PJC

ORDINANCE NO. 2007-220

ORDINANCE OF THE TOWN OF WINDSOR, CALIFORNIA, ADDING CHAPTER 21 TO TITLE 3 OF THE WINDSOR MUNICIPAL CODE RELATING TO THE LICENSING OF ADULT-ORIENTED BUSINESSES

WHEREAS, for all of the reasons set forth herein, the Town Council of the Town of Windsor ("Town") desires to adopt a comprehensive licensing framework and performance standards for the establishment and operation of Adult-Oriented Businesses within the Town; and

WHEREAS, Adult-Oriented Businesses require special supervision from the public safety agencies of the Town in order to protect and preserve the health, safety, morals and welfare of the patrons of such businesses as well as the citizens of the Town; and

WHEREAS, the Town Council finds that Adult-Oriented Businesses are frequently used for unlawful sexual activities, including prostitution, and for sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the Town which demands reasonable regulation of Adult-Oriented Businesses in order to protect the health and well-being of the citizens of Windsor; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of Adult-Oriented Businesses comply with reasonable regulations and to ensure that operators of Adult-Oriented Businesses do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that Adult-Oriented Businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that Adult-Oriented Businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Town Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, Title 17, Chapter 27.34.010 through 27.34.040 of the Code of the Town of Windsor requires adult business establishments to comply with certain locational, development, and operational standards and to obtain a use permit; and

WHEREAS, the Town Council has determined that locational, development, and operational criteria alone for adult business establishments do not adequately protect the health, safety, and general welfare of the citizens of Town; and

WHEREAS, the Town Council recognizes that much of the activity conducted at Adult-Oriented Businesses consist of expressive conduct protected by the First Amendment of the U.S. Constitution, including dancing; book sales; and video sales or viewing; and

WHEREAS, it is not the intent of this Ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Businesses; and

WHEREAS, it is not the intent of the Town Council to condone or legitimize the distribution of obscene material, and the Town Council recognizes that state and federal laws prohibit the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in the Town; and

WHEREAS, because they constitute a form of prior restraint, Adult-Oriented Business licensing ordinances must include notice of the provision of prompt judicial review for persons whose license has been denied, revoked, or suspended; and

WHEREAS, as provided in the severability clause of this Ordinance, in the event of invalidation, any Adult-Oriented Business which operates in the Town will be deemed to be operating under a *de facto* license subject to the requirements of Chapter 21 of Title 3 of the Town Code and the Town Zoning Ordinance, as those requirements have been adopted independently of the license issuance; and

WHEREAS, the provision of a *de facto* license is necessary in order to protect the public health, safety and welfare by providing a mechanism to address the pernicious secondary effects associated with the establishment and operation of unregulated or under regulated Adult-Oriented Businesses in the event Town's license issuance provisions are invalidated by a court of competent jurisdiction.

THE COUNCIL OF THE TOWN OF WINDSOR ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

(1) Based on evidence concerning adverse secondary effects of Adult-Oriented Businesses on the community as presented in hearings and in reports made available to and reviewed by the Town Council, and on findings documented in cases such as but not limited to *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *City of Littleton v. Z.J. Gifts,* 541 U.S. 774 (2004), *City of National City v. Wiener*, 3 Cal.4th 832 (1992), *People v. Superior Court (Lucero)* 49 Cal.3d 14 (1989), *City of Vallejo v. Adult Books, et al.*, 167 Cal.App.3d 1169 (1985), *Lakeland Lounge of Jackson, Inc. v. City of Jackson, Miss.*, 973 F.2d 1255 (5th Cir. 1992), *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995), *Mitchell v. Commission on Adult Entertainment Establishments of the State of Delaware*, 10 F.3d 123 (3rd Cir. 1993), *International Eateries of America, Inc. v. Broward County*, 941 F.2d 1157 (11th Cir. 1991), and *Star Satellite, Inc. v. City of Biloxi*, 779 F.2d 1074 (5th Cir. 1986); on studies conducted by other cities and counties, including but not limited to: City of Garden Grove, California (1991); City of Los Angeles, California (1977); City of Whittier, California (1978); Tucson, Arizona (1990); St. Croix County, Wisconsin (1993);

Newport News, Virginia (1996); City of Cleburne, Texas (1997); City of Houston, Texas (1997); Oklahoma City, Oklahoma (1992); Town of Islip, New York (1980); City of St. Mary's, Georgia (1996); Town and Village of Ellicottville, Cattaraugus County, New York (1998)

And the Town Council finds that these studies are relevant to the problems addressed by the Town in enacting this ordinance and further finds that these studies provide convincing evidence that:

(a) Adult-Oriented Businesses are linked to increases in crime rates in those areas in which they are located and in surrounding areas.

(b) Both the proximity of Adult-Oriented Businesses to sensitive land uses and the concentration of Adult-Oriented Businesses tend to result in the blighting and deterioration of the areas in which they are located.

(c) The proximity and concentration of Adult-Oriented Businesses adjacent to residential, recreational, religious, educational, and other Adult-Oriented Business uses can cause other businesses and residences to move elsewhere.

(d) There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by Adult-Oriented Businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, violence against persons and property and sexually transmitted diseases.

(e) The studies from other cities establish convincing evidence that Adult-Oriented Businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas causing, among other secondary effects, an increase in crime and a decrease in property values.

(2) The Town Council also finds that the locational criteria in Title 17, Chapter 27.34.010 to 27.34.040 of the Code of the Town of Windsor alone does not adequately protect the health, safety, and general welfare of the citizens of Windsor, and thus certain requirements with respect to the ownership and operation of Adult-Oriented Businesses are in the public interest; and that in addition to the findings and studies conducted in other cities regarding the increase in crime rates, decreases in property values, and the blighting of areas in which such Adult-Oriented Businesses are located, the Town Council also takes legislative notice of the facts recited in the case of *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986), regarding how live adult entertainment results in secondary effects such as prostitution, drug dealing, and other law enforcement problems and also finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

(a) Evidence indicates that some dancers, models, and performers, and other persons who publicly perform Specified Sexual Activities or publicly display Specified Anatomical Areas in Adult-Oriented Businesses (collectively referred to as "Performers") have been found to engage in sexual activities with patrons of Adult-Oriented Businesses on the site of the Adult-Oriented Businesses.

(b) Evidence has demonstrated that Performers employed by Adult-Oriented Businesses have been found to offer and provide private shows to patrons, who, for a price, are permitted to observe and participate with the Performers in live shows.

(c) Evidence indicates that Performers at Adult-Oriented Businesses have been found to engage in prostitution with patrons of the establishments.

(d) Evidence indicates that fully enclosed booths, individual viewing areas, and other rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as a location for unlawful sexual activity.

(e) As a result of the factors above, and the continuing incidence of sexually transmitted diseases, the Town has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and unlawful sex acts at Adult-Oriented Businesses.

(f) Adult-Oriented Businesses lend themselves to ancillary unlawful and unhealthy activities that are uncontrolled by the operators of the Adult-Oriented Businesses. In addition, there is presently no mechanism to make the owners of these establishments responsible for the unlawful activities that occur in their establishments.

(g) Certain employees of Adult-Oriented Businesses defined herein as Adult Theaters and Adult Cabarets engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(h) Sexual acts, including masturbation, and oral and anal sex, occur at Adult-Oriented Businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos, or live shows which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(i) Offering and providing private or semi-private booths or cubicles for viewing films, videos, or live shows which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas creates unhealthy and unsanitary conditions.

(j) Persons frequent certain Adult Theaters, Adult Arcades, and other Adult-Oriented Businesses for the purpose of engaging in sex within the premises of such Adult-Oriented Businesses.

(k) Communicable diseases may be spread by activities occurring in Adult-Oriented Businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(l) Transmission of the HIV virus is more likely to occur when a person is infected with a sexually transmitted disease (STD). Studies show that people are 2 to 5 times more likely to become infected with HIV when other STDs are present. (*See* Centers for Disease Control and Prevention, *The Role of STD Detection and Treatment in HIV Prevention—CDC Fact Sheet, available at* http://www.cdc.gov/std/hiv/STDFact-STD&HIV.htm (last visited Jan. 7, 2007).)

(m) In California, there are an estimated 1.2 million new cases of STDs each year. (*See* California Department of Health Services, *Division of Communicable Disease Control Annual Report (2000), available at* http://www.dhs.ca.gov/ps/dcdc/pdf/CDC2000_Document.pdf (last visited Jan. 7, 2007).)

(n) Since 1981 to the present, there have been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States. At the end of 2003, an estimated 1,039,000 to 1,185,000 persons in the United States were living with HIV/AIDS. (*See* Centers for Disease Control and Prevention, *A Glance at the HIV/AIDS Epidemic, available at* http://www.cdc.gov/hiv/resources/factsheets/At-A-Glance.htm (last visited Jan. 7, 2007).)

(o) There have been 139,019 reported cases of AIDS in California through December 2005. (*See* The Henry J. Kaiser Family Foundation, *State Health Facts, available at* http://statehealthfacts.kff.org (last visited Jan. 7, 2007).)

(p) In 2003, Sonoma County had the seventh highest cumulative incidence of AIDS among counties in California. As of June 30, 2006, there are at least 1,190 persons living with HIV or AIDS in Sonoma County. (*See* Sonoma County Department of Health Services, *Epidemiology of HIV/AIDS in Sonoma County Annual Report June 30, 2006, available* at http://www.sonoma-county.org/health/ph/hiv/data.htm (last visited Jan. 7, 2007).)

(q) In 2003, 34,270 new cases of syphilis were reported in the United States. (*See* Centers for Disease Control and Prevention, *Sexually Transmitted Diseases/STD, available at* http://www.cdc.gov/nchs/fastats/stds.htm (last visited Jan. 7, 2007).)

(r) From 1996-1998, no cases of primary and secondary syphilis were reported in Sonoma County. In 2005, there were 12 reported cases of syphilis in Sonoma County. (*See* Sonoma County Department of Health Services, *Sexually Transmitted Diseases 2005 Annual Report, available at* http://www.sonoma-county.org/health/ph/pdf/std_2005.pdf (last visited Jan. 7, 2007).)

(s) Chlamydial infection is the most common bacterial sexually transmitted disease in the United States.

(t) The rate of Chlamydia has been steadily increasing from a rate of 81.7 new cases per 100,000 population in 1999 to 165 new cases per 100,000 in 2005. In 2005, there were 803 reported cases of Chlamydia in Sonoma County. (*See* Sonoma County Department of Health Services, *Sexually Transmitted Diseases 2005 Annual Report*, *available at* http://www.sonoma-county.org/health/ph/pdf/std_2005.pdf (last visited Jan. 7, 2007).)

(u) The number of cases of gonorrhea in the Unites States reported annually remains at a high level, with 339,593 cases being reported in 2005 to the U.S. centers for Disease Control and Prevention. (*See* Centers for Disease Control and Prevention, *STD Surveillance 2005*, *available at* http://www.cdc.gov/std/stats/toc2005.htm (last visited Jan. 7, 2007).) In 2005, there were 149 reported cases of Gonorrhea in Sonoma County. . (*See* Sonoma County Department of Health Services, *Sexually Transmitted Diseases 2005 Annual Report*, *available at* http://www.sonoma-county.org/health/ph/pdf/std_2005.pdf (last visited Jan. 7, 2007).)

(v) Numerous studies and reports have determined that semen is found in the areas of Adult-Oriented Businesses where persons view films that depict or describe Specified Sexual Activities or Specified Anatomical Areas.

(w) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual conduct, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her unborn child.

(x) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(y) Sanitary conditions in some Adult-Oriented Businesses are unhealthy in part because the activities conducted therein are unhealthy and also in part, because of the unregulated nature of the activities and the failure of the owners and operators of Adult-Oriented Businesses to self-regulate those activities and maintain the Adult-Oriented Businesses in a healthy and sanitary manner.

(z) That the secondary effects indicated above tend to be greater during late night and early morning hours.

(aa) The findings set forth in paragraph numbers (a) through (z) above raise substantial governmental concerns.

(bb) A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable self-regulation on the owners and operators of the Adult-Oriented Businesses. Such a licensing procedure will place a heretofore nonexistent incentive on operators to see that Adult-Oriented Businesses are operated in a

manner consistent with the health, safety, welfare of its patrons and employees, as well as the citizens of Windsor.

(cc) It is an appropriate exercise of the Town's police powers in promoting the public health, safety, and welfare to require reasonable assurances that the licensee is the actual operator of the Adult-Oriented Business, fully in possession and control of the premises and activities occurring thereon.

(dd) Removal of doors on private and semi-private booths and cubicles in Adult-Oriented Businesses advances a substantial governmental interest in curbing the illegal and unsanitary activity occurring therein.

(ee) Requiring sufficient lighting in Adult-Oriented Businesses with private and semi-private booths advances a substantial governmental interest in curbing the illegal and unsanitary activity occurring therein.

(ff) Requiring licensees of Adult-Oriented Businesses to keep information regarding current and past employees and Performers will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witness or suspects and by preventing minors from working in such establishments.

(gg) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the Adult-Oriented Businesses, where such information is substantially related to the significant governmental interest in the operation of Adult-Oriented Businesses, will aid in preventing the spread of sexually transmitted diseases.

(hh) It is desirable in the prevention of the spread of communicable diseases and sexually-related crimes such as prostitution, to obtain a limited amount of information regarding certain employees who may engage in the conduct that this Ordinance is designed to prevent or who are likely to be witnesses to the conduct this Ordinance is designed to prevent.

(ii) The fact that an applicant for a license required by this Ordinance has been convicted of a sexually related crime and is barred from owning, operating, managing, performing at or being employed by an Adult-Oriented Business for a period of years serves as a deterrent to and prevents conduct that leads to the transmission of sexually transmitted diseases and the occurrence of crimes that this Ordinance seeks to protect against. Further, requiring person to disclose such information facilitates the performing of background checks.

(jj) That Adult-Oriented Businesses are vulnerable to organized crime involvement underscores the importance of preventing illegal conduct at such establishments, including gambling, prostitution and other sexual abuse and the distribution of controlled substances.

(kk) That regulating the hours of operation of Adult-Oriented Businesses furthers the substantial governmental interests of preserving the peace and quiet of the surrounding community.

(ll) That the presence of security guards in certain Adult-Oriented Business will deter the occurrence of the secondary effects of Adult-Oriented Businesses described herein.

(mm) That the reasonable regulation of certain contact between Adult-Oriented Business Employees and patrons prevents the negotiation for narcotics transfers and sexual favors and deters prostitution.

(nn) That the reasonable regulation of the interior configuration of certain Adult-Oriented Businesses prevents Adult-Oriented Business Employees and patrons from negotiating for narcotics transfers and sexual favors and deters prostitution.

(oo) That reasonable licensing and disclosure requirements imposed on owners, operators, and employees of Adult-Oriented Business also further the substantial governmental interest in monitoring Town's workforce, ensuring that only duly authorized persons own and operate such establishments, and, ensuring that such establishments do not employ minors.

(3) The Town Council also recognizes the potential harm to minors associated with the adverse side-effects of Adult-Oriented Businesses and the importance of maintaining a community that is safe and secure for minors.

(4) The Town's police powers encompass the power to enact zoning, licensing, and other regulations to protect the public health, safety, and welfare. Zoning, licensing, and other police power regulations are legitimate, reasonable means of accountability to help protect the quality of life in Town and to help assure that all owners and operators of Adult-Oriented Businesses comply with reasonable regulations to minimize adverse secondary effects which accompany the operation of such businesses.

(5) In developing this Ordinance, the Town Council has been mindful of legal principles relating to regulation of Adult-Oriented Businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendments of the United States and California Constitutions, but instead desires to enact reasonable time, place, and manner regulations that address the adverse secondary effects of Adult-Oriented Businesses. In this regard, the Town Council has considered decisions of the United States Supreme Court regarding local regulation of Adult-Oriented Businesses, including but not limited to: *Young v. American Mini Theaters, Inc.*, 427 U.S. 50 (1976) (*reh. denied* 429 U.S. 873); *City of Renton v. Playtime Theaters*, 475 U.S. 41 (1986) (*reh. denied* 475 U.S. 1132); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glenn Theater*, 501 U.S. 560 (1991); *City of Littleton v. Z.J. Gifts,* 541 U.S. 774 (2004). The Town Council has also considered decisions by state and federal courts, including but not limited to: *City of National Town v. Wiener*, 3 Cal.4th 832 (1993); *People v.*

Superior Court (Lucero) 49 Cal.3d 14 (1989); *City of Vallejo v. Adult Books, et al.*, 167 Cal.App.3d 1169 (1985); *Lakeland Lounge of Jackson, Inc. v. City of Jacksonville, Miss.*, 973 F.2d 1255 (5th Cir. 1992), *Hang On, Inc. v. Arlington*, 65 F.3d 1248 (5th Cir. 1995), *Mitchell v. Commission on Adult Entertainment Establishments of State of Delaware*, 10 F.3d 123 (3rd Cir. 1993), *International Eateries of America, Inc. v. Broward County*, 941 F.2d 1157 (11th Cir. 1991), and finds that time, place, and manner restrictions established by this Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected Adult-Oriented Businesses in Town.

SECTION 2. OBSCENE MATERIALS.

It is not the intent of the Town Council in enacting this Ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the Town Council recognizes that state law prohibits the distribution of certain materials and expects and encourages law enforcement officials to enforce state obscenity statutes against such illegal activities within the Town.

SECTION 3. APPLICATION OF LAWS.

Nothing in this Ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any Town ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

SECTION 4. Chapter 21 is hereby added to Title 3 of the Windsor Municipal Code to read as follows:

Chapter 21
ADULT-ORIENTED BUSINESSES

Article 1	**GENERAL PROVISIONS**	
	3-21-100	**Purpose and Intent.**
	3-21-105	**Licenses and Registration Required.**
	3-21-110	**Classifications.**
	3-21-115	**Pre-Existing Adult-Oriented Businesses**
Article 2	**DEFINITIONS**	
	3-21-200	**Definitions.**
Article 3	**ADULT-ORIENTED BUSINESS LICENSES**	
	3-21-300	**Adult-Oriented Business License Required.**
	3-21-305	**Investigation and Action on Application for Adult-Oriented Business License.**
	3-21-310	**Transfer of Adult-Oriented Business Licenses.**
Article 4	**ADULT-ORIENTED BUSINESS EMPLOYEE LICENSE**	
	3-21-400	**Adult-Oriented Business Employee License Required.**
	3-21-405	**Investigation and Action on Application for Adult-Oriented Business Employee License.**

3-21-410 Transfer of Adult-Oriented Business Employee License.
Article 5 DENIAL, SUSPENSION, AND REVOCATION OF LICENSE
3-21-500 Denial of License.
3-21-505 Suspension of License.
3-21-510 Revocation of License.
3-21-515 Suspension or Revocation Hearing.
3-21-520 Appeal.
3-21-525 Confidentiality.
Article 6 DEVELOPMENT AND PERFORMANCE STANDARDS AND REGULATIONS
3-21-600 Prohibition Against Minors in an Adult-Oriented Business.
3-21-605 Concealing Specified Sexual Activities and Specified Anatomical Areas from Public View.
3-21-610 Posting Notices Relating to Minors.
3-21-615 Indoor Areas Open to View by Management.
3-21-620 Security Guards.
3-21-625 Register and License Number of Employees.
3-21-630 Inspection.
3-21-635 Restroom Facilities.
3-21-640 Additional Regulations for Adult Arcade.
3-21-645 Additional Regulations Relating to Live Entertainment.
3-21-650 Additional Regulations for Adult Motels.
3-21-655 Additional Regulations Relating to the Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.
3-21-660 Additional Regulations for Nude Model Studios.
3-21-665 Additional Regulations Concerning Public Nudity.
3-21-670 Hours of Operation.
Article 7 ENFORCEMENT
3-21-700 Separate Offense for Each Day.
3-21-705 Public Nuisance.
3-21-710 Criminal Penalties.
3-21-715 Civil Injunction.
3-21-720 Administrative Remedies.
3-21-725 Revocation of License.
Article 8 MISCELLANEOUS PROVISIONS
3-21-800 Regulations Nonexclusive.
3-21-805 Time Limit for Filing Application for License.
3-21-810 Severability.

Chapter 21
ADULT-ORIENTED BUSINESSES

Article 1
GENERAL PROVISIONS

3-21-100 Purpose and Intents. It is the intent of this Chapter to regulate Adult-Oriented Businesses in order to promote the health, safety, and general welfare of the citizens of the Town. The provisions of this Chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials and paraphernalia protected by the First Amendment, or denying access by the distributors, exhibitors, and Performers of adult-oriented entertainment to their intended market. In addition, the provisions of this Chapter have neither the purpose nor effect of condoning or legitimizing the distribution of obscene material.

3-21-105 Licenses and Registration Required - Violations.

A. It is unlawful for any person to engage in, conduct, or carry on, or permit to be engaged in, conducted, or carried on, in or upon any premises in the Town, the operation of an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Business License issued by the Chief of Police pursuant to this Chapter.

B. It is unlawful for any person who operates an Adult-Oriented Business to employ or permit a person to work for or at the Adult-Oriented Business who does not possess a valid Adult-Oriented Business Employee License issued by the Chief of Police pursuant to this Chapter.

C. It is unlawful for any person to obtain employment with or perform work for or at an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Business Employee License issued by the Chief of Police pursuant to this Chapter. These provisions shall not apply to persons exclusively on the premises of the Adult-Oriented Business to render only repair or maintenance services or to deliver equipment or goods to the Adult-Oriented Business as long as such persons are not Nude, Semi-Nude, in a State of Nudity, or in a Semi-Nude Condition.

D. It is unlawful for any person to engage in or participate in any live performance distinguished or characterized by the depiction of, description, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities in an Adult-Oriented Business unless the person first obtains and continues to maintain in full force and effect a valid Adult-Oriented Business Employee License issued by the Chief of Police pursuant to this Chapter.

3-21-110 Classifications. Adult-Oriented Businesses are classified as follows:

A. Adult Arcades;

B. Adult Bookstores;

C. Adult Cabarets;

D. Adult Motels;

E. Adult Motion Picture Theaters;

F. Adult Theaters;

G. Nude Model Studios; and

I. Sexual Encounter Centers.

3-21-115 Pre-Existing Adult-Oriented Businesses. This Chapter shall apply to any pre-existing Adult-Oriented Business, each of which shall comply not later than six months after the effective date of this Chapter.

Article 2
DEFINITIONS

3-21-200 Definitions. The definitions contained in this Section shall govern the construction of this Chapter.

A. **Adult Arcade** means any commercial establishment to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or any other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

B. **Adult Bookstore, Adult Novelty Store or Adult Video Store** means a commercial establishment which, as a regular and substantial course of conduct, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, any material in digital format (including, but not limited to, compact disc (CD) or digital video disc (DVD)), slides, or other visual representations which are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas; or,

2. Instruments, devices, or paraphernalia, except for clothing, which are designed for use in connection with Specified Sexual Activities.

The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to any one or more of the following:

3. The business devotes more than twenty-five percent (25%) of its retail inventory (not measured by the number of items but rather by the cost to the business owner of the inventory) to merchandise distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas.

4. The business devotes more than twenty-five percent (25%) of the retail floor area to merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities and Specified Anatomical Areas.

5. The retail value of merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities and Specified Anatomical Areas exceeds twenty-five (25%) of the total retail value of inventory offered in each of the following categories: (a) books, (b) magazines, (c) video tapes or any material in digital format (including, but not limited to, compact disc (CD) or digital video disc (DVD)), for sale or rental, (d) novelties and devices, and (e) on-premises viewing of images, films, and or videos.

6. Gross revenue derived from merchandise in any category set forth in Paragraph 5 above exceeds (25%) of the total gross revenue for the category.

There is a rebuttable presumption that a business constitutes an adult bookstore, adult novelty store or adult video store where the business (a) offers or advertises merchandise that is distinguished or characterized by an emphasis upon Specified Sexual Activities or Specified Anatomical Areas and (b) fails to make revenue and inventory related business records available to the Town upon seventy-two (72) hours notice.

C. **Adult Cabaret** means a nightclub, bar, restaurant, or similar commercial establishment which, as a regular and substantial course or conduct, features:

1. Persons who appear in a State of Nudity or Semi-Nude Condition; or

2. Live performances which are distinguished or characterized by an emphasis upon the exposure of Specified Anatomical Areas or by Specified Sexual Activities; or

3. Films, motion pictures, video cassettes, any material in digital format (including, but not limited to, compact disc (CD) or digital video disc

(DVD)), slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

4. The proportion of the business' performances or services that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

5. The proportion of the business' revenue that is attributable to performances or services that are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

D. **Adult Motels** means a hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, any materials in digital format (including, but not limited to, compact disc (CD) or digital video disk (DVD)), slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas; and has any of the following characteristics:

1. a sign visible from the public right of way which advertises the availability of the above-described photographic reproductions; or

2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

E. **Adult Motion Picture Theater** means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, any materials in digital format (including, but not limited to, compact disc (CD) or digital video disk (DVD)), slides, or similar photographic reproductions are regularly shown which are distinguished or characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas, for observation by five (5) or more patrons at any one time.

The phrase "regularly shown" shall be construed with reference to all relevant factors, including but not limited to the following:

1. The proportion of the theater's photographic reproductions that are distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

2. The number of photographic reproductions shown at the theater each month that are distinguished or characterized by an emphasis upon depiction, description, showing, or simulation of Specified Sexual Activities or Specified Anatomical Areas.

3. The proportion of the business' revenue that is attributable to entertainment that is distinguished or characterized by an emphasis upon the display or depiction of Specified Sexual Activities or Specified Anatomical Areas.

F. **Adult-Oriented Businesses** means any of the following commercial establishments where patrons are permitted or invited: an Adult Arcade, Adult Bookstore, Adult Novelty Store, Adult Video Store, Adult Cabaret, Adult Motel, Adult Motion Picture Theater, Adult Theater, Nude Model Studio, or Sexual Encounter Center.

G. **Adult Theater** means a theater, concert hall, auditorium, or similar commercial establishment which as a regular and substantial course of conduct features persons who appear in a State of Nudity or Semi-Nude Condition and/or features live performances which are distinguished or characterized by an emphasis upon the exposure of Specified Anatomical Areas or by Specified Sexual Activities.

The phrase "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

1. The proportion of the business' performances or services that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

2. The proportion of the business' revenue that is attributable to entertainment that is distinguished or characterized by an emphasis upon the depiction, description, showing, or simulation Specified Sexual Activities or Specified Anatomical Areas.

H. **Distinguished or Characterized by An Emphasis Upon** means the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the depiction or description of Specified Sexual Activities or Specified Anatomical Areas," the films so described are those whose dominant or predominant character and theme are the depiction, description, showing, or simulation of the enumerated sexual activities or anatomical areas.

I. **Employee** means a person who performs any service on the premises of an Adult-Oriented Business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises of the Adult-Oriented Business to render only repair or maintenance services or to deliver equipment or goods to the Adult-Oriented Business as long as such persons are not in a State of Nudity or in a Semi-Nude Condition.

J. **Establishment of an Adult-Oriented Business** means and includes any of the following:

1. The opening or commencement of any Adult-Oriented Business as a new business;
2. The conversion of an existing business, whether or not an Adult-Oriented Business, to any other Adult-Oriented Business;
3. The addition of any Adult-Oriented Business to any other existing Adult-Oriented Business; or
4. The relocation of any Adult-Oriented Business.

K. **Fabric** means cloth made by weaving or knitting natural or synthetic fibers and filaments.

L. **Hotel** means a building where lodging and possibly meals, entertainment and other various personal services are provided to the public for some form of consideration.

M. **Licensee** means: (i) a person in whose name a license to operate an Adult-Oriented Business has been issued, as well as the person listed as an applicant on the application for a license; and (ii) in the case of an employee, a person in whose name a license has been issued authorizing employment in an Adult-Oriented Business.

N. **Motel** means a hotel in which the rooms are accessible from the business parking areas.

O. **Nude Model Studio** means any place where a person: (a) appears Semi-Nude, in a State of Nudity, or displays Specified Anatomical Areas; and (b) is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of California or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a person is a State of Nudity or a Semi-Nude Condition is available for viewing;

2. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

3. Where no more than one (1) Nude or Semi-Nude model is on the premises at any one time.

P. **Nudity or a State of Nudity** means the showing of the human male or female genitals, pubic area, anus, or buttocks with less than a fully opaque Fabric covering, the showing of the female breast with less than a fully opaque Fabric covering of any part of the areola, or the showing of completely or opaquely covered male genitals in a discernibly turgid state.

Q. **Person** means an individual, proprietorship, partnership, corporation, association, or other legal entity.

R. **Police Chief or Chief of Police** means the Chief of Police of Town of Windsor or the authorized representatives thereof.

S. **Semi-Nude or in a Semi-Nude Condition** means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

T. **Sexual Encounter Center** means a business or commercial enterprise that, as one of its principal purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, when one or more of the persons is in a State of Nudity or Semi-Nude Condition.

U. **Specified Anatomical Areas** means and includes the following:

1. Less than completely and opaquely covered by fabric: (a) human genitals or pubic region; (b) human buttocks; (c) human anus; or (d) the female breast below a point immediately above the top of the areola;

2. Human male genitals in a discernibly turgid state, even if completely or opaquely covered by Fabric; and

3. Any device, costume, or covering that simulates any of the body parts included in subdivisions (1 or 2) above.

V. **Specified Criminal Activity** means:

1. Any of the following offenses: (a) prostitution or promotion or pimping of prostitution; (b) dissemination of obscenity; (c) sale, distribution or display of harmful material to a minor; sexual performance involving a child; (d) possession or distribution of child pornography; (e) public lewdness; (f) indecent exposure; (g) indecency with a child; (h) engaging in organized criminal activity; (i) sexual assault; (j) molestation of a child; (k) gambling; (l) distribution of a controlled substance; or (m) any similar offenses to those described above under the criminal or penal code of other states or counties;

2. 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 for 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; or,

   (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 (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

W. **Specified Sexual Activities** means and includes any of the following, whether performed directly or indirectly through clothing, Fabric, or other covering:

1. The fondling or other erotic touching of human genitals, pubic area, buttocks, anus, or female breast;

2. Sex acts, actual or simulated, including but not limited to, masturbation, intercourse, oral copulation, sodomy, or bestiality;

3. Masturbation, actual or simulated;

4. Excretory functions as part of or in connection with any of the other activities described in subdivision 1 through 3 above.

X. **Transfer of Ownership or Control of Adult-Oriented Business** means and includes any of the following:

1. The sale, lease, or sublease of the Adult Oriented Business;

2. The transfer of securities which constitute a controlling interest in the Adult-Oriented Business, whether by sale, exchange, or similar means; or

3. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the Adult-Oriented Business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Article 3
ADULT-ORIENTED BUSINESS LICENSES

3-21-300 Adult-Oriented Business License Required. Every person who proposes to maintain, operate, conduct, or establish an Adult-Oriented Business in the Town shall file an application with the Chief of Police on a form provided by the Town and shall pay a non-refundable application, investigation, and licensing fee set forth in the schedule of fees established from time to time by the Town Council.

A. All applicants must be qualified according to the provisions of this Section. The application may request and the applicant shall provide such information including fingerprints as to enable the Chief of Police to determine whether the applicant meets the qualifications established in this Section.

B. If a person who wishes to operate an Adult-Oriented Business is an individual, the person must sign the application. If a person who wishes to operate an Adult-Oriented Business is other than an individual, each individual who has a twenty percent (20%) or greater ownership interest in the Adult-Oriented Business must sign the application. Each applicant must be qualified under this Section and each applicant shall be considered a Licensee if a license is granted.

C. The completed application for an Adult-Oriented Business License shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:

(a) an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least eighteen (18) years of age;

(b) a partnership, the partnership shall state its complete name, address, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, and the name of the registered corporate agent and the address of the registered office for service or process.

2. If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant; the applicant shall register the fictitious name of the Adult-Oriented Business with the appropriate governmental entity and show written proof of registration of the fictitious name.

3. Whether the applicant has been convicted of a Specified Criminal Activity and, if so, the Specified Criminal Activity involved, the date, place, and jurisdiction of each.

4. Whether the applicant has ever had a license previously issued under this Chapter or its predecessor, or other similar Adult-Oriented Business ordinances from another Town or county, denied, suspended or revoked, including the name and location of the Adult-Oriented Business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Chapter, or its predecessor, whose license has previously been denied, suspended or revoked, including the name and location of the Adult-Oriented Business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

5. Whether the applicant holds any other licenses under this Chapter, or its predecessor, or other similar Adult-Oriented Business ordinance from another Town or county, and, if so, the names and locations of such other licensed businesses.

6. The particular Adult-Oriented Business for which the applicant is applying. An applicant must apply separately for each Adult-Oriented Business to be operated, owned, managed, or controlled by the applicant.

7. The address to which notice of action on the application is to be mailed.

8. The location of the Adult-Oriented Business, including a legal description of the property, street address, and telephone number(s), if any.

9. The applicant's mailing address and residential address.

10. A recent photograph of the applicant.

11. The applicant's driver's license number, Social Security number, and the applicant's state or federally issued tax identification number.

12. The names of all Employees, independent contractors, and other persons who will perform at the Adult-Oriented Business, who are required by this Chapter to obtain an Adult-Oriented Business Employee License.

3-21-305 Investigation and Action on Application for Adult-Oriented Business License.

A. The Chief of Police shall determine whether the application contains all of the information required by the provisions of this Section. If it is determined that the application is not complete, the applicant shall be notified in writing within ten (10) business days of the date of receipt of the application that the application is not complete and the reasons therefor. The applicant shall have thirty (30) calendar days from the date of the notice to submit additional information to render the application complete. The applicant's failure to submit the additional information within this time period renders the application null and void. Within five (5) business days following the receipt of a supplemental or amended application, the Chief of Police shall again determine whether the application is complete. Evaluation and notification shall occur as provided above until such time as the application is found to be complete. Once the application is found to be complete, the applicant shall be notified within five (5) business days of that fact. If an applicant submits two (2) consecutive incomplete applications, the applicant shall be notified in writing that a new application must be filed with Chief of Police as set forth herein.

B. Within five (5) business days after receipt of a completed application and the required filing fee, the Chief of Police shall transmit copies of the application and its attachments to appropriate Town departments.

C. Within thirty (30) business days after receipt of a completed application and the required filing fee, the Chief of Police shall complete the investigation, grant or deny the application in accordance with the provisions of this Section, and shall notify the applicant as follows:

1. If the application is approved, the Chief of Police shall write or stamp "Granted" on the application and date and sign such notation. The Chief of Police shall attach to the application an Adult-Oriented Business License.

2. If the application is denied, the Chief of Police shall write or stamp "Denied" on the application and date and sign such notation. The Chief of Police shall attach to the application a statement of the reasons for denial.

3. The documents specified in paragraphs 1 and 2 above shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address specified in the application. All notices given hereunder shall be deemed given upon the date they are deposited in the United States mail or the date upon which personal service is provided.

D. The Chief of Police shall approve the issuance of a license to an applicant, unless it is determined by a preponderance of the evidence that any of the following findings is true:

1. An applicant is under eighteen (18) years of age.

2. An applicant has failed to provide information reasonably necessary for issuance of the license or has knowingly answered a question or request for information falsely on the application form.

3. An applicant has been denied a license by the Town to operate an Adult-Oriented Business within the twelve (12) months preceding the filing of the application, or the applicant's license to operate an Adult-Oriented Business has been revoked within the twelve (12) months preceding the filing of the application.

4. The applicant has been convicted of a Specified Criminal Activity, either within the State of California or in another jurisdiction.

5. The applicant has, within the past (5) years, been convicted in an administrative enforcement action or court action of violating an Adult-Oriented Business ordinance.

6. The building, structure, equipment or location used by the Adult-Oriented Business fails to comply with all applicable building, fire, electrical, plumbing, health and zoning requirements of the Town, as set forth in Chapter 27.34, all applicable State, and federal requirements of a similar nature that are customarily enforced by the Town, and all provisions of these regulations and this code relating to an Adult-Oriented Business, including the Adult-Oriented Business development and performance standards and regulations.

E. The license, if granted, shall expire one (1) year from the date of issuance and may only be renewed by the Licensee filing with the Chief of Police: (a) a written request for renewal on a form provided by the Town; (b) a non-refundable application, investigation, and licensing fee set forth in the schedule of fees established from time to time by the Town Council; and (c) a copy of the license to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the license. When a renewal request is made less than thirty (30) days before the expiration date, the expiration shall not be stayed. The Chief of Police shall act upon applications for license renewal as provided herein for applications for licenses.

F. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the Adult-Oriented Business and the single classification of Adult-Oriented Business as set forth in Section 3-21-300 herein, for which the license is issued.

G. All licenses shall be posted in a conspicuous place at or near the entrance to the Adult-Oriented Business so that they may be easily read at any time by all persons entering the Adult-Oriented Business.

H. Within thirty (30) calendar days of any change in the information originally submitted with the license application, all Licensees shall provide the Chief of Police with a written statement supplementing or amending the information required by this Section. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business License.

I. Within thirty (30) calendar days of any change in Employee hiring or status, all Licenses shall provide the Chief of Police with a written statement supplementing or amending the information required by this Section. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business License.

J. If the Chief of Police neither grants nor denies a completed application for which the filing fees have been paid, within thirty (30) business days after its receipt, the applicant may begin operating the Adult-Oriented Business for the single classification of Adult Oriented Business as set forth in Section 3-21-300 herein, for which the license was sought, subject to strict compliance with the Development and Performance Standards and Regulations of Article 6 of this Chapter.

3-21-310 Transfer of Adult-Oriented Business Licenses.

A. It is unlawful for a Licensee to operate an Adult-Oriented Business under the authority of an Adult-Oriented Business License at any place other than the address of the Adult-Oriented Business stated in the application upon which the license was issued.

B. It is unlawful for a Licensee to Transfer Ownership or Control of an Adult-Oriented Business License to another person unless and until the transferee first obtains a written amendment to the license from the Chief of Police in accordance with and subject to the application and fee requirements set forth in this Section.

C. It is unlawful for a Licensee to transfer an Adult-Oriented Business License when the Chief of Police has notified the Licensee that the license has been suspended or revoked or that such action is pending.

D. Any attempt to transfer a license either directly or indirectly in violation of this Section is void, and the license shall be deemed revoked.

Article 4
ADULT-ORIENTED BUSINESS EMPLOYEE LICENSE

3-21-400 Adult-Oriented Business Employee License Required.

A. No person shall engage in or participate in any live performance distinguished or characterized by the depiction, description, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities in an Adult-Oriented

Business, without a valid Adult-Oriented Business Employee License issued by the Chief of Police.

B. No person shall be employed at an Adult-Oriented Business, except those persons excluded from the license requirements pursuant to Section 3-21-305, without a valid Adult-Oriented Business Employee License issued by the Chief of Police.

C. Before any applicant may be issued an Adult-Oriented Business Employee License, the applicant shall submit to the Chief of Police on a form to be provided by the Town the following information:

1. The applicant's legal name and any other name including "stage" names or aliases used by the applicant;

2. Age, date, and place of birth;

3. Height, weight, hair and eye color;

4. Present residence address and telephone number;

5. Present business address and telephone number;

6. Date, issuing state and number of driver's license or other identification card information;

7. Social Security number; and,

8. Satisfactory written proof that the individual is at least eighteen (18) years of age.

D. Attached to the application form shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate in this or any other county, city, state, or country, and whether such applicant has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, the applicant shall state the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A statement whether the applicant has been convicted within the past five (5) years, as of the date of submitting the application, of a Specified Criminal Activity as defined in this Chapter and, if so, the Specified Criminal Activity involved, the date, place and jurisdiction of each conviction.

4. A statement whether the applicant is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution, the place or such registration, licensing or legal authorization, and the inclusive dates during which the applicant was so licensed, registered, or authorized.

E. Every application for an Adult-Oriented Business Employee License, whether for a new license or for a renewal of an existing license, shall be accompanied by a non-refundable application, investigation and license fee as set forth in the schedule of fees established from time to time by the Town Council.

3-21-405 Investigation and Action on Application for Adult-Oriented Business Employee License.

A. Upon receipt of an application for an Adult-Oriented Business Employee License and the required non-refundable application, investigation, and licensing fee, the Chief of Police shall issue a temporary license to the applicant. The temporary license shall be valid until the Adult-Oriented Business Employee License is either granted or the denial of such license is final.

B. The Chief of Police shall determine whether the application contains all of the information required by the provisions of this Section. If it is determined that the application is not complete, the applicant shall be notified in writing within five (5) business days of the date of receipt of the application that the application is not complete and the reasons therefore. The applicant shall have ten (10) calendar days from the date of the notice to submit additional information to render the application complete. The applicant's failure to submit the additional information within this time period renders the application null and void. Within five (5) business days following the receipt of a supplemental or amended application, the Chief of Police shall again determine whether the application is complete. Evaluation and notification shall occur as provided above until such time as the application is found to be complete. Once the application is found to be complete, the applicant shall be notified within five (5) business days of that fact. If an applicant submits two (2) consecutive incomplete applications, the applicant shall be notified in writing that a new application must be filed with Chief of Police as set forth herein.

C. Within fifteen (15) business days after the issuance of the temporary license, the Chief of Police shall grant or deny the application and so notify the applicant as follows:

1. If the application is approved, the Chief of Police shall write or stamp "Granted" on the application and date and sign such notation. The Chief of Police shall attach to the application an Adult-Oriented Business Employee License.

2. If the application is denied, the Chief of Police shall write or stamp "Denied" on the application and date and sign such notation. The Chief of Police shall attach to the application a statement of the reasons for denial.

3. The documents specified in (1) and (2) above shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address specified in the application. All notices given hereunder shall be deemed given upon the date they are deposited in the United States mail or the date upon which personal service is provided.

D. The Chief of Police shall grant the application unless it is determined by a preponderance of the evidence that any of the following findings is true:

1. The applicant has failed to provide information reasonably necessary for issuance of the license or has knowingly answered a question or request for information falsely on the application form;

2. The applicant is under the age of eighteen (18) years;

3. The applicant has been convicted of a Specified Criminal Activity, whether within the State of California or in another jurisdiction;

4. The Adult-Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this Chapter; and,

5. The applicant has, within the past (5) years, been convicted in an administrative enforcement action or court action of violating an Adult-Oriented Business ordinance.

E. The license, if granted shall expire one (1) year from the date of issuance and may be renewed only by the Licensee filing with the Chief of Police: (a) a written request for renewal on a form provided by the Town; (b) the required fee; and (c) a copy of the license to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the license. When a renewal request is made less than thirty (30) days before the expiration date, the expiration shall not be stayed. The Chief of Police shall act upon applications for license renewal as provided herein for applications for initial licenses.

F. The license, if granted, shall state on its face the name of the person to whom it is granted, and the expiration date. The Chief of Police shall provide each person issued an Adult-Oriented Business Employee Licensee with an identification card containing the name, photograph, and license number of the Licensee.

G. Both the license and identification card shall be available for inspection at all times during which the Licensee is on the premises of the Adult-Oriented Business. The Licensee shall wear the identification card at all times while on the premises of the Adult-Oriented Business, except while actually performing. The identification card shall be affixed to clothing on the front of the Licensee and above waist level so that the picture and license number are clearly visible to patrons.

H. If the Chief of Police neither grants nor denies a completed application for which the filing fees have been paid, within fifteen (15) business days after its receipt, the applicant may begin the employment for which the license is sought, subject to strict compliance with the Development and Performance Standards and Regulations of Article 6 of this Chapter.

3-21-410 Transfer of Adult-Oriented Business Employee License. A Licensee shall not transfer ownership or control of an Adult-Oriented Business Employee License. Any attempt to transfer such a license shall be void.

Article 5
DENIAL, SUSPENSION, AND REVOCATION OF LICENSE

3-21-500 Denial of License Renewal. When the Chief of Police denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. If, subsequent to denial, the Chief of Police finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

3-21-505 Suspension of License. The Chief of Police shall suspend a license for a period not to exceed thirty (30) days if he or she determines that a Licensee or an Employee of a Licensee has:

A. violated or is not in compliance with any section of this Chapter; or,

B. refused to allow an inspection of the Adult-Oriented Business premises as authorized by this Chapter.

3-21-510 Revocation of License.

A. The Chief of Police shall revoke a license if a cause of suspension in Section 3-21-505 occurs and the license has been suspended within the preceding twelve (12) months.

B. The Chief of Police shall revoke a license for any of the following causes arising from the acts or omissions of the Licensee, or an Employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business:

1. A Licensee knowingly gave false, misleading, or fraudulent information in the material submitted during the application process, or in any report or record required to be filed with the Town;

2. A Licensee, Employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following acts on the premises of the Adult-Oriented Business, or in the case of an Adult-Oriented Businesses performer, the performer has engaged in one of the activities described below while on the premises of an Adult-Oriented Business:

   (a) any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation, with the exception of Adult Motels unless the Licensee or Employee of the Adult Motel knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view;

   (b) use of the Adult-Oriented Business as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur; or,

   (c) the occurrence of Specified Criminal Activities, including acts of lewdness, assignation, or prostitution, or act relating to obscene matter or distribution of harmful matter to minors.

3. The building, structure, equipment or location used by the Adult-Oriented Business fails to comply with all applicable building, fire, electrical, plumbing, health and zoning requirements of the Town, as set forth in Chapter 27.34, all applicable State, and federal requirements of a similar nature that are customarily enforced by the Town, and all provisions of these regulations and this code relating to an Adult-Oriented Business, including the Adult-Oriented Business development and performance standards and regulations.

4. A Licensee knowingly operated, performed or was employed at the Adult-Oriented Business during a period of time when the Licensee's license was suspended.

C. When the Chief of Police revokes a license, the revocation shall continue for one (1) year, and the Licensee shall not be issued an Adult-Oriented Business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Chief of Police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

3-21-515 Suspension or Revocation Hearing.

A. On determining that grounds for license revocation or suspension exist, the Chief of Police shall furnish written notice of the proposed suspension or revocation to the Licensee. Such notice shall set forth the time and place of a hearing to be conducted by a hearing officer appointed by the Town Manager, and the grounds upon which the hearing is based, the pertinent Code sections at issue, and a brief summary of the facts in support of the suspension or revocation. The notice shall be mailed, postage prepaid, to the last know address of the Licensee, or shall be delivered to the Licensee personally, at least ten (10) working days prior to the hearing date. At the hearing, all parties shall have a right to offer testimonial, documentary, and tangible evidence on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence upon which reasonable persons are accustomed to rely in the conduct of serious matters may be admitted. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or witness.

B. Notice of the hearing officer's decision shall be mailed to the applicant or Licensee no later than seven (7) days after the hearing. The notice shall include the time limits for expedited judicial review as set forth in the California Code of Civil Procedure section 1094.8. If the hearing officer finds and determines that there are grounds for revocation or suspension, the Chief of Police shall do either of the following:

1. Suspend the license for a specified period of time not to exceed three (3) months for the first offense;

2. Revoke the license for any second offense, or for any first offense for matters prohibited by Section 3-210-510B.

3-21-520 Appeal. All decisions of the hearing officer to issue, renew, deny, suspend or revoke a license are final. The applicant or licensee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law, including judicial review pursuant to Section 1094.8 of the California Code of Civil Procedure.

3-21-525 Confidentiality. License applications required by Sections Article 3 and 4 above and all information contained therein shall be confidential. Absent an order from a court of competent jurisdiction, the Town shall not disclose for public review the applications or the information contained therein.

Article 6
DEVELOPMENT AND PERFORMANCE STANDARDS AND REGULATIONS

3-21-600 Prohibition Against Minors in an Adult-Oriented Business. It shall be unlawful for any Licensee, operator, or other person in charge of any Adult-Oriented Business to permit to enter, or remain within the Adult-Oriented Business, any person who is not at least eighteen (18) years of age or to provide any service for which this Chapter requires a license, to any person who is not at least eighteen (18) years of age.

3-21-605 Concealing Specified Sexual Activities and Specified Anatomical Areas from Public View. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window, or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

3-21-610 Posting Notices Relating to Minors. No person under the age of eighteen (18) years shall be permitted within the Adult-Oriented Business any time. The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Community Development Director or his or her designee.

3-21-615 Indoor Areas Open to View by Management. All indoor areas of the Adult-Oriented Business where patrons or members of the public are permitted, excluding rest rooms, shall be open to view by management at all times.

3-21-620 Security Guards. Adult-Oriented Business shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

A. Adult-Oriented Businesses featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the Adult-Oriented Business is greater than thirty-five (35) persons, an additional security guard shall be on duty.

B. Security guards shall be charged with preventing violations of law and enforcing compliance by patrons with the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public. All such uniforms shall be distinct form the uniforms worn by the Windsor Police Department. Persons acting as security guards shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this Section shall act as a door person, ticket seller, ticket taker, admittance person, entertainer or performer, or sole occupant of the manager's station while acting as a security guard.

3-21-625 Register and License Number of Employees. Every Licensee of an Adult-Oriented Business that provides live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities must maintain a register of all past and current persons so performing at the Adult-Oriented Business and their license numbers. Such register shall be available for inspection during regular business hours by any police officer of the Town.

3-21-630 Inspection.

A. An applicant or Licensee shall permit representatives of the Police Department, Fire Department, Community Development Department, or other Town departments or agencies (including without limitation the County Health Department) to inspect the premises of an Adult-Oriented Business for the purpose of ensuring compliance with the law, at any time the Adult-Oriented Business is occupied or open for business.

B. It is unlawful for a person who operates an Adult-Oriented Business or that person's agent or Employee to refuse to permit such lawful inspection of the Adult-Oriented Business at any time it is open for business.

3-21-635 Restroom Facilities. The Adult-Oriented Business shall provide and maintain separate rest room facilities for male patrons and Employees, and for female patrons and Employees. Male patrons and Employees shall be prohibited from using the rest room(s) for females, except to carry out duties of repair, maintenance and cleaning of the rest room facilities, and vice-versa. The rest rooms shall be free from any Adult Material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording, or reproduction equipment.

The foregoing requirements of this Section shall be deemed conditions of Adult-Oriented Business License approvals and failure to comply with every such requirement shall be grounds for revocation of the license.

3-21-640 Additional Regulations for Adult Arcade. Any Adult-Oriented Business which is also an Adult Arcade shall comply with the following provisions:

A. The interior of the Adult-Oriented Business shall be configured in such a manner that there is an unobstructed view from a manager station of every area of the Adult-Oriented Business to which any patron is permitted access for any purpose, excluding restrooms. If the Adult-Oriented Business has two (2) or more manager stations designated, then the interior of the Adult-Oriented Business shall be configured in such a manner that there is an unobstructed view from at least one (1) of the manager stations of each area of the Adult-Oriented Business to which any patron is permitted access.

B. It shall be the duty to the Licensee to ensure that the view area required by paragraph (1) of this Section is at all times unobstructed by any doors, walls, merchandise, display racks, or other materials while the Adult-Oriented Business is open to patrons.

C. No viewing room or booth may be occupied by more than one (1) person at any time.

D. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two (2) such rooms such as would allow viewing from one (1) booth into another or such as to allow physical contact of any kind between the occupants of any two (2) such booths or rooms.

E. Customers, patrons, or visitors shall not be allowed to loiter in the vicinity of any such video booths, or remain in the common area of such Adult-Oriented Businesses, other than the restrooms, unless actively engaged in shopping for or reviewing the products available or on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

F. The floors, seats, walls, and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen, or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls.

3-21-645 Additional Regulations Relating to Live Entertainment. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment distinguished or characterized by the depiction, description, showing or simulation of Specified Anatomical Areas or involving Specified Sexual Activities, except for business regulated by the California Department of Alcoholic Beverage Control.

A. No person shall perform live entertainment for patrons of an Adult-Oriented Business except upon a stage at least twenty-four (24) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between performers and patrons required by this Section. Performer shall mean any person who is an Employee or independent contractor of the Adult-Oriented Business, or any person who, with or without compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.

B. The Adult-Oriented Business shall provide separate dressing room facilities for performers which are exclusively dedicated to the performers' use.

C. The Adult-Oriented Business shall provide an entrance/exit for performers which is separate from the entrance/exit used by patrons.

D. The Adult-Oriented Business shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three (3) foot wide aisle for performers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the performers capable of (and which actually results in) preventing any physical contact between patrons and performers.

E. No performers, either before, during, or after performances, shall have physical contact with any patron and no patron shall have physical contact with any performer either before, during or after performances by such performer. This

paragraph shall only apply to physical contact anywhere on or within the premises of the Adult-Oriented Business, including off-street parking areas.

F. No patron shall directly pay or give any gratuity to any performer and no performer shall solicit or accept any pay or gratuity from any patron.

G. No owner or other person with managerial control over an Adult-Oriented Business shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This paragraph may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

3-21-650 Additional Regulations for Adult Motels.

A. Evidence that any sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an Adult Motel.

B. It is unlawful for any when, as a person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have an Adult-Oriented Business License, to rent or sub-rent a sleeping room to a person and, within ten (10) hours from the time the room is rented, rent or sub-rent the same sleeping room again.

C. For purposes of paragraphs A and B of this Section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

3-21-655 Additional Regulations Relating to the Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.

A. A person who operates or causes to be operated an Adult-Oriented Business, other than an Adult Motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment or other video reproduction which depicts Specified Sexual Activities or Specified Anatomical Areas, shall comply with the following requirements:

1. Upon application for an Adult-Oriented Business License, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the license will be conspicuously posted,

if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of premises to an accuracy of plus or minus six (6) inches. The Chief of Police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was first prepared.

2. No alteration in the configuration or location of a manager's station may be made without the prior written approval of the Chief of Police.

3. It is the duty of the Licensee of the Adult-Oriented Business to ensure that at least one licensed Employee is on duty and situated in each manager's station at all times that any patron is present inside the Adult-Oriented Business.

4. The interior or the Adult-Oriented Business shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the Adult-Oriented Business to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video viewing equipment. If the Adult-Oriented Business has two (2) or more designated manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the Adult-Oriented Business to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required by this Section must be by direct line of sight from the manager's station.

5. It shall be the duty of the Licensee to ensure that the view area specified in this Section remains unobstructed at all times by any doors, curtains, partitions, walls, merchandise, display racks or other materials.

6. It shall be the duty of the Licensee to ensure that no patron is permitted access to any area of the Adult-Oriented Business which has been designated as an area in which patrons will not be permitted pursuant to subparagraph (1) of this subsection.

7. No viewing room may be occupied by more than one (1) person at any time.

8. The Adult-Oriented Business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level.

9. It shall be the duty of the Licensee to ensure that the illumination required by this Section is maintained at all times that any patron is present in the premises.

10. No openings of any kind shall exist between viewing rooms or booths.

11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

12. The Licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The Licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The Licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48) inches of the floor.

B. It is unlawful for a person having a duty under this Section to knowingly fail to fulfill that duty.

3-21-660 Additional Regulations for Nude Model Studios.

A. A Nude Model Studio shall not employ any person under the age of eighteen (18) years.

B. It is unlawful for a person under the age of eighteen (18) years to appear Semi-Nude or in a State of Nudity in or on the premises of a Nude Model Studio. It is a defense to prosecution under this Section if the person under eighteen (18) years was in a restroom not open to public view or visible to any other person.

C. It is unlawful for a person to appear in a State of Nudity, or knowingly allow another to appear in a State of Nudity in an area of a Nude Model Studio premises which can be viewed from the public right of way.

D. A Nude Model Studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

3-21-665 Additional Regulations Concerning Public Nudity.

A. It is unlawful for a person knowingly and intentionally, in an Adult-Oriented Business, to appear in a State of Nudity or depict Specified Sexual Activities.

B. It is unlawful for a person knowingly or intentionally, in an Adult-Oriented Business, to appear in a Semi-Nude condition unless the person is an Employee

who, while Semi-Nude, is upon a stage at least twenty-four inches (24) above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest areas occupied by patrons.

C. It is unlawful for an Employee or performer while Semi-Nude in an Adult-Oriented Business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any Employee.

D. It is unlawful for an Employee or performer, while Semi-Nude, to touch a patron or the clothing of a patron.

3-21-670 Hours of Operation.

A. The hours of operation for an Adult-Oriented Business shall not include the hours of 2:00 a.m. to 7:00 a.m.

B. The provisions of this section shall not apply to an Adult Motel.

Article 7
ENFORCEMENT

3-21-700 Separate Offense for Each Day. Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof and, shall be punished accordingly.

3-21-705 Public Nuisance. Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be abated by the Town.

3-21-710 Criminal Penalties. Any person who violates, causes, or permits another person to violate any provision of this Chapter commits an infraction. Any person convicted of an infraction shall be subject to a fine to the maximum amount permitted by state law. Any person twice convicted of an infraction for repeat violations of the same provision within a one (1) year period, may be charged with a misdemeanor upon being issued a citation for the repeated violation of the same provision. Any person convicted of a misdemeanor shall be subject to punishment by fine or imprisonment to the maximum permitted by state law.

Pursuant to Government Code section 36900(a), the Town Attorney may prosecute these violations in the name of the People of the State of California.

3-21-715 Civil Injunction. The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of Town, create a cause for injunctive relief.

3-21-720 Administrative Remedies. In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies, as set forth in this Code.

3-21-725 Revocation of License. In addition to the remedies set forth above, violation of the provisions of this Chapter constitutes grounds for the revocation of an Adult-Oriented Business License and/or Adult-Oriented Business Employee License.

Article 8
MISCELLANEOUS PROVISIONS

3-21-800 Regulations Nonexclusive. The provisions of this Chapter regulating Adult-Oriented Businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the Town.

3-21-805 Time Limit for Filing Application for License. All person who possess a valid business license heretofore issued for the operation of an Adult-Oriented Business and all person required by this Chapter to obtain an Adult-Oriented Business Employee License, must apply for and obtain such license within ninety (90) days of the effective date of this Chapter. Failure to do so and continued operation of an Adult-Oriented Business, or the continued employment of persons by or at Adult-Oriented Businesses after such time without a valid license shall be unlawful.

3-21-810 Time Limit for Judicial Challenge. The time limits established by California Code of Civil Procedure section 1094.8 shall be applicable to any action or proceeding to review the issuance, revocation, suspension or denial of any license or permit required by this Chapter.

3-21-815 Severability. If any section, subsection, subdivision, sentence, clause, or phrase in this Chapter or any chapter thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any chapter thereof. The Town Council hereby declares that it would have passed each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

SECTION 5. California Environmental Quality Act ("CEQA").

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) because it has no potential for resulting in physical change to the environment, either directly or indirectly.

SECTION 6. Severability.

If any section, subsection, subdivision, sentence, clause, or phrase in this Ordinance or any chapter thereof is for any reason held to be unconstitutional or invalid, ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any chapter thereof. The Town Council hereby declares that it would have passed each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective. In the event a court of competent jurisdiction renders a decision invalidating the license issuance process established hereby, any Adult-Oriented Businesses that operate in the Town shall be deemed to be operating under *de facto* licenses subject to the locational and operational requirements of the Town Zoning Ordinance and the Town Code. The *de facto* license shall be subject to the remaining provisions of the Ordinance that have not been invalidated.

SECTION 7. No Mandatory Duty of Care.

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the Town or any officer or employee thereof a mandatory duty of care towards persons and property within or outside of the Town so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 8. Effective Date.

This Ordinance shall become effective thirty (30) days after its final passage and adoption.

SECTION 9. In accordance with California Government Code Section 36933(c), a summary of this Ordinance was published and the Town Clerk's office posted a complete certified copy of this Ordinance at least five days prior to the Town Council's adoption of this Ordinance. The Town Clerk shall cause a summary of this Ordinance, along with the names of the Town council members voting for and against this Ordinance, to be published in the *Windsor Times*. A certified copy of the full text of the Ordinance will be posted in the office of the Town Clerk within fifteen (15) days of its adoption.

PASSED, APPROVED AND ADOPTED this 18th day of July 2007 by the following vote:

AYES: **COUNCILMEMBERS FUDGE, GOBLE, SALMON AND MAYOR PARKER**
NOES: **NONE**
ABSTAIN: **NONE**
ABSENT: **COUNCILMEMBER ALLEN**

WARIN J. PARKER, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK