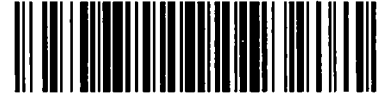




City of Chicago



SO2013-6151

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 9/11/2013

Sponsor(s): Waguespack (32)

Type: Ordinance

Title: Amendment of Municipal Code Section 16-16-110 to prohibit consumption of alcoholic liquor on premises of adult use establishments with nude entertainment

Committee(s) Assignment: Committee on Zoning, Landmarks and Building Standards

SUBSTITUTE
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 4-60-140 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

4-60-140 Prohibited activities.

(Omitted text is unaffected by this ordinance)

(d) Unless subsection (dd) applies, no person licensed under this chapter shall permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which exposes to public view specified anatomical areas, as that term is defined in Section 17-17-0104-A, or any device, costume or covering which gives the appearance of or simulates specified anatomical areas.

- (1) ~~His or her genitals, pubic hair, buttocks, perineum and anal region or pubic hair region; or~~
- (2) ~~Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or~~
- (3) ~~Any portion of the female breast at or below the areola thereof.~~

(dd) A person licensed under this chapter, if the pertinent premises is a live adult sub-use pursuant to Section 17-17-0104-A and is registered as an adult use pursuant to Chapter 16-16, may permit employees or entertainers, but not patrons, to engage in live acts, demonstrations, dances or exhibitions which expose to public view buttocks and/or female breasts at that premises.

For purposes of this section, any of the items described in subsections (d) and (dd) ~~(1) through (d)(3)~~ shall be considered exposed to public view if it is uncovered or is less than completely and opaquely covered.

(Omitted text is unaffected by this ordinance)

SECTION 2. Section 16-16-030 of the Municipal Code of the City of Chicago is hereby amended by inserting the language underscored and deleting the language stricken through, as follows:

16-16-030 Definitions.

The terms "Adult bookstore," "Adult motion picture theater," "Adult mini motion picture theater," "Adult entertainment cabaret," "Specified anatomical areas," and "Specified sexual activities" shall be defined as set forth in Section 17-17-0104-A of the code.

~~"Adult bookstore" means an establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material.~~

~~"Adult motion picture theater" means an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", for observation by patrons therein.~~

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

~~"Adult entertainment cabaret" means a public or private establishment which : (i) features topless dancers, strippers, male or female impersonators; (ii) not infrequently, features entertainers who display "specified anatomical areas;" or (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, "specified sexual activities".~~

~~"Specified sexual activities" means and is defined as:~~

- ~~1. — Human genitals in a state of sexual stimulation or arousal;~~
- ~~2. — Acts of human masturbation, sexual intercourse or sodomy;~~
- ~~3. — Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.~~

~~"Specified anatomical areas" means and is defined as:~~

- ~~1. — Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock and (c) female breast below a point immediately above the top of the areola; and~~
- ~~2. — Human male genitals in a discernably turgid state, even if completely and opaquely covered.~~

SECTION 3. Section 16-16-110 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

16-16-110 Consumption of alcoholic liquor prohibited.

~~The consumption of alcoholic liquor on the premises of any adult use where nude dancing is permitted is strictly prohibited. No owner, operator, or employee or agent thereof, of a live adult sub-use that permits the consumption of alcoholic liquor on its premises shall allow exposure of specified anatomical areas or devices, costumes or coverings in a manner inconsistent with Section 4-60-140(d) and (dd). For purposes of this section, the terms "specified anatomical areas" and "live adult sub-use" shall be defined as provided in Section 17-17-0104-A.~~

SECTION 4. Section 17-15-0300 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

17-15-0300 Nonconforming uses.

17-15-0301 Definition. A nonconforming use is a land use that was lawfully established in accordance with zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which it is now located.

17-15-0302 Change of Use.

17-15-0302-A A nonconforming use may be changed to any other use allowed by the subject zoning classification.

17-15-0302-B ~~The~~ The Zoning Administrator is authorized to approve an administrative adjustment allowing a nonconforming use to be changed to another use that is classified in the same use category (See description of "Use Groups and Categories", Sec. 17-17-0100) or to another functionally similar use, provided that the Zoning Administrator determines that the substituted use will create no greater adverse impacts on the surrounding area than the previous use. In making such a determination, the Zoning Administrator must consider all of the following factors:

1. hours of operation,
2. vehicular traffic;
3. the number of employees and other people expected to be attracted to the use; and
4. other factors likely to affect the neighborhood in which it is located.

17-15-0302-C The Alderman of the ward in which such nonconforming use is located must be notified at the time of filing of a use substitution application with the Zoning Administrator.

17-15-0302-D A nonconforming use of open land may not be changed to any other nonconforming use of open land.

17-15-0302-E A nonconforming non-live adult sub-use may not be changed, either in

whole or in part, to a nonconforming live adult sub-use.

SECTION 5. Section 17-17-0100 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

17-17-0100 Use group and category descriptions.

(Omitted text is unaffected by this ordinance)

17-17-0104 Commercial Use Group. The commercial use group includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public. The commercial use group includes the following Use Categories:

17-17-0104-A Adult Use. The term “adult use” means (i) adult book stores, (ii) adult motion picture theaters, (iii) adult mini motion picture theaters, (iv) adult entertainment cabarets, or similar establishments. Each type of use set forth in (i) through (iv) of the preceding sentence existing on, or established after, the effective date of this amendatory ordinance of 2013 shall be termed an “adult sub-use.” Use type (iv) shall be termed a “live adult sub-use.” If an establishment engages in more than one adult sub-use, the applicable adult sub-use for that establishment will be the adult sub-use that comprises the establishment's primary adult use activity. For adult uses in existence on the effective date of this amendatory ordinance of 2014, the primary adult use activity will be determined as of that effective date.

1. An adult book store is an establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities”, or “specified anatomical areas” or an establishment with a segment or section devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material.

2. An adult motion picture theater is an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, for observations by patrons therein.

3. An adult mini motion picture theater is an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, for observation by patrons therein.

4. An adult entertainment cabaret is a public or private establishment which (i) features topless dancers; or strippers, (ii) not infrequently features entertainers who display

“specified anatomical areas”; or (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, “specified sexual activities”.

means:

5. The phrase “specified sexual activities” in connection with adult uses

- (a) Human genitals in the state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy;
- (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

6. The phrase “specified anatomical areas” in connection with adult uses

means:

- (a) Less than completely and opaquely covered: ~~(a)~~ (i) human genitals, anus, perineum and pubic region, ~~(b)~~ (ii) buttock and ~~(c)~~ (iii) female breast below a point, immediately above the top of the areola; and
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Omitted text is unaffected by this ordinance)

SECTION 6. This ordinance shall be effective upon passage and publication.

Scott Waguespack
Alderman, 32nd Ward