

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ROBERTA, GEORGIA, SITTING FOR CITY PURPOSES FOR THE PURPOSE OF **ADOPTING AN ORDINANCE TO REGULATE CERTAIN TYPES OF BUSINESSES, INCLUDING BUT NOT LIMITED TO, ADULT ENTERTAINMENT ESTABLISHMENTS IN THE CITY OF ROBERTA, GEORGIA, TO ESTABLISH FINDINGS OF FACT AND PURPOSES FOR SAID REGULATION OF SAID BUSINESSES, TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF ROBERTA, GEORGIA, HELD ON DECEMBER 7, 1999.**

WHEREAS, the City Council of the City of Roberta, Georgia, based on common knowledge, investigation, and experience derived from other local government jurisdictions, believes that adult entertainment establishments (as hereinafter defined), if unregulated, will likely lead to an increase in illegal sexual activities, drug and alcohol offenses, disorderly conduct, and other criminal activity; and

WHEREAS, adult entertainment establishments sometimes are fronts for or operated by persons associated with criminal activities and the need to scrutinize such establishments is thereby required in order to prevent the use of adult entertainment establishments for unlawful purposes; and

WHEREAS, the law enforcement resources available for responding to problems associated with or created by adult entertainment establishments are limited and are best conserved by regulating and licensing adult entertainment establishments and those associated with them; and

WHEREAS, the public health, safety, welfare and convenience require that adult entertainment establishments and their locations, operations, and employees be regulated and licensed in order to reduce the potential for harm, and in order to preserve the quality of life in residential and business areas of the community; and

WHEREAS, the location of adult entertainment establishments in close proximity to each other tends to adversely affect property values, cause an increase in crime and encourage residents and businesses therein to move elsewhere; and

WHEREAS, it is the duty of the City Council to preserve the public health, safety, and welfare of the City, its residents, and the character of its neighborhoods and developments; and

WHEREAS, the City Council has reviewed various studies involving the effects of adult entertainment establishments and has received public input concerning the same at a hearing duly advertised and held on the 7th day of December, 1999; and

WHEREAS, the City Council deems it to be in the best interest of the citizens of the City of Roberta, Georgia, that adult entertainment establishments be regulated;

NOW, THEREFORE, BE IT ORDAINED AND IT HEREBY IS ORDAINED, by virtue of the authority vested in the City Council by law, as follows:

Section 1 - Purpose and Findings.

- a.) **The purpose** of this Ordinance is to regulate certain types of businesses including, but not limited to, adult entertainment establishments as defined herein, to the end that the many types of criminal activities frequently engendered by such businesses and the adverse affect on property values and on the public health, safety, and welfare of the City, and on its citizens and property, and on the character and preservation of its neighborhoods and development will be curtailed. This Ordinance is not intended as a defacto prohibition of legally protected forms of expression. This Ordinance is intended to represent a balancing of competing interests: reduced criminal activity and protection of the neighborhoods and development through the regulation of adult entertainment establishments versus any legally protected rights of adult entertainment establishments and patrons. This Ordinance is not intended to allow or license any business, establishment, or activity which would otherwise be unlawful.
- b.) **Findings:** Based on the experience of other counties and municipalities, including, but not limited to, Atlanta, Georgia, Fulton County, Georgia, DeKalb County, Georgia; Richmond County, Georgia; Floyd County, Georgia; Amarillo, Texas; Austin, Texas; Garden Grove, California; Houston, Texas; Renton, Washington; Phoenix, Arizona; Indianapolis, Indiana; St. Paul, Minnesota; Tucson, Arizona; Augusta, Georgia; LaGrange, Georgia; Dalton, Georgia; Whitfield County, Georgia; Carrollton, Georgia; Smyrna, Georgia; Rome, Georgia; and Ft. Lauderdale and Palm Beach, Florida, which experiences are believed to be relevant to the problems faced by the City of Roberta, Georgia, the City Council takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country. Moreover, it is the findings of the City Council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages, begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein above described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in establishments licensed in the incorporated limits of the city and prohibiting the sale and consumption of alcoholic beverages in said establishment is in the public welfare and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. Based on these findings, this Ordinance is adopted to regulate certain types of businesses and to establish where such activity may or may not be conducted.

Section 2 - Definitions. As used herein, the following words or phrases shall have the following meanings:

- a.) **“Adult Entertainment Establishment”** - as used herein, the following words or phrases shall have the following meanings, and the premises on which defined establishments operate on which defined activities occur shall constitute “adult entertainment establishments.
1. **“Adult Bookstore”** - a business or establishment having a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five (5%) percent of its total floor space, devoted to the sale or display of such material, or five (5%) percent of its net sales consisting of printed material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 2. **“Adult Business”** - either (1) any business or establishment which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat either by law or by the operators of such business or establishment; or (2) any business or establishment to which the public or any portion thereof is permitted where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or (3) any other business or establishment to which the public or any portion thereof is permitted which offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, discussing or relating to specified sexual activities or specified anatomical areas.
 3. **“Adult Dancing Establishment”** - a business or establishment that features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
 4. **“Adult Motion Picture Theater”** - a business or establishment that is used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein, including a business or establishment wherein coin or slug operated or electronically, electrically 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 an emphasis on, depicting or describing specified sexual activities or specified anatomical areas.

5. **“Adult Video Store”** - a business or establishment having a substantial or significant portion of its stock in trade in video tapes or movies or other reproductions, for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising five (5%) percent of its total floor space, devoted to the sale or display of such material, or five (5%) percent of its net sales consisting of reproduced materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
6. **“Bath House” or “Massage Parlor”** - a business or establishment in which services offered include some form of physical contact between employee and patron and in which services offered are characterized or distinguished by an emphasis on specified sexual activities or specified anatomical areas.
7. **“Erotic Entertainment/Dance Establishments”** - a business or establishment including, but not limited to, a nightclub, theater, or other establishment which features live performances by topless and/or bottomless dancers or entertainers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
8. **“Escort Bureau/Introduction Services”** - any individual, business or establishment which, for a fee, commission, hire, reward, profit or other consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons to accompany other persons to social affairs or places of entertainment or amusement, or for persons to consort with other persons about any place of public resort or within any private quarters, all for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.
9. **“Lingerie Modeling Studio”** - a business or establishment whose primary business activity consists of live performers exhibiting or modeling lingerie or similar undergarments and are characterized or distinguished by an emphasis on specified sexual activities or specified anatomical areas.
10. **“Encounter Center or Rap Establishment”** - a business, agency or person who, for any form of consideration or gratuity, provides a place where two (2) or more persons may congregate, assemble or associate for the primary purpose of engaging in, describing or discussing specified sexual activities, or exposing specified anatomical areas.

- b.) **“Church”** - A place where persons regularly assemble for religious worship; a body of communicants united under one form of government by the profession of the same faith and the observance of the same ritual and ceremonies; congregation or organization assembled for religious purposes.
- c.) **“City Council”** - The City Council of the City of Roberta, Georgia.
- d.) **“Conviction”** - Adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond when charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act.
- e.) **“Distance and Measurement”** - The measurement in lineal feet from the closest point of the property line of the proposed premises of an adult entertainment establishment to the nearest property line of any church, library, school, college, public park, residence, or hospital. A radius shall be measured from the property line of the proposed premises to the nearest property line of any church, library, school, college, public park, residence or hospital.
- f.) **“Employee”** - any person engaged to provide or in fact providing services for an adult entertainment establishment to patrons on a regular basis whether for legal consideration or otherwise. For the purpose of this Ordinance, independent contractors whose main purpose is to provide entertainment or other services to patrons, including, but not limited to, dancers and waitresses, employed or hired by an adult entertainment establishment shall be considered as employees.
- g.) **“Good Moral Character”** - for the purposes of this Ordinance shall mean, although not limited to, having no convictions of a felony or crime of moral turpitude within the previous five years. Conviction shall include pleas of nolo contendere or bond forfeiture when charged with such crime.
- h.) **“Minor”** - for the purposes of this Ordinance shall mean any person who has not attained the age of eighteen (18) years.
- i.) **“Park”** - any lands or facility owned, operated, controlled or managed by county, city, state or federal government or any governmental entity or agency in and upon which recreational activities or places are provided for the recreation and enjoyment of the general public.
- j.) **“Parcel of Land”** - any quantity of land capable of being described by location and boundaries, designated and used or to be used as a unit.
- k.) **“Residence”** - a house, apartment, mobile home, boarding or rooming house, duplex, or other multi-family housing, used as a dwelling for humans, or any properties owned therefor.
- l.) **“School”** - state, county, city, church or other schools, public or private, that teach the subjects commonly taught in the common schools of this state, and vocational schools, colleges, post high school learning centers, kindergartens and day care centers for persons of any age.
- m.) **“Specified Sexual Activities”** - shall include any of the following:

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: sodomy, cunnilingus, fellatio, pedophilia, lesbianism, homosexuality; or
 2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
 3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
 4. Fondling of the human genitals, pubic region, buttocks or female breast so as to arouse or excite the sexual desires of a patron; or
 5. Sexually oriented torture; or
 6. Fondling or other sexual contact with an animal so as to arouse or excite the sexual desires of a patron.
- n.) **"Specified Anatomical Areas"** - shall include any of the following:
1. Less than completely and opaquely covered human genitals, pubic region, or anus; or female breast below a point immediately above the top of the areola; or
 2. Human male genitalia in a discernible turgid state, even if completely and opaquely covered.

Section 3 - Regulations. The following regulations apply to all adult entertainment establishments as described herein and located within the City of Roberta, Georgia:

- a.) It shall be unlawful for a licensee to employ, admit or permit the admission of minors within a licensed premise.
- b.) It shall be unlawful for any person to sell, barter or give to any minor any service, materials, device or thing sold or offered for sale by an adult entertainment establishment.
- c.) No adult entertainment establishment shall be located in any zoning district, other than I-G on at least three (3) acres and within the following distances as defined and measured as stated herein:
 1. within 1,000 feet of any parcel of land upon which any single or multi-family residence or within 1,000 feet of any parcel of land which is either zoned or used for single or multi-family uses or purposes;
 2. within 1,000 feet of any parcel of land upon which a church, school, governmentally-owned or operated building, library, civic center, public park, playground, hospital, nursing home or community club is located;
 3. within 1,000 feet of any parcel of land upon which another adult entertainment establishment is located;
 4. within 1,000 feet of any parcel of land upon which an establishment selling alcoholic beverages is located;
- d.) No adult entertainment establishment licensee shall employ or contract with any person to provide services or perform in said establishment who is a person not permitted for employment pursuant to this Ordinance.

- e.) An adult entertainment establishment licensee shall maintain and retain for a period of two (2) years the names, addresses, dates of birth, and social security numbers of all employees.
- f.) An adult entertainment establishment shall be closed between the hours of 10:00 p.m. and 11:00 a.m. Monday through Saturday, on Sunday, and on Christmas Day.
- g.) No booth, screen, partition or other obstruction shall be permitted within the interior of any adult entertainment establishment so as to prevent a clear view throughout the premises, except for separate offices, kitchens, restrooms, or other areas not frequented by patrons.
- h.) No premises for an adult entertainment establishment shall have any interior connections or doors with any other place of business.
- i.) No adult entertainment establishment shall be operated such that the activity on the interior of the premises is visible from the exterior of the premises.
- j.) No licensee shall permit the use of alcoholic beverages of any kind to be sold, possessed or consumed in or on the premises.
- k.) No licensee shall permit the use of illegal drugs or controlled substances of any kind to be allowed, permitted, used, possessed or sold, and no gambling shall be allowed or permitted in or on the premises.
- l.) No licensee shall permit an employee to expose for public view his or her Specified Anatomical Areas in a lewd and obscene fashion.
- m.) Every act or omission of an employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's conduct.

Section 4 - Additional Regulations Applicable to Adult Dancing Establishments, Erotic Entertainment/Dance Establishments and Lingerie Modeling Studios. The following additional regulations apply to adult dancing establishments, erotic entertainment/dance establishments and lingerie modeling studios (herein "adult dance establishments") as described herein:

- a.) All live dancing and entertainment shall occur on a platform intended for that purpose which is raised at least two (2) feet from the next highest level of the remainder of the floor.
- b.) No live dancing or entertaining shall occur closer than ten (10) feet from any patron.
- c.) No dancer, entertainer or employee shall fondle or caress any patron nor allow any patron to fondle or caress any dancer, entertainer or employee so as to arouse or excite the sexual desires of a patron.
- d.) No patron shall directly pay or give any gratuity to any dancer or entertainer.
- e.) No dancer or entertainer shall solicit or accept any pay or gratuity directly from any patron nor allow any patron to directly pay or give any gratuity to any dancer or entertainer.
- f.) All areas of the licensed premises shall be fully lighted at all times when open for business, which shall mean illumination equal to 3.5 foot candles per square foot.
- g.) No licensee shall permit any employee to use artificial devices or inanimate objects to depict any of the prohibited activities described in this Ordinance.

- h.) No licensee shall permit an employee to insert an object into her vagina or her or his anal orifice, except for personal hygiene or necessity.
- i.) No licensee shall permit an employee to engage in actual or simulated genital masturbation.
- j.) No licensee shall permit a male employee to exhibit an unclothed erect penis.
- k.) No licensee shall permit an employee to engage in, or simulate bestiality.
- l.) No licensee shall permit an employee to engage in actual or simulated sexual activity with another person.
- m.) No licensee shall permit an employee to sit upon or straddle the leg, legs, lap or body of any patron therein.
- n.) No licensee shall permit or allow a patron to participate in any act or activity upon the licensed premises which an employee is prohibited from performing.

Section 5 - License Required. It shall be unlawful for any person, or legal entity to engage in, conduct or carry on, in or upon any premises within the City of Roberta, Georgia, any of the adult entertainment establishments defined in this Ordinance, without a license so to do. No license so issued shall condone or make legal any activity thereunder if the same is deemed illegal or unlawful under the laws of the State of Georgia or the United States.

Section 6 - Operation of Unlicensed Premises Unlawful. It shall be unlawful for any person to operate an adult entertainment establishment unless such business shall have a currently valid license or shall have made proper application for renewal within the time required thereof under this Ordinance, which license shall not be under suspension or permanently or conditionally revoked.

Section 7 - Application for License.

- a.) Any person or legal entity desiring to obtain a license to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the Zoning Administrator of the City of Roberta, Georgia, or his designated representative. Prior to submitting such application, a non-refundable fee of \$100.00 shall be paid to the Zoning Department of the City of Roberta, Georgia, to defray, in part, the cost of investigation and report required by this Ordinance.
- b.) The application for license does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.
- c.) All licenses herein shall be a mere grant of privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by this Ordinance and related laws, applicable provisions of this Ordinance and other Ordinances and Resolutions of the City relating to such business.
- d.) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be suspended and/or revoked under the provisions of the Ordinances of the City of Roberta, Georgia."
- e.) A separate license shall be required for each place of business.
- f.) Where the applicant:

1. is a corporation, any license shall be applied for by and shall be issued to the corporation and either (1) the majority shareholder thereof, or (2) a person employed full time in a managing capacity by the corporation;
2. is a partnership, any license shall be applied for by and shall be issued to the partnership and either (1) the managing general partner thereof, or (2) a person employed full time in a managing capacity by the partnership;
3. is a sole proprietor, any license shall be applied for by and shall be issued to the sole proprietor if he is working full time in a managing capacity on the premises, and, if not, then to the sole proprietor or a person employed full time in a managing capacity by the sole proprietor;
4. for purposes of this sub-section, the words "managing capacity" shall mean the President or Chief Executive Officer or Managing or General Partner of a corporation or partnership, or a person who has responsibility for management of the operations at the location to be licensed and who is a full time employee of the corporation, partnership, proprietor, or other ownership entity.

Section 8 - Application Contents; Supporting Documents.

- a.) Application for license shall be written and on forms supplied by the Zoning Department of the City of Roberta, Georgia. Such application shall state the name, address, social security number and date of birth of the applicant(s); and the nature and character of the business to be carried on.
- b.) The previous addresses, if any, of the applicant for a period of five (5) years immediately prior to the date of the application and the dates of residence for each.
- c.) The applicant's height, weight, color of eyes and color of hair.
- d.) Two (2) photographs of the applicant at least two (2) inches by two (2) inches taken within six months prior to the application.
- e.) Business, occupation or employment history of the applicant for five (5) years immediately preceding the date of the application
- f.) 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, addresses, dates of birth and social security numbers of each of its current officers and directors as well as all stockholders holding more than five (5%) percent of the outstanding shares of the corporation. If the applicant is a partnership, whether general or limited, the applicant shall set forth the names, residence addresses, and dates of birth and social security numbers of the partners. If one (1) or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply.
- g.) Address of the premises to be licensed.
- h.) The name of the owner of the premises and, if leased, a copy of the Lease Agreement.
- i.) A plat, filed in triplicate, by a registered land surveyor, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the provisions contained in Section 3(c).

- j.) The name, address, social security number and date of birth of any and all persons who have a financial interest of any type in the entity which is applying for the license.
- k.) Any other information reasonably required by the Zoning Administrator in order to verify the information furnished by the applicant to obtain a license.
- l.) Should the requirements of this article dictate that more than one individual and/or entity apply for and a license issue to such applicants, then all such applicants shall, on such application, designate the name, address and telephone number of an individual resident of the City of Roberta, Georgia, to act as agent for all applicant(s)/licensee(s) for the purpose of receiving communications and notices under this Ordinance. Proof of delivery to said agent shall be conclusive proof of receipt by a licensee(s) of such notice, process or information.
- m.) Each application must be complete in its entirety before being accepted by the City for filing and processing.
- n.) All applicants for licenses as to any premises which is to be subsequently renovated or improved shall furnish in triplicate plans and renderings of the premises as it is to exist at the time of opening. Any premises to be constructed or renovated prior to opening shall be constructed, renovated or built so as to be equal to and compatible with the surrounding neighborhood or better. The premises shall comply with all building, health and similar City codes.
- o.) Each application for an adult entertainment establishment license shall be verified and acknowledged under oath to be true and correct by:
 1. If the applicant is an individual, the individual;
 2. If by a partnership, by the manager or general partner;
 3. If a corporation, by the President of the corporation;
 4. If any other organization or association, by the chief administrative official.

Section 9 - Notice of Intent to Engage in Business.

- a.) All applicants for licenses hereunder shall give notice that application has been filed and of the purpose of making such application by publication of an advertisement once a week for four (4) consecutive weeks prior to the date of consideration of the application by the City Council of the City of Roberta, Georgia, in the newspaper in which legal advertisements are published. The first advertisement shall not appear more than forty (40) days prior to the date of such consideration. The advertisement shall be of type not smaller than ten (10) point capital and lower case and shall be at least a one-inch column. The advertisement shall appear on the same days as legal advertisements are regularly published.
- b.) The notice shall contain a particular description of the location of the proposed business, the name of the applicant(s), the date, time and place of hearing, and a statement that any legal objections to the issuance must be made at or prior to the time of hearing, and, if prior to the time of hearing, must be in writing and received by the Office of the Zoning Administrator on or before the date and time of hearing.

- c.) Applicants shall provide proof of such notice by providing the Zoning Administrator, prior to the time of the hearing on license issuance, the affidavit of the publisher of the newspaper in which said notice was published, which affidavit shall reflect the content of the notice and the dates of publishing.
- d.) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following: "The City of Roberta, Georgia, Adult Entertainment License Applied For. A hearing before the City Council of the City of Roberta, Georgia, shall be held on the ____ day of _____, _____, at ___:___ o'clock a.m. in the City Council' meeting room at (HERE PUT ADDRESS OF HEARING). All interested persons take notice." The sign or signs shall be at least eighteen (18) inches by twenty-four (24) inches in size and shall face toward all public streets, sidewalks or other public property which adjoin or adjoins the location so as to be clearly visible by persons using such public area. The sign shall be posted on the property from the date of the first publication of the legal advertisement through the date of consideration by the City Council.

Section 10 - Application; Investigation; Issuance. The Zoning Administrator shall have a reasonable time, not to exceed forty-five (45) days, to investigate the application and the background of the applicant(s) following the acceptance and filing of the completed application. Upon completion of the investigation, the City Council may grant the license if the City Council finds:

- a.) The application conforms in all respects to the provisions of this Ordinance.
- b.) The applicant has not made a material misrepresentation in the application.
- c.) The applicant has fully cooperated in the investigation of the application.
- d.) The applicant, if an individual, or any officers or directors or shareholders holding more than five (5%) percent of the outstanding shares of the corporation, if the applicant is a corporation, or any of the partner, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of any crime involving sexual assault, sexual battery, prostitution, rape, sexual offenses against children, unnatural sex acts, public indecency, or any other sex act, whether attempted or consummated, prohibited by law for which (a) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; (b) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; (c) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

- e.) The applicant, if an individual, or any officers or directors or shareholders holding more than five (5%) percent of the outstanding shares of the corporation, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not, during the past ten (10) years, had an adult entertainment establishment license or other similar license or permit denied or revoked in this City or any other local governmental jurisdiction located within or without this state prior to the date of application.
- f.) The building, structure, equipment, or location of such business, as proposed by applicant, would comply with all applicable distance provisions of this Ordinance and would qualify to receive a certificate of occupancy.
- g.) The applicant is at least twenty-one (21) years of age.
- h.) That on the date the business for which a license is required herein commences and thereafter, there will be a responsible person on the premises to act as manager at all times during which the business is open.
- i.) Notwithstanding the above, no license shall be issued to an applicant if within twelve (12) months immediately preceding the filing of an application the same applicant for a license or renewal has been rejected for any location, if such rejection was based upon the applicant's failure to meet the terms of this Ordinance applicable to the applicant as opposed to rejection for reasons related to the location itself.
- j.) An annual license fee, established by resolution of the City and prorated on a calendar month basis, is paid to the Zoning Administrator of the City of Roberta, Georgia. Said annual license fee is hereby resolved to be \$100.00.

Section 11 - License Renewal. Licenses for adult entertainment establishments shall be renewed on a calendar year basis provided that the licensee continues to meet the requirements set out in this Ordinance. The renewal fee for the adult entertainment establishment license shall be established by resolution of the City Council of the City of Roberta, Georgia. Said renewal fee is hereby resolved to be \$100.00. Renewal applications shall be submitted by November 15 of each year prior to January 1 of the year for which such license is requested.

Section 12 - License Non-Transferable. No adult entertainment establishment license may be sold, transferred or assigned by a licensee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license and such license shall thereafter be null and void; provided and excepting, however, that if the licensee is a partnership or corporation, and one or more of the partners or shareholders, as the case may be, should die, one or more of the surviving partners or shareholders who were partners or shareholders at the time of issuance of the license may acquire, by purchase or otherwise, the interest of the deceased partner or shareholder without affecting a surrender or termination of such license, and in such case, the licensee shall immediately notify the Zoning Administrator of the City of Roberta, Georgia. An adult entertainment establishment license issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license hereunder is thereafter issued and sold, transferred or assigned.

Section 13 - Change of Location. No licensee shall change the location of the establishment without obtaining a new license.

Section 14 - Change of Name. No licensee shall advertise, operate, conduct, manage, engage in, or carry on an adult entertainment establishment under any name other than his name and the name of the business as specified on his license.

Section 15 - Modification of Licensed Premises. After issuance of any license, no change in the location of the building within the premises, customer entry locations, or other changes shall be made which would affect compliance with any distance or other requirement of this Ordinance.

Section 16 - Persons Prohibited as Licensees.

- a.) No license provided for by this article shall be issued to or held by:
1. An applicant who has not paid all required fees and taxes for a business at that location or property taxes;
 2. Any person who is not of good moral character;
 3. Any corporation, any of whose officers, directors or stockholders holding over five (5%) percent of the outstanding issued shares of capitol stock are not of good moral character;
 4. Any partnership or association, any of whose officers or members holding more than five (5%) percent interest therein are not of good moral character;
 5. Any person employing, assisted by or financed in whole or in part by any person who is not of good moral character;
 6. Any applicant who is not qualified to hold and conduct a business according to the laws of the United States, the State of Georgia, Crawford County, or the City of Roberta, Georgia.
- b.) Should there be a sufficient number of current licenses to meet the needs and desires of the inhabitants of the City, no new licenses shall issue. In determining the needs and desires of the inhabitants, the standard of review shall be that the market is virtually unrestrained as defined in Young v. American Mini Theaters, Inc., 427 U.S. 50.

Section 17 - License, Refusal. If the Zoning Administrator, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this Ordinance, he shall so notify the applicant(s) of such decision in writing and the basis thereof. Any such decision shall be final unless appeal is filed with and to the City Council by any aggrieved party on or before ten (10) days of the date of notification. A hearing by the City Council of the appeal shall occur within thirty (30) days of its filing at a regular or special meeting of the City Council.

Section 18 - Suspension; Revocation; Appeal; Violations/Penalties; Service of Notice.

- a.) **Suspension.** The Zoning Administrator shall suspend a license for a period of one hundred eighty (180) days if he determines that a licensee or an employee has violated any section of this Ordinance. If the Zoning Administrator deems a license suspension appropriate, he shall so notify the licensee of such decision in writing and the basis thereof. Such suspension shall take effect ten (10) days following the Zoning Administrator's notification unless an appeal is filed with and to the City Council by the aggrieved party on or before ten (10) days of the date of receipt by the aggrieved party of the decision of the Zoning Administrator. A hearing by the City Council of the appeal shall occur within thirty (30) days of its filing in a regular or special meeting of the City Council. Enforcement of the suspension shall be stayed pending the City Council' ruling on the licensee's appeal.
- b.) **Revocation.**
1. The Zoning Administrator shall revoke a license if a cause for suspension occurs and the license has been suspended within the past twelve (12) months.
 2. The Zoning Administrator shall also revoke a license if he determines that:
 - a. A licensee gave false or misleading information in the material submitted during the application process.
 - b. A licensee or an employee knowingly operated the business during a period of time when the licensee's license was suspended.
 - c. A licensee or an employee has knowingly allowed any act prohibited by this Ordinance to occur in or on the licensed premises.
 - d. The owner or operator of the licensed establishment knowingly allowed a person under eighteen (18) years of age to enter the establishment.
 3. If the Zoning Administrator deems a license revocation appropriate, he shall so notify the licensee of such decision in writing and the basis thereof. Such revocation shall take effect ten (10) days following the Zoning Administrator's serving of his written decision upon the licensee unless an appeal is filed with and to the City Council by the aggrieved party on or before ten (10) days of the date of receipt by the aggrieved party of the decision of the Zoning Administrator. A hearing by the City Council on the decision shall occur within thirty (30) days of its filing in a regular or special meeting of the City Council. Revocation shall continue for twelve (12) consecutive months from the date the revocation becomes effective.
- c.) **Appeal Procedure.** An applicant or licensee who has timely filed an appeal with the City Council as allowed by this Ordinance shall be entitled to a hearing before the City Council. At the time set for the hearing, the City Council shall receive all relevant testimony in evidence from City staff or interested parties, and from the licensee or employee. In all hearings pursuant to this Ordinance, the following procedures shall apply:
1. The Clerk of the City Council shall read or cause to be read the charges and specifications against the charged party. He shall then read or cause to be read any response filed by the charged party.

2. The City Council shall hear the evidence upon the charges and specifications as filed against the charged party and shall not consider any additional evidence beyond the scope of the charges and may exclude evidence which is purely cumulative.
3. The order of proof shall be as follows: The City representative shall present his evidence in support of the charges; the charged party shall then present his evidence. Evidence of each party may be supported by submission of pertinent documents. Each party shall be allowed to present pertinent rebuttal evidence.
4. The charged party and City may be represented by counsel, and may present, examine and cross-examine witnesses. Additionally, the City Council may interrogate all parties and witnesses to obtain necessary information.

d.) **Violations and Penalties.**

1. Any person violating the provisions of this Ordinance shall be punishable by fines not to exceed \$1,000.00 per violation, or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.
2. Should any license be revoked or suspended, all signs indicating that such business is conducted on the premises shall be removed from the premises during the period of revocation or suspension.
3. The violation of provisions of this Ordinance by any person may be enjoined by instituting appropriate proceedings for injunction in any Court of competent jurisdiction. Such action may be maintained notwithstanding that other adequate remedies at law exist.

e.) **Service of Notice.**

1. Any notice required to be given under this Ordinance to any applicant, licensee or employee may be given either by personal delivery or by certified United States Mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for license/permit, or such updated address which may have subsequently been provided in writing to the Zoning Administrator. Notices mailed as described above shall be deemed given on the third day subsequent to their deposit in the United States Mail.
2. It shall be the duty of each applicant, licensee and employee to furnish notice to the Zoning Administrator in writing of any change of mailing address.

Section 19 - Adult Entertainment Establishment Employees.

a.) Qualifications:

1. Employees of an adult entertainment establishment shall be not less than eighteen (18) years of age. No person who has been convicted in a court of competent jurisdiction of any crime involving sexual assault, sexual battery, prostitution, rape, sexual offenses against children, unnatural sex acts, public indecency, or any other sex act, whether attempted or consummated, prohibited by law for which (a) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; (b) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; (c) less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period shall be employed by an adult entertainment establishment.
2. No person who is convicted in a court of competent jurisdiction of any of the above-noted crimes while employed in an adult entertainment establishment shall thereafter work on any premises requiring a license under this Ordinance for the applicable time period described above.

b.) Approval for Employment:

1. A permit to work in or be employed by an adult entertainment establishment shall be required for all employees thereof.
2. No person requiring a permit may be employed by or work in an establishment until such person has filed an application, paid the fee to and obtained a work permit from the Zoning Administrator of the City of Roberta, Georgia. The Zoning Administrator shall immediately issue said permit upon the filing of an application and payment of the fee, which permit shall be conditional and subject to revocation upon the determination by the Zoning Administrator following investigation of the applicant that the applicant is not qualified to be an employee under this Ordinance. Upon such determination the Zoning Administrator shall notify the applicant of such decision in writing and the basis thereof. Any such decision shall be final and revocation shall become effective unless an appeal is filed with and to the City Council by the aggrieved party on or before ten (10) days of the date of receipt by the aggrieved party of the decision of the Zoning Administrator. A hearing by the City Council of the appeal shall occur within thirty (30) days of its filing at a regular or special meeting of the City Council.

3. Any permit for employment issued hereunder shall expire twelve (12) months from the date of issuance unless earlier revoked. A non-refundable annual fee of \$100.00 shall be paid to the Zoning Administrator of the City of Roberta, Georgia, to defray, in part, the cost of investigation and report required by this Ordinance.
4. It shall be the duty of all licensees of an adult entertainment establishment to file with the Zoning Administrator of the City of Roberta, Georgia, the names of all employees with their home addresses, home telephone numbers, dates of birth, social security numbers and places of employment. Changes in the list of employees must be filed with the Zoning Administrator of the City of Roberta, Georgia, within three (3) days from the date of any such change.
5. For the purpose of this section, independent contractors shall be deemed employees and shall be licensed as employees, regardless of the business relationship with the owner or licensee of any adult entertainment establishment.
6. Employees holding permits issued pursuant to this Ordinance shall at all times during their working hours have said permits available for inspection at the premises.
7. Applications for an employment permit shall be written and on forms supplied by the Office of the Zoning Administrator of the City of Roberta, Georgia. Such application shall state the name, address, social security number and date of birth of the applicant, the name and address of the employer, the name and address of the place of employment and any other information reasonably required by the Zoning Administrator in verifying the right of the applicant to obtain a permit, including a set of fingerprints on regular Sheriff's Department or United States Department of Justice forms.

Section 20 - Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 21 - Effective Date. Upon approval by the City Council of the City of Roberta, Georgia, this Ordinance shall become effective immediately.

Section 22 - To Repeal Conflicting Ordinances. All Ordinances or parts of Ordinances specifically in conflict with this Ordinance are hereby expressly repealed.

SO ADOPTED, this 7th day of December, 1999.

ATTEST:

THE CITY OF ROBERTA, GEORGIA

Clerk

City Council