive cabaret.
- (l) No out call or escort service is permitted from an adult interactive cabaret.
- (m) An adult interactive cabaret licensee shall conspicuously display its licenses as required by this chapter.
- (n) All adult interactive cabarets shall post in at least two prominent locations within the nonpublic portions of the business, one of which shall include but are not limited to: the dressing rooms, restrooms, or other rooms provided solely for the benefit of employees or independent contractors and the kitchen and storage areas, with letters not less than three inches high stating:

“PROSTITUTION IS UNLAWFUL”

Sec. 5.06.90. – Adult interactive cabaret electronic video monitoring.

- (a) Electronic video monitors with a recording resolution in low light conditions of at least 1920 x 1080, or the equivalent, at a rate of at least 15 frames per second, which have capability to provide coverage shall be maintained of all entrances and exits of the building, any point-of-sale location, performance stages and all areas to which patrons have access, including hallways, stairwells and any area that a patron may reasonably be expected to be present on the premises, except restrooms.
- (b) Each electronic video monitor used and required pursuant to this section must:
 - i. Include a date and time generator which possesses the capability to display the date and time of recorded events on the recording in a manner that does not significantly obstruct the recorded view.
 - ii. Include a failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.
 - iii. Include sufficient battery backup for video camera and recording equipment to support at least 5 minutes of recording in the event of a power outage.
 - iv. Be installed in a manner that will prevent the video camera from being readily obstructed, tampered with or disabled.
 - v. Be inspected for adequate functionality on a regular basis and be repaired by an adult interactive cabaret licensee or its agent within 72 hours after a malfunction or other error is detected.
- (c) Electronic video monitoring required by this section shall be operational at all times that the business is open to patrons. The adult interactive cabaret licensee shall ensure that all components of the video monitoring system are in good working order and shall immediately make repair to any malfunctioning or nonoperational component.

- (d) If a video monitor used pursuant to this section malfunctions, licensee or its agent shall immediately provide alternative video camera coverage.
- (e) Each adult interactive cabaret shall maintain a log that documents each malfunction and repair of the electronic monitoring equipment. The log must state the date, time, and nature of each malfunction, the efforts taken to repair the malfunction and the date of each effort, the reason for any delay in repairing the malfunction, the date the malfunction is repaired and, if applicable, any alternative security measures that were taken. The adult interactive cabaret licensee shall maintain the log for at least two years after the date of last entry in the log.
- (f) All video monitors shall be positioned to allow unobstructed view and capture of persons' images, and images shall be of such quality to allow facial identification of persons within the premises and clearly at all entrances and exits of the premises.
- (g) All electronic monitoring shall be recorded and the video recording shall be maintained on the premises for at least ninety days from the date of recording and provide on-demand access to the recordings and provide copies of the recordings to City of Reno representatives for review upon request and at the expense of the adult interactive cabaret.
- (h) All adult interactive cabarets shall post at each entrance and in at least two places behind each bar a sign stating:

“All Activities on These Premises are Video Recorded”

Lettering must be black on a yellow background and the letters must be two inches high. The signs must be positioned between four and six feet above floor level and must be illuminated sufficiently to be read by a person with normal eyesight 20 feet from the sign.

Sec. 5.06.100. – Licensee to ensure validity; maintain copy of documents; policies and procedures.

- (a) The licensee of any adult interactive cabaret business shall ensure that:
 - i. Each performer, employee, or independent contractor has a current and valid work card;
 - ii. Each performer who is an independent contractor maintains a current and valid business license;
 - iii. The work card and business license are current and valid on each date that a performer conducts business on the premises of the licensee; and
 - iv. The work card is current and valid on each date that an employee works on the premises of the licensee.
- (a) The licensee shall keep a copy of each individual work card and business license on file for every employee and performer employed or conducting business on the premises. The original work card and business license documents are the property of, and shall remain in the possession and control of the respective employee or performer.

- (b) The licensee shall maintain and submit an updated copy of its policies and procedures annually to City Clerk upon renewal of the licensee's adult interactive cabaret business license. Those policies and procedures shall address the following:
- i. Where and how all employee and performer business license and work card records are maintained on the premises.
 - ii. Prevention of loitering on the premises.
 - iii. Age verification procedures for entering the premises.
 - iv. Conducting electronic monitoring, including the location of every monitor on the premises and description of what the electronic monitoring system is made up of. A map representing the location of all electronic monitors shall be included.
 - v. Procedure for addressing and maintaining records for malfunctioning or broken monitoring/recording units.
 - vi. Frequency and content of training provided to employees and performers, including but not limited to, addressing patron age verification, alcohol awareness, substance abuse awareness, human trafficking, on-site safety, and solicitation of prostitution.

Sec. 5.06.110. - Responsibility of licensee.

- (a) An adult interactive cabaret licensee shall not knowingly allow or take part in any pandering, prostitution or solicitation of prostitution on the licensed premises, whether such acts are committed by employees, performers, independent contractors, subcontractors or patrons.
- (b) An adult interactive cabaret licensee shall not knowingly, or under circumstances that reasonably indicate such behavior is knowing or is willfully ignorant, negligent, or unaware, allow an employee to work or the performance on the adult interactive cabaret licensee's premises of an adult interactive cabaret performer who does not possess current and valid work card and business license documentation as applicable and required by Title 4 and Title 5.
- (c) The acts of any person or persons upon the licensed premises in violation of this chapter, whether the same person or several persons, and whether it is the licensee, an employee, agent, performer, independent contractor, or patron, that reasonably demonstrates a pattern of the adult interactive cabaret licensee's unwillingness, negligence, or inability to control such acts and comply with Title 4 and/or Title 5, shall constitute grounds for suspension or revocation of the adult interactive cabaret license. Specifically, evidence of three acts of any person or persons upon the licensed premises that are documented in violation of this chapter within a two-year period shall constitute a material violation, and may be considered as grounds for suspension or revocation of an adult interactive cabaret license.
- (d) This section does not negate the imposition of other responsibilities of licensee from other titles, chapters, and sections of this Code, or federal or state law.

Sec. 5.06.120. – Severability.

If any section, paragraph, phrase or word of this chapter or portion thereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining portions of this chapter.

SECTION 2. The Reno City Council hereby finds that this ordinance is subject to the requirements of NRS Chapter 237, Business Impact Statement process.

SECTION 3. This Ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

SECTION 4. Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid.

SECTION 5. The City Clerk and Clerk of the City Council of the City of Reno is hereby authorized and directed to have this Ordinance published in one issue of the Reno-Gazette Journal, a newspaper printed and published in the City of Reno.

PASSED AND ADOPTED this _____ day of _____, 2018, by the following vote of the Council:

AYES: _____

NAYS: _____

ABSTAIN: _____ ABSENT: _____

APPROVED this _____ day of _____, 2018.

MAYOR OF THE CITY OF RENO

ATTEST:

CITY CLERK AND CLERK OF THE CITY COUNCIL
OF THE CITY OF RENO, NEVADA

EFFECTIVE DATE: