

Ordinance 09-05

ADULT ENTERTAINMENT ORDINANCE

AN ORDINANCE TO REPEAL SECTION 10 AMUSEMENTS AND ENTERTAINMENTS, ARTICLE 2 ADULT ENTERTAINMENT OF THE CODE OF ORDINANCES OF THE CITY OF HAHIRA (ADOPTED THROUGH ORDINANCE PASSED ON DECEMBER 3, 1992) AND TO ENACT A NEW ORDINANCE TO REGULATE CERTAIN TYPES OF BUSINESSES, INCLUDING BUT NOT LIMITED TO, ADULT ENTERTAINMENT ESTABLISHMENTS.

BE IT ORDAINED by the Mayor and Council of the City of Hahira, Georgia, and it is hereby ordained by authority of same as follows:

The Code of Ordinances for the City of Hahira is hereby amended by repealing and striking there from in its entirety Section 10 Amusements and Entertainments, Article 2 Adult Entertainment of the Code of Ordinances (Adopted through Ordinance passed on December 3, 1992) and enacting in lieu thereof a new Article 2 an ordinance to regulate certain types of businesses, including but not limited to, adult entertainment establishments of Article 2, to read as follows:

Section 1. Purpose.

The purpose of this ordinance is to regulate certain types of businesses, including, but not limited to, adult entertainment establishments to the end that the many types of criminal activities frequently engendered by such businesses will be curtailed. Other communities and cities, including Marietta, Georgia, Fulton County, Georgia and Savannah, Georgia, have recognized that regulation of adult entertainment establishments helps to end or curtail many types of criminal activity. However, it is recognized that such regulation cannot defacto approach prohibition. Otherwise a protected form of expression would vanish. As to adult dance establishments, this chapter represents a balancing of competing interests: Reduced criminal activity and protection of the neighborhoods through the regulation of adult entertainment establishments versus the protected rights of adult entertainment establishments and patrons.

Section 2. Definitions.

The following terms used in this chapter defining adult entertainment establishments shall have the meanings indicated below:

- A. "Adult bookstore" means an 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 20 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.

B. "Adult business" means either:

1. Any business other than those expressly specified in this article, where employees or patrons expose specified anatomical areas or engage in specified sexual activities; or

2. Any other business or establishment 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.

C. "Adult dancing establishment" means a business that features dancers displaying or exposing specified anatomical areas.

D. "Adult motion picture theater" means an enclosed building with a capacity of 50 or more persons, 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.

E. "Adult mini-motion picture theater" means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

F. "Adult hotel or motel" means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

G. "Adult motion picture arcade" means any place to which the public is permitted or invited 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 to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

H. "Adult video store" means any establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether 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 percent of its total floor space, devoted to the sale or display of such material or which derives more than five percent its net sales from videos which are characterized or distinguished or relating to specified sexual activities or specified anatomical areas.

I. "Church" means a temple or building consecrated to the honor of God or other supreme being and religion; or an assembly of persons united by the profession of the same religious faith, meeting together routinely for religious worship.

J. "Erotic dance establishment" means a nightclub, theater or other establishment which 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.

K. "Encounter center or rap establishment" means any business, agency or person who, for any form of consideration or gratuity, provides a place where two 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.

L. "Escort bureau" or "introduction services" means any business, agency or person who, for a fee, commission, hire, reward or profit furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

M. "Good moral character" means a person is of good moral character according to this chapter if that person has not been convicted of a drug-related or alcohol-related felony or sex-related crime in the past five years.

N. "Minor" means any person who has not attained the age of 18 years.

O. "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 relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy,

coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; 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 or touching of nude human genitals, pubic region, buttocks or female breast; or

5. Masochism, erotic or sexually oriented torture, beating or the inflicting of pain; or

6. Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or

7. Human excretion, urination, menstruation, vaginal or anal irrigation.

P. "Specified anatomical areas" shall include any of the following:

1. Less than completely and opaquely covered human genitals or pubic region; buttock; or female breast below a point immediately above the top of the areola; or

2. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Section 3. Regulations.

A. No person, firm, partnership, corporation, or other entity shall advertise, or cause to be advertised, an adult entertainment establishment, as defined in this chapter, without a valid adult entertainment occupation tax certificate issued pursuant to this chapter.

B. No later than March 1st of each year an adult entertainment establishment applicant shall file a verified report with the license officer showing the applicant's gross receipts and amounts paid to dancers for the preceding calendar year.

C. An adult entertainment establishment applicant shall maintain and retain for a period of two years the names, addresses, and ages of all persons employed as dancers.

D. No adult entertainment establishment applicant shall employ or contract with as a dancer a person under the age of 18 years or a person not licensed pursuant to this chapter.

E. No person under the age of 18 years shall be admitted to an adult entertainment establishment.

F. An adult entertainment establishment, as defined in this chapter, shall be closed between 2:00 a.m. and 9:00 a.m. on weekdays and 2:55 a.m. and 9:00 a.m. on Saturday and Sunday.

G. No dancer shall fondle or caress any patron and no patron shall fondle or caress any dancer.

H. If any portion, or subparagraph, of this section of this chapter or its application to any person or circumstance, is held invalid by a court of competent jurisdiction, the remainder of application to other persons or circumstances shall not be affected.

Section 4. Certain activities prohibited.

No person, firm, partnership, corporation, or other entity shall publicly display or expose or suffer the public display or exposure, with less than a full opaque covering, of any portion or a person's genitals, pubic area or buttocks in a lewd and obscene fashion.

Section 5. Occupation tax certificate required.

It is unlawful for any person, association, partnership, or corporation to engage in, conduct, or carry on, in or upon any premises within the City of Hahira any of the adult entertainment establishments, defined in this chapter, without an occupation tax certificate so to do. No occupation tax certificate 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 unregulated premises unlawful.

It is unlawful for any person to operate an adult bookstore, adult motion picture theater, adult minimotion picture theater, adult hotel or motel, adult motion picture arcade, cabaret, encounter center, escort bureau or adult business or adult dancing establishment unless such business shall have a currently valid occupation tax certificate or shall have made proper application for renewal within the time required thereof under this chapter, which occupation tax certificate shall not be under suspension or permanently or conditionally revoked.

Section 7. Admission of minors unlawful.

It is unlawful for an applicant to admit or permit the admission of minors within a regulated premises.

Section 8. Sales to minors unlawful.

It is unlawful for any person to sell, barter or give, to any minor any service,

material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, adult massage parlor or adult dancing establishment or other adult entertainment facility.

Section 9. Location.

No adult business or use restricted hereunder shall be located:

- A. Within 1,000 feet of any parcel of land which is zoned for multifamily, single family, or residential-professional uses or purposes.
- B. Within 1,000 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, college or university, library, civic center, conference center, convention center, cultural center, public park, recreation facility or neighborhood playground is located.
- C. Within 1,000 feet of any parcel of land upon which another establishment regulated or defined hereunder is located.
- D. Within the central downtown business district.
- E. Within any zoning category other than Light Manufacturing (M-1), Heavy Manufacturing (M-2), or by special exception in Highway-Commercial (C-H) per the Official Zoning Map.

For the purposes of this section, distance shall be from property line to property line using the closest property lines of the parcels of land involved. The term parcel of land means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit.

Section 10. Adult entertainment establishment employees.

- A. **Qualifications.** Employees of an adult use establishment shall be not less than 18 years of age. Every employee must be of good moral character as defined in this chapter. Any employee who is convicted of a sex-related crime, or drug-related or alcohol-related felony while employed as an adult use establishment employee shall not thereafter work on any premises requiring licenses under this chapter for a period of five years from the date of such conviction, unless a longer time is ordered by a court of competent jurisdiction. The term convicted shall include an adjudication of guilt or a plea of guilty. The terms employed as an adult use establishment employee and work on any licensed premises shall include all work done or services performed while in the scope of employment elsewhere than on the licensed premises.
- B. **Approval for Employment.** Before any person may work on a regulated premise, he shall file a notice with the permitting officer of his intended employment on forms that require the information set forth in provision (A) of this section. The city shall have 15 days to investigate the information required by

the employee. If the employee is found to be of good moral character, the permitting officer shall grant approval of employment. Upon approval, the employee may begin working on the regulated premises. If approval is denied, the prospective employee may, within 10 days of said denial, apply to the chief of police for a hearing. The decision of the chief of police after hearing may be appealed within 10 days thereafter to city council who shall issue such order as is required. The decision of the city council may thereafter be appealed, within 30 days, to Lowndes Superior Court. An investigation fee of \$50.00 shall accompany the notice of intended employment, or a receipt of the permitting officer evidencing the payment of such fee at the time the notice is filed.

C. Suspension; Revocation of Permit. Conviction of violating the provisions of this Code, the ordinances of the City of Hahira, laws, and regulations of the State of Georgia, or the rules and regulations of the city shall subject an employee to suspension or revocation of permit.

D. Independent Contractors. For the purpose of this chapter, independent contractors shall be considered as employees and shall be permitted as employees, regardless of the business relationship with the owner or applicant of any adult entertainment establishment.

Section 11. Application for occupation tax certificate.

A. Any person, association, partnership or corporation desiring to obtain an occupation tax certificate to operate, engage in, conduct or carry on any adult entertainment establishment shall make application to the city manager, or his designated representative. Prior to submitting such application, a nonrefundable processing fee of \$100.00 shall be paid to the business license manager to defray, in part, the cost of investigation and report required by this chapter. The business license manager shall issue a receipt showing that such processing fee has been paid. The receipt, or a copy thereof, shall be supplied to the city manager at the time such application is submitted.

B. The application for permit does not authorize the engaging in, operation of, conduct of or carrying on of any adult entertainment establishment.

C. The premises for which the application is sought shall be posted with a sign in accordance with Section 8, as amended.

Section 12. Application contents.

Each application for an adult entertainment establishment occupation tax certificate shall contain the following information:

A. The applicant's full true name.

B. The present address and telephone number of the applicant.

C. Acceptable written proof that the applicant is at least 21 years of age.

D. Business, occupation or employment history of the applicant for the 5 years immediately preceding the date of application. Business or employment records of the applicant, partners in a partnership, directors, and officers of a corporation.

E. The business license or occupation tax history of the applicant and whether such applicant, in previous operations in this or any other city, state or territory under license, has had such license or occupation tax certificate for an adult entertainment business or similar type of business revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

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 place and date of incorporation, and the names and addresses of each of its current officers and directors. If the applicant is a partnership, the applicant shall set forth the name, residence address, and dates of birth of the partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged.

G. If the applicant, any partners or any corporate officers or directors, if the applicant is a corporation, have been convicted of any crime involving good moral character in the past 5 years and, if so, a complete description of any such crime including date of violation, date of conviction, jurisdiction and any disposition, including any fine or sentence imposed and whether terms of disposition have been fully completed.

H. If applicant is a person doing business under a trade name, a copy of the trade name properly recorded. If the applicant is a corporation, a copy of authority to do business in Georgia, including articles of incorporation, trade name affidavit, if any, last annual report, if any.

I. At least three character references from individuals who are in no way related to the applicant or individual shareholders, officers or directors of a corporation and who are not or will not benefit financially in any way from the application if the occupation tax certificate is granted and who have not been convicted of any crime involving moral character. The business license manager shall prepare forms consistent with the provisions of this subsection for the applicant who shall submit all character references on such forms.

J. Address of the premises to be regulated.

K. Whether the premises are owned or rented.

L. A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the following provisions: that no adult business or use restricted shall be located within 1,000 feet of any parcel of land which is zoned for multifamily, single family, or residential-professional use or purposes; within 1,000 feet of any parcel of land upon which a church, school, governmental building simultaneously owned and occupied by such government, library, civic center, conference center, cultural center, convention center, public park, recreation facility or neighborhood playground is located; within 1,000 feet of any parcel upon which another establishment regulated or defined hereunder is located; within the downtown business district of the City of Hahira; within any zoning category other than M-1, M-2 or C-H by special exception.

M. Each applicant for an adult entertainment establishment occupation tax certificate 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 13. Applicant to appear.

The applicant, if an individual, or designated responsible managing officer, if a partnership or corporation, shall personally appear at the City of Hahira and produce proof that a nonrefundable application fee, established by resolution of the city council, has been paid and shall present the application containing the aforementioned and described information.

Section 14. Application--Investigation.

The city shall have up to 45 days to investigate the application and the background of the applicant. Upon completion of the investigation, the mayor and council may grant the permit at its next regular meeting if it finds:

- A. The required fee has been paid.
- B. Application conforms in all respects to the provisions of this chapter.
- C. The applicant has not knowingly made a material misrepresentation in the application.
- D. The applicant has fully cooperated in the investigation of his application.
- E. The applicant, if an individual, or any officers or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, has not been convicted in a court of competent jurisdiction of an offense involving a sex-related crime or drug-related or alcohol-related felony or convicted of an attempt to commit any of the above-mentioned offenses, or convicted in any state of any offense which if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.
- F. Applicant has not had an adult entertainment establishment occupation tax certificate or other similar license or permit denied or revoked for cause involving moral character in this city or any other city located in or out of this state prior to the date of application.
- G. The building, structure, equipment, or location of such business, as proposed by applicant, would comply with all applicable zoning and distance laws.
- H. The applicant is at least 21 years of age.
- I. That the applicant, his or her employee, agent, partner, director, officer, or manager has not within 5 years of the date of the application knowingly allowed or permitted any of the specified sexual activities as defined herein to be committed or allowed in or upon the premises where such adult entertainment establishment is to be located, or to be used as a place in which solicitations for the specified sexual activities as defined herein openly occur.
- J. That on the date the business for which an occupation tax certificate 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.
- K. That the proposed premises is in compliance with those location restrictions as set out in Section 9.

L. A plat by a registered engineer, licensed by the State of Georgia, showing the location of the proposed premises is not inconsistent with the provisions contained in Section 9.

Section 15. Persons prohibited as applicants.

A. No occupation tax certificate provided for by this chapter 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 directors are not of good moral character.
4. Any partnership or association, any of whose partners or members are not of good moral character.
5. Any applicant who is not qualified to hold and conduct business according to the laws of the United States, State of Georgia or City of Hahira.

Section 16. Occupation tax certificate--Refusal, appeal.

If the city, following investigation of the applicant, deems that the applicant does not fulfill the requirements as set forth in this chapter, it shall notify the city clerk of such opinion and, within 45 days of the date of application, provide copies of the investigation report to the city clerk. The city clerk shall within 10 days, notify applicant by certified mail of such denial. Any applicant who is denied an occupation tax certificate may appeal such denial to the city manager by filing a written notice of appeal within 10 days of the receipt of notice from the city clerk. A hearing before the city manager shall be scheduled within 45 days of such notice.

Section 17. Occupation tax certificate.

Occupation tax certificates for adult entertainment establishments may be renewed on a calendar year basis provided that the applicants continue to meet the requirements set out in this chapter. The renewal fee for the adult entertainment establishments permits shall be established by resolution of the city council. Renewal applications shall be due by January 1st of the year for which such permit is requested.

Section 18. Occupation tax certificates nontransferable.

No adult entertainment establishment occupation tax certificate may be sold, transferred, or assigned by a permittee, 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 permit and such permit shall thereafter be null and void; provided and excepting, however, that if the applicant is a partnership and one or more of the partners should die, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such occupation tax certificate, and in such case, the occupation tax certificate upon notification to the city, shall be placed in the name of the surviving partner. An adult entertainment establishment occupation tax certificate 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 permit, or any stock authorized but not issued at the time of the granting of an occupation tax certificate is thereafter issued and sold, transferred or assigned.

Section 19. Change of location or name.

A. No adult entertainment establishment shall move from the location specified on its occupation tax certificate until a change of location fee, established by resolution of the city council, has been deposited with the city, and approval has been obtained from the mayor and council for the City of Hahira. Such approval shall not be given unless all requirements and regulations, as contained in the city's codes, have been met.

B. No applicant shall 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 occupation tax certificate.

C. Any application for an extension or expansion of a building or other place of business where an adult entertainment establishment is located shall require inspection and shall comply with the provisions and regulations of this chapter.

Section 20. Appeal procedure.

A. The applicant shall, within 10 days after he has been notified of an adverse determination, submit a notice of appeal to the city clerk.

B. The notice of appeal shall be addressed to the city manager and shall specify the subject matter of the appeal, the date of any original and amended application or requests, the date of the adverse decision (or receipt of notice thereof), the basis of the appeal, the action requested of the city, and the name and address of the applicant.

C. If the appeal is not resolved to the satisfaction of the applicant, a written request may be made to the city clerk to appeal the decision of the city manager. The clerk shall place the appeal on the agenda of the next regular council meeting occurring not less than 5 nor more than 30 days after receipt of the application for council action.

Section 21. Appeal--Council determines procedure.

When an appeal is placed on the council agenda, the council may take either of the following actions:

1. Set a hearing date and instruct the city clerk to give such notice of hearing as may be required by law.
2. Appoint a hearing officer and fix the time and place for hearing. The hearing officer may or may not be a city employee, and may be appointed for an extended period of time. The clerk shall assume responsibility for such publication of notice of the hearing as may be required by law. If a hearing officer is appointed, the hearing shall be conducted in accordance with the procedures set out in this chapter.

Section 22. City council hearing.

Whenever the city clerk has scheduled an appeal before the city council, at the time and date set therefore, the council shall receive all relevant testimony and evidence from the applicant, from interested parties and from city staff. The city council may sustain, over-rule, or modify the action complained of. The action of the city council shall be final.

Section 23. Powers of hearing officer.

The hearing officer, appointed pursuant to the procedure set out in this chapter, may receive and rule on admissibility of evidence, hear testimony under oath and call witnesses as he may deem advisable with respect to the conduct of the hearing.

Section 24. Rules of evidence inapplicable.

The city council and the hearing officer shall not be bound by the traditional rules of evidence in hearings conducted under this chapter. Rules of evidence as applied in an administrative hearing shall apply.

Section 25. Hearing officer--Report.

A. The hearing officer shall, within a reasonable time not to exceed 30 days from the date such hearing is terminated, submit a written report to the council. Such report shall contain a brief summary of the evidence considered and state findings, conclusions, and recommendation. All such reports shall be filed with the city clerk, and shall be considered public records.

B. A copy of such report shall be forwarded by certified mail to the appellant the same day it is filed with the city clerk, with additional copies furnished to the city manager and chief of police.

C. The city clerk shall place the hearing officer's report on the agenda of the next regular council meeting occurring not less than 10 days after the report is filed and shall notify the appellant of the date of such meeting at least 10 days prior to the meeting unless the appellant stipulates to a shorter notice period.

Section 26. Hearing officer report--Action by council.

The council may adopt or reject the hearing officer's decision in its entirety or may modify the proposed recommendation. If the council does not adopt the hearing officer's recommendation, it may:

A. Refer the matter to the same or another hearing officer for a completely new hearing, or for the taking of additional evidence on specific points, in either of such cases the hearing officer shall proceed as provided in this chapter.

B. Decide the case upon a review of the entire record before the hearing officer with or without taking additional evidence.

Section 27. Penalty for violation.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1000.00 per violation or by imprisonment for a period not to exceed 90 days, or by both such fine and imprisonment. In addition to such fine or imprisonment, violation of this chapter shall also be grounds for immediate suspension or revocation of the occupation tax certificate issued hereunder.

Section 28. Unlawful operation declared nuisance.

Any adult entertainment establishment operated, conducted or maintained contrary to the provisions of this chapter shall be and the same is declared to be unlawful and a public nuisance. The city may, in addition to, or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for abatement, removal, or enjoinder thereof, in the manner provided by law. It shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such adult entertainment establishment and restrain and enjoin any person from operating, conducting, or maintaining an adult entertainment establishment contrary to the provisions of this chapter. In addition, violation of the provisions of this chapter shall be per se grounds for suspension or revocation of the occupation tax certificate granted hereunder.

Section 29. Revocation and appeal.

A. The mayor/city manager shall be authorized to suspend or revoke an occupation tax certificate previously granted herein. In the event the mayor/city manager seeks to suspend or to revoke an occupation tax certificate, the

mayor/city manager shall give written notification to the applicant of such action and such notice shall contain a specification of the violation or violations and shall be served upon the licensee at least 5 days prior to the notice of hearing. The applicant shall be given written notice of the time and place of the hearing.

B. The mayor/city manager shall be authorized to suspend or revoke an occupation tax certificate in the event of any one or more of the following:

1. An applicant gave false or misleading information in the original application process;
2. An applicant has knowingly allowed possession, use, or sale of controlled substances on the premises and/or knowingly allowed possession, use, or sale of controlled substances to a minor on the premises;
3. An applicant has knowingly allowed the violation of an ordinance of the city or a violation of any criminal law of the State of Georgia to occur on the premises;
4. An applicant has violated any provision of this adult entertainment chapter;
5. An applicant has been convicted of any drug-related, alcohol-related or sex-related crime by the State of Georgia or the City of Hahira regarding an offense which was committed on the premises or which would otherwise violate the provisions of this chapter; and
6. An applicant fails to pay any fee, occupation tax, fine, or other amount of money due to the City of Hahira under this chapter or any other taxing ordinance of the City of Hahira.

C. In the event the mayor/city manager shall suspend or revoke any occupation tax certificate hereunder, the suspension or revocation shall be for a period of not less than 1 day nor more than 365 days, within the discretion of the city manager. Provided, however, that the applicant shall be authorized to continue its business operations until that date of the hearing scheduled in accordance with Subsection (D) of this section unless in the opinion of the city manager such continued operation is not appropriate based on the reason or cause for the suspension or revocation. No applicant may apply for an occupation tax certificate during any period of suspension or revocation. In any hearing conducted by the city manager, the city manager shall consider, among other things, the severity of the allegations, the evidence submitted and the testimony presented, in making any decision on suspension, revocation, and the duration of either.

D. In the event of a suspension or revocation by the city manager, the applicant may appeal the decision of the mayor/city manager to the city council

for the City of Hahira by filing a written notice of appeal within 10 days from the date of the decision of the mayor/city manager. Thereafter, a hearing shall be scheduled before the council for the City of Hahira within 45 days after the date of the notice of appeal by the applicant. After hearing by the city council, city council may take such action as it deems appropriate, including the upholding of the action of the city manager or the imposition of such action as the mayor and city council may deem appropriate under the facts. The decision of mayor and city council shall be final. Appeals from the decision of the mayor and city council shall be to the Superior Court of Lowndes County filed within 30 days to the final action of mayor and city council. In the event the applicant does not file an appeal from any decision of the chief of police, as provided herein, the decision of the chief of police shall be final.

Section 30. Occupation tax certificate and annual renewal fees.

The adult entertainment establishment occupation tax and any renewal fee for such occupation tax certificate shall be based on the gross receipts schedule pursuant to the ordinance providing for the issuance of such occupation tax certificate.

Section 31. Change of location.

There is established an administrative fee of \$10.00 to apply for a change of location for an adult entertainment establishment.

Section 32. Alcoholic beverages--Prohibitions, exceptions.

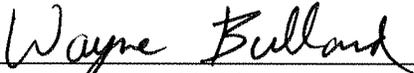
A. No person, association, partnership, or corporation licensed under Section 11 of this ordinance after the effective date of the ordinance codified in this section shall serve, sell, distribute, or suffer the consumption or possession of any intoxicating liquor, beer or wine or controlled substance upon the premises of any licensee. Any licensee whose license was granted prior to the adoption of this amendment shall not be subject to this amendment until December 31, 2009, at which time all licensees within the City of Hahira shall be subject to this provision, including those licensees licensed before the effective date hereof.

B. This section shall not apply to nor prohibit the live performance of legitimate plays, operas, ballets at mainstream theaters, concert halls, museums, or educational institutions holding a license, which derive less than 20 percent of its gross receipts from the sale of alcoholic beverages.

C. The word "premises" is hereby defined as the building for which or upon which a license is issued hereunder and "premise" and "building" are further defined as a structure or edifice enclosing a space within its exterior walls, and covered with a roof or outside top covering of a building or connected or attached or joined with or by a wall, roof, walkway or breezeway. Any structure or structures of any nature that share a wall, roof, walkway, or breezeway shall be considered a single premises and building for the purposes of this ordinance.

No building may be subdivided for the purpose of creating more than one premise for the purposes of this Code. In addition, the word "premises" shall include the land and real estate as well as its appurtenances, including the entire parcel together with the boundaries thereof, upon which the licensed premises sits as well as the area of land surrounding said premises.

SO ORDAINED, this 6th day of August, 2009.



Mayor, City of Hahira

ATTEST:



City Clerk

