

105B. ADULT ENTERTAINMENT SERVICES

105B.01 Findings of the City Council. The City Council of the City of Rochester finds that companionship sales, escort services and private adult dancer services can be used as fronts for prostitution and other criminal activity, thereby taxing city law enforcement resources. The Council finds that companionship sales, escort services, and private adult dancer services used as fronts for illegal sexual activity can also increase the risk of the spread of sexually transmitted diseases including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS) for which there is currently no cure.

105B.02. Definitions. Subdivision 1. The following words and terms used in this section shall have the following meanings unless the context clearly indicates otherwise.

Subd. 2. "Alcoholic beverage" means non-intoxicating malt liquor as defined in Minnesota Statutes, section 340A.101, subd. 2, and intoxicating liquor as defined in Minnesota Statutes, section 340A.101, subd. 14.

Subd. 3. "Companionship establishment" means a room or rooms used or intended to be used for the purpose of companionship sales, and accessory rooms and facilities used or intended to be used in conjunction with or to accommodate companionship sales.

Subd. 4. "Companionship sales" means a transaction in which for a fee or gratuity or in anticipation of a fee or gratuity a person provides the service of companionship, association, or fellowship to another person, or provides the service of engaging in or listening to conversation, talk, or discussion with another person for the purpose of providing such person with companionship, association, or fellowship, regardless of whether other goods or services are provided and regardless of whether such other goods or services are required to be licensed; but does not include the following services:

- (1) The sale of companionship, association, or fellowship which is not offered to the public;
- (2) Services provided incidental to the sale of intoxicating liquor or non-intoxicating malt liquor on premises licensed for such purpose;
- (3) Services provided by a charitable or religious organization;

CHAPTER 105B. ADULT ENTERTAINMENT SERVICES

(4) Services provided by an educational institution, panel, or seminar;

(5) Legal, medical, nursing, psychiatric, or psychological services by a person appropriately licensed to do so or a person possessing a degree relevant to the services being provided from a professionally accredited educational institution.

Subd. 5. "Contraceptive device" means an instrument or article for the prevention of conception.

Subd. 6. "Controlled substance" means controlled substance as defined in Minnesota Statutes, section 152.01, subd. 4.

Subd. 7. "Escort" means any individual hired for the purpose of accompanying another to or about social affairs, entertainments or places of amusement, or at any place of public resort, or within any private quarters for compensation or amusement of any kind.

Subd. 8. "Escort Service" means any person having a source of income or compensation derived from the services of an escort, or placement of an escort with a customer.

Subd. 9. "Licensed premises" means a companionship establishment, escort service or private adult dancer service licensed under this chapter.

Subd. 10. "Narcotic drug" means narcotic drug as defined in Minnesota Statutes, section 152.01, subd. 10.

Subd. 11. "Patron" means any person who seeks or solicits companionship sales, escort services, or private adult dancer services from a person employed by a companionship sales establishment, an escort service or a private adult dancer service.

Subd. 12. "Person" means any individual, firm, association, partnership, corporation, joint venture or combination of individuals.

Subd. 13. "Private Adult Dancer" means any individual hired for the purpose of dancing or otherwise entertaining patrons for a social event such as a bachelor party at a location requested by a patron and who seeks to arouse or excite the patron's sexual desires

ROCHESTER CODE OF ORDINANCES

Subd. 14. "Private Adult Dancer Service" means any person having a source of income or compensation derived from the services of a private adult dancer, or placement of an private adult dancer with a customer.

Subd. 15. "Within the City" means any physical presence as well as telephone referrals in which the business premises, although not actually located within the City, serves as a point of assignment of employees who respond to requests for services from within the City.

105B.03. Companionship Sales License/ Escort Service License. Subdivision 1. Companionship Sales License Required. No person shall operate a companionship establishment or engage in a companionship sale in the city except upon premises licensed for such purpose under this chapter.

Subd. 2. Escort Service License Required. No person shall operate, engage in, conduct, or carry on within the City an escort service without having first obtained an escort service license from the City.

Subd. 3. Private Adult Dancer Service License Required. No person shall operate, engage in, conduct, or carry on within the City a private adult dancer service without having first obtained a private adult dancer service license from the City.

Subd. 4. Application. An application for a companionship sales license, escort service license, private adult dancer service license or renewal of any license shall be made at the office of the city clerk by paying the annual license fee and completing an application form provided by the city clerk. The application shall be signed and verified by the applicant in person, and if the applicant is a corporation, by an officer of the corporation. It is unlawful to make any false statements in the application. The application shall contain the following information:

(1) The location of the premises and an exact description of the area within a building to be used as a companionship establishment, escort service or private adult dancer service. If the area to be so used is not constructed and furnished at the time the application is completed, detailed plans of the area and furnishings should be attached to the application. An exact description of the area within a building an escort service or private adult dancer service will be using is not required if the escort service or private adult dancer service dispatches employees from a location outside the city limits;

CHAPTER 105B. ADULT ENTERTAINMENT SERVICES

(2)(a) If the applicant is an individual or individuals, the name, residence address and date of birth of each applicant, the person who is to manage the operation to be licensed, and each person who is to perform the service of companionship sales or act as an escort or private adult dancer.

(b) If the applicant is a partnership, the names, addresses, and interest of all general and limited partners, including a copy of the partnership agreement and any trade names certificates filed pursuant to Minnesota Statutes Section 333.02.

(c) If the applicant is a corporation, the name of the corporation, the state of incorporation, a copy of the certificate of incorporation, the names and addresses of the officers, directors and onsite manager of the corporation as well as the names and addresses of all persons who own or control any interest in the corporation;

(3) Whether any person named in clause (2) above has ever used or ever been known by name other than the applicant's name, and if so, what name or names and information concerning dates and places where used;

(4) Whether any person named in clause (2) above is a resident alien and whether the person lacks legal authority to work and live in the United States;

(5) The type, name and location of every business or occupation of any person named in clause (2) above for the preceding 10 years, including the names and addresses of the person's employers or partners, if any, for the preceding 5 years;

(6) A description of any felony, gross misdemeanor, or misdemeanor for which any of the persons named in clause (2) above have been convicted and for which jail sentence may have been imposed, except traffic offenses and convictions which have been annulled or expunged pursuant to law, including the date, place, and disposition;

(7) A description of the services to be offered;

(8) The name of a person and address in this state upon whom service

ROCHESTER CODE OF ORDINANCES

of notice may be made as provided in this chapter;

(9) Photographs of the applicant taken by the police department showing both the front and side view;

(10) A complete set of fingerprints of the applicant taken by the police department.

Subd. 4. Issuance. An application shall be investigated by the city health officer, building safety department, police department, fire department, and planning and zoning department. Such officers and departments shall submit their reports and recommendations to the council and the license shall be granted or denied by the council pursuant to this chapter.

105B.04 Escort License. Subdivision 1. Escort License Required. No individual shall provide services as an escort within the City without first having obtained an escort license from the City.

Subd. 2. Application. An application for an escort license, or renewal of any license shall be made at the office of the city clerk by paying the annual license fee and completing an application form provided by the city clerk. The application shall be signed and verified by the applicant in person. It is unlawful to make any false statements in the application. The application shall contain the following information:

(1) The name of the applicant including whether applicant has ever used or ever been known by name other than applicant's current name, and if so, what name or names and information concerning dates and places where used;

(2) The applicant's current residence address, current home phone number, and addresses for the last 5 years;

(3) The date of birth of the applicant;

(4) Whether the applicant is a resident alien and whether the applicant lacks legal authority to work and live in the United States;

(5) The name, address of each employer or business partner of the applicant including dates of employment for the preceding 5 years;

(6) A description of applicant's convictions for any felony, gross misdemeanor, or misdemeanor offense, if any, except traffic offenses and convictions which have been annulled or expunged pursuant to law, including the date, place, and disposition;

(7) The applicant's height, weight, eye color and hair color.

(8) Photographs of the applicant taken by the police department showing both the front and side view;

(9) A complete set of fingerprints of the applicant taken by the police department.

Subd. 3. Issuance. An application shall be investigated by the police department. The department shall submit its reports and recommendations to the council and the license shall be granted or denied by the council pursuant to this chapter.

105B.05 Private Adult Dancer License. Subdivision 1. Private Adult Dancer License Required. No individual shall provide services as a private adult dancer within the City without first having obtained a private adult dancer license from the City.

Subd. 2. Application. An application for an private adult dancer license, or renewal of any license shall be made at the office of the city clerk by paying the annual license fee and completing an application form provided by the city clerk. The application shall be signed and verified by the applicant in person. It is unlawful to make any false statements in the application. The application shall contain the following information:

(1) The name of the applicant including whether applicant has ever used or ever been known by name other than applicant's current name, and if so, what name or names and information concerning dates and places where used;

(2) The applicant's current residence address, current home phone number, and addresses for the last 5 years;

(3) The date of birth of the applicant;

ROCHESTER CODE OF ORDINANCES

- (4) Whether the applicant is a resident alien and whether the applicant lacks legal authority to work and live in the United States;
- (5) The name, address of each employer or business partner of the applicant including dates of employment for the preceding 5 years;
- (6) A description of applicant's convictions for any felony, gross misdemeanor, or misdemeanor offense, if any, except traffic offenses and convictions which have been annulled or expunged pursuant to law, including the date, place, and disposition;
- (7) The applicant's height, weight, eye color and hair color.
- (8) Photographs of the applicant taken by the police department showing both the front and side view;
- (9) A complete set of fingerprints of the applicant taken by the police department.

Subd. 3. Issuance. An application shall be investigated by the police department. The department shall submit its reports and recommendations to the council and the license shall be granted or denied by the council pursuant to this chapter.

105B.06. License Fees and Term. The annual license fee for a companionship establishment, escort service, escort, private adult dancer service or private adult dancer shall be set by resolution of the City Council. Companionship establishment, escort service and private adult dancer licensees shall obtain a separate license for each place of business and licensees shall display the license in a prominent place on the licensed premises at all times. Escort and private adult dancer licensees shall carry the license on their persons when performing services. A license, unless revoked, is for the calendar year or part thereof for which it has been issued, and shall expire on December 31 of each year. If six months or less remain of the year for which the license is issued, then the license fee shall be half of the annual fee. Licensees shall apply for renewal of an existing license at least 60 days prior to expiration of the license.

105B.07. Denial of License. Subdivision 1. The Common Council may refuse to issue or to renew a license for any of the reasons listed in this section:

CHAPTER 105B. ADULT ENTERTAINMENT SERVICES

Subd. 2. The applicant, or if a partnership, a partner, or if a corporation, an officer or director, or the manager or person designated to be the manager, has a conviction of any crime that is directly related to the occupation licensed, as prescribed by Minnesota Statutes, Section 364.03, subd. 2, and the applicant has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties as prescribed by Minnesota Statutes, Section 364.03, subd. 3.

Subd. 3. An employee or person designated to be an employee has a conviction of any crime that is directly related to the occupation licensed, as prescribed by Minnesota Statutes, Section 364.03, subd. 2, and the applicant has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties as prescribed by Minnesota Statutes, Section 364.03, subd. 3.

Subd. 4. The applicant has been denied a license or has had a license issued by the City revoked within one year prior to the date of the application.

Subd. 5. The applicant is a person who is less than 18 years of age or lacks legal authority to live and work in the United States.

Subd. 6. The applicant is a person determined by the Common Council to be unsuitable to receive the requested license after giving due consideration for the protection of the public's health, safety and welfare. The factors to be considered in making this determination include, but are not limited to: (A) the applicant's previous history in operating or managing same or similar activities; or (B) the applicant's character or reputation for honesty, integrity, truthfulness, frankness, sincerity and conscientiousness.

Subd. 7. The applicant intends to run a companionship sales establishment, escort service, or private adult dancer service at a location where the applicant also holds an intoxicating liquor license issued under chapter 125A.

Subd. 8. The applicant owes taxes, assessments or other financial obligations to the City which are delinquent or unpaid.

Subd. 9. The applicant has knowingly misrepresented or falsified information on the license application.

Subd. 10. The applicant's proposed location for the companionship establishment, escort service or private adult dancer service does not comply with the City's zoning ordinances or would adversely impact the public's health, safety or

ROCHESTER CODE OF ORDINANCES

welfare. The factors to be considered in making this determination include, but are not limited to: (A) the character and suitability of the area or neighborhood in which the proposed license activity would occur; (B) the proximity of the proposed license activity to churches, schools, playgrounds or other community facilities that might be adversely affected by the activity; (C) traffic congestion or parking problems that resulting from the approval of the licensed activity at the proposed location; or (D) the impact upon law enforcement resulting from the approval of the licensed activity. (4033, 10/3/11)

105B.08. License Restrictions. Subdivision 1. No license for a companionship establishment, escort service or private adult dancer service shall be effective beyond the space comprising the licensed premises. If the licensed premises is enlarged, altered or extended, the licensee shall inform the City to permit reexamination of the premises and reconsideration of the license.

Subd. 2. No license for a companionship establishment, escort service or private adult dancer service shall be transferable from person to person or to other premises without the consent of the council.

105B.09. Service of Notice. Subdivision 1. Service Designee. Each person licensed under this chapter shall have at all times on file in the office of the city clerk the name of a person and address in this state upon whom service of notice may be made as hereinafter provided. A licensee may, from time to time, change the name or address of such person by filing written notice of such change with the city clerk.

Subd. 2. Notice by Mail. A licensee upon being issued a license under this chapter shall accept notice from the city pertaining to any matters involving the license by service of such notice by mail upon the person whose name and address is on file in the office of the city clerk.

Subd. 3. Application. Nothing herein contained shall limit or affect the right to serve any process upon the licensee in any other manner now or hereafter permitted by law.

105B.10. Revocation or Suspension of License. A license granted hereunder may be revoked or suspended by the council after public hearing for a violation of this chapter, or any other law or regulation when the violation occurs in connection with the licensed premises, or for other good cause shown. The licensee shall be given at least ten days written notice of the charges and the time and place of the public hearing by certified mail to the most recent address listed on the license application. The licensee shall have the right to testify, present witnesses, and cross-examine witnesses. If the license is revoked or suspended, no portion of the license fee shall

CHAPTER 105B. ADULT ENTERTAINMENT SERVICES

be returned to the licensee.

105B.11. Regulations. Subdivision 1. Alcoholic Beverages, Controlled Substances, and Narcotic Drugs. It is unlawful for any companionship sales employee, escort, private adult dancer or patron to possess or consume, or permit the possession or consumption of any alcoholic beverage, controlled substance, or narcotic drug on the licensed premises of a companionship sales establishment, escort service, or private adult dancer service.

Subd. 2. Contraceptive Devices. It is unlawful for any companionship sales employee, escort, private adult dancer or patron to possess a contraceptive device while on the licensed premises of a companionship sales establishment, escort service or private adult dancer service or elsewhere in the city while escort services or private adult dancer services are being provided. A license may be revoked or suspended if a contraceptive device is found on the licensed premises, or in the possession of a escort, private adult dancer or patron while services are being provided.

Subd. 3. Pornographic Material. It is unlawful for any companionship sales employee, escort, private adult dancer or patron to disseminate any pornographic material or to engage in or display a pornographic performance on the licensed premises of a companionship sales, escort service or private adult dancer service or elsewhere in the city while escort services or private adult dancer services are being provided. As used in this subdivision, disseminate, pornographic material, and pornographic performance shall have the meanings ascribed to them in section 85.05, subdivision 1.

Subd. 4. Attire. It is unlawful for an companionship sales employee, escort or private adult dancer to fail to have his or her breast, buttocks, genitals, and pubic area covered with a non-transparent material in the presence of a patron while companionship sales services, escort services or private adult dancer services are being provided.

Subd. 5. Physical Contact. It is unlawful for an companionship sales employee, escort or private adult dancer to touch with any part of his or her body, to fondle in any manner, or to massage, the breast, buttocks, genitals, or pubic area of any patron while companionship sales services, escort services or private adult dancer services are being provided. It is unlawful for any patron to touch with any part of his or her body, to fondle in any manner, or to massage, the breast, buttocks, genitals, or pubic area of any companionship sales employee, escort or private adult

ROCHESTER CODE OF ORDINANCES

dancer while companionship sales services, escort services or private adult dancer services are being provided.

Subd. 6. **Unlicensed Employees.** It is unlawful for a licensee to employ any person who is not licensed as herein provided.

105B.12. **Facilities.** Subdivision 1. It is unlawful to provide or receive a companionship sale or to initiate or conclude the services of an escort in a room which does not comply with the following standards.

Subd. 2. The room shall be illuminated while in use with a minimum of 15 foot candles of illumination.

Subd. 3. The room shall not contain a bed, sofa, or similar article of furniture.

Subd. 4. Doors to the room shall not be locked or capable of being locked and shall contain an opening or glazed area containing transparent glass or similar substance measuring not less than 12 inches by 12 inches which provides clear two-way viewing into the room.

Subd. 5. There shall be no partition, stall, screen, curtain, or other device which obstructs the view of any part of the room from the opening or window in the door.

Subd. 6. If any provision of this section is inconsistent with a comparable and applicable provision of the building code, the provision of the building code shall govern to the extent of such inconsistency.

105B.13. **Inspection.** During business hours companionship sales establishments and escort services shall be open to inspection by city health, building, and fire prevention bureau inspectors and by police officers. The main entrance and each inner door restricting access to the rooms where the service is provided shall remain unlocked during business hours and upon demand access shall be provided to an inspector or police officer to any other part of the licensed premises.

105B.14. **Business Hours.** No patron shall be allowed to enter or remain on the licensed premises of a companionship sales establishment or escort service and no escort shall be dispatched by an escort service to provide escort services after 10:00 p.m. or before 8:00 a.m. daily.

105B.15. **Severability** If any subdivision, sentence, clause or phrase of this

CHAPTER 105B. ADULT ENTERTAINMENT SERVICES

section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The City Council hereby declares that it would have adopted the subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more subdivisions, sentences, clauses or phrases is declared invalid.

(3314, 2/24/2000; 4033, 10/3/11)