

**CITY OF WEBB CITY, MISSOURI
CITY COUNCIL MEETING
AGENDA
September 28, 2009**

INVOCATION Matthew Snyder-Frisco Church

PLEDGE TO FLAG

OPENING OF MEETING

Roll Call
Public Comments

CONSENT AGENDA

- | | |
|--|--|
| 1. Council Minutes-September 14, 2009 | 2. Park Board Minutes-August 12, 2009 |
| 3. Mayor's Overtime Report-August 2009 | 4. General Sales Tax-September 2009 |
| 5. Treasurer's Report August 2009 | 6. Police Crime Statistics-August 2009 |
| 7. PD-Purchase light bars | 8. PD-Accept Grant for Wolfpacks |
| 9. PD-Purchase Ballistic Shields | 10. Purchase 16 Trash Receptacles |

ORDINANCE & RESOLUTIONS

1. Council Bill No. 09- 7446 Adult Business Zoning Ordinance (1st)

COMMITTEE REPORT

1. Financial Oversight
 A. Statement of Accounts 9-28-09 Action & Authorization
2. Committee of the Whole
 A. Next Council Meeting October 12, 2009 @ 5:30 p.m... Finance 4:45 p.m.

ADMINISTRATOR

1. Budget-Discussion (Avail Monday)
2. Administrator's Report

OTHER

ADJOURN

CLOSED SESSION

1. Real Estate- 610.021 RsMo Subsection 2
2. Resolution No. 09-2502

RECONVENE

ADJOURN

COUNCIL BILL NO. 09-7446

ORDINANCE NO. _____

AN ORDINANCE ENACTING CHAPTER 630 REGULATING ADULT BUSINESSES FOR THE CITY OF WEBB CITY, MISSOURI

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEBB CITY, MISSOURI, AS FOLLOWS:

SECTION 1. Upon recommendation by the Webb City Planning and Zoning Commission and by action of the Webb City Council, Chapter 630-Adult Businesses, a copy of which being attached hereto and incorporated herein by reference, is hereby enacted.

SECTION 2. This ordinance shall be in full force and effect from and after its date of passage.

PASSED BY THE COUNCIL OF THE CITY OF WEBB CITY, MISSOURI, this _____ day of _____, 2009.

MAYOR JOHN BIGGS

Attest:

CITY CLERK: Kimberley DeMoss

Chapter 630- ADULT BUSINESSES

Sections:

[630.010 Definitions.](#)

[630.020 License required for adult business.](#)

[630.030 Licenses required for managers, servers and entertainers.](#)

[630.040 License, classification and fees.](#)

[630.050 License limited to one identifiable type of adult use.](#)

[630.060 License application.](#)

[630.070 Examination of application--Issuance of license--Disapproval.](#)

[630.080 Licenses--Ineligibility and disqualification.](#)

[630.090 Standards of conduct.](#)

[630.100 License, posting or display.](#)

[630.110 Manager on premises.](#)

[630.120 Inspector and inspections.](#)

[630.130 Suspension, revocation or nonrenewal of license.](#)

[630.140 Notice and Hearing Procedure.](#)

[630.150 Renewal.](#)

[630.160 Judicial review--Stay of enforcement of orders.](#)

[630.170 Penalty.](#)

[630.180 Severability.](#)

630.010 Definitions.

For the purposes of this chapter and unless the context plainly requires otherwise, the following definitions are adopted:

"Adult business" means any business enterprise:

1. That has as a regular and substantial business purpose the sale, display or rental of goods that are designed for use in connection with "specified sexual activities," or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas";
or
2. That has one of the following as a regular and substantial business purpose:
 - a. The providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display "specified anatomical areas" or "specified sexual activities," or
 - b. The providing of services that provide "specified sexual activities" or "specified anatomical areas" ancillary to other pursuits, or allow participation in "specified sexual activities" ancillary to other pursuits.
3. The definition of "adult business" also includes, but is not limited to, any and all of the following, as defined herein:
 - a. That offer the following described goods or merchandise for sale or rent:
 - i. "Adult retail establishments" means an establishment which as a regular and substantial business purpose, displays or offers for sale or rent, any one or more of the following: sexually-oriented toys or novelties, lingerie, leather goods designed or marketed for use for sexual bondage or sadomasochistic practices, instruments, devices, gifts or paraphernalia which are designed to use in connection with "specified sexual activities" or clothing that graphically depicts "specified anatomical areas" or any of the materials sold or rented in an adult bookstore as defined herein.

ii. "Adult bookstore" means an establishment which as a regular and substantial business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

iii. "Adult media outlet" means an establishment that has as a regular and substantial business purpose the rental, sale or offering for viewing off the premises or other use of any adult media.

iv. "Adult news rack" means any coin or card operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

v. "Adult newsstand" means a freestanding structure, vehicle or booth which as a regular and substantial business purpose, offers for sale, books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

b. Businesses that provide the following entertainment:

i. "Adult entertainment business" means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment" as defined herein, is a regular and substantial portion of its business.

ii. "Adult motion picture theater" means an establishment containing a room with seats facing a screen or projection areas, where a regular and substantial portion of its business is the exhibition to customers of films, videotapes or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

iii. "Adult theater" means an establishment located in an enclosed building where a regular and substantial portion of its business is providing the live performance of activities relating to "specified sexual activities" or exhibition of "specified anatomical areas" or live performers, for observation by customers and patrons.

iv. "Adult entertainment cabaret" means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances; or material which is primarily characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" or are intended to arouse or excite the sexual desires of the entertainer, other entertainers, or patron.

v. "Adult entertainment studio" (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) means an establishment whose premises is physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to "specified sexual activities" or the exhibition of "specified anatomical areas".

vi. "Adult encounter parlor" means an establishment where a regular and substantial portion of its business is the provision of premises where customers

congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

vii. "Body painting studio" means an establishment where a regular and substantial portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when the subject's body is displaying for the customers view "specified anatomical areas".

c. Businesses that provide the following described services:

i. "Bath house" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying "specified anatomical areas".

ii. "Adult motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing closed circuit television transmissions, films, motion pictures, video cassettes, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" and rents room accommodations for less than six (6) hours at a time.

iii. "Escort service" means the offer of accompaniment for hire of a male or female companion.

iv. "Adult entertainment" means any live exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

v. "Adult media" means books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMs or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

vi. "Adult video viewing booth" means any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat customers or patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction of "specified sexual activities" or "specified anatomical areas" by any photographic, electronic, magnetic tape, digital or other medium (including, but not limited to film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by customers or patrons therein. "Adult video viewing booths" are sometimes referred to as "peep

shows”, “adult video arcades”, “panorams” and “adult mini-motion picture theaters”. An “adult video viewing booth” shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than 150 square feet of gross floor area. Note: as of the date of the adoption of this definition, there are no known “adult video viewing booths” within the City, and the Zoning Ordinance specifically does not list this as a permitted use in any existing zoning district.

vii. "Contagious and communicable diseases" means those diseases which are set out in the Missouri Code of State Regulations, Department of Health, 19 C.S.R. 20-20.020, as amended.

viii. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in, or at, or render any services directly related to, the operation of an adult business.

ix. "Entertainer" means any person who provides adult entertainment within an adult entertainment business as defined in this section, whether or not a fee is charged or accepted for entertainment.

x. "Manager" means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.

xi. “Minor” means any person less than eighteen (18) years of age.

xii. “Nude or Nudity” means the appearance of the human bare buttocks, anus, human genitals, the areola or the nipple of the female breast or a state of dress which fails to opaquely or fully cover the anus, human genitals or the areola or the nipple of the female breast.

xiii. "Operator" means any person operating, conducting or maintaining an adult business.

xix. “Patron” means any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business for merchandise, entertainment or service, provided that the term patron shall not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business and who do not remain in the adult business after the purpose had been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and nay such similar activity.

xx. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized.

xxi. "Premises" means any place of business of an adult business which shall include the entire lot and building occupied by the adult business and any other property owned, leased or controlled by the adult business including any parking areas adjacent to the business which are regularly utilized by employees, entertainers, servers, managers or customers of such business.

xxiii. "Public place" means any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, and automobiles whether moving or not.

xxii. "Server" means any person who serves food or drink at an adult entertainment business.

xxiii. "Specified anatomical areas" means: (1) uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or (2) human male genitals in a discernibly erect state, even if completely and opaquely covered.

xxiv. "Specified sexual activities" means sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

xxiv. "Sexually-oriented toys or novelties" means instruments, devices or paraphernalia which either depict "specified anatomical area" or are designed or marketed for use in connection with "specified sexual activities". In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities", the following guidelines may be considered:

- a. Expert testimony as to the principal use of the item;
- b. Evidence concerning the total business of a person or business or a person or business establishment and the type of merchandise involved in the business;
- c. National and local advertising concerning the use of the item;
- d. Evidence of advertising concerning the nature of the business establishment;
- e. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- f. The physical or structural characteristics of the item; or
- g. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

xxv. "Substantial business purpose" means: (1) thirty-three (33) percent or more of the gross floor space, is devoted to that purpose; or (2) thirty-three (33) percent or more of the retail floor space is devoted to that purpose or (3) thirty-three (33) percent or more of the gross sales of the business are derived from that purpose.

630.020 License required for adult business.

A. It is unlawful for any person to operate or maintain an adult business in the city unless the owner, operator or lessee thereof has obtained an adult business license from the City, or to operate such business after such license has been revoked or suspended by the City.

B. It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.

C. It shall be prima facie evidence that any adult business that fails to have posted an adult business license, in the manner required by this section, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, server, employee, manager, operator or owner who performs any business, service or entertainment in an adult business, in

which an adult business license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

D. Any business enterprise that barter, sells or rents goods that are designed for use in connection with "specified sexual activities", or that emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" and that excludes minors by virtue of age from all or any part of the business premises shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "adult business" as defined in this chapter. This entry and inspection shall take place during hours when such adult business is open to the public, unless otherwise required by the adult business, and shall not unreasonably interfere with the conduct of such business.

630.030 Licenses required for managers, servers and entertainers.

It is unlawful for any person to work as an entertainer, server or manager at an adult business without first obtaining a license to do so from the city, or to work as an entertainer, server or manager at an adult business after such person's license to do so has been revoked or suspended.

630.040 License, classification and fees.

A. The license year for all fees required under this chapter shall be from each July first through June thirtieth. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order; and no application shall be considered complete until such fee is paid.

B. All licenses shall be issued for a specific location and shall be nonrefundable and nontransferable.

C. The classification of licenses and fees for each shall be as follows:

1. Adult business license fee is three hundred dollars (\$300.00) per year;
2. Manager's license fee is twenty dollars (\$20.00) per year;
3. Entertainer's license fee is twenty dollars (\$20.00) per year;
4. Server's license fee is twenty dollars (\$20.00) per year.

630.050 License limited to one identifiable type of adult use.

All adult business licenses shall be issued for only one adult business use per premises which shall be listed on the application. More than one adult business use shall not be allowed on any one premises. Any change in the type of adult use shall invalidate the adult business license.

630.060 License application.

A. Adult Business License

All persons desiring to secure a license to operate an adult business under the provisions of this chapter shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult business. All applications shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may

require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The name, residence address, home telephone number, occupation, date, place of birth and social security number of the applicant;
2. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.
3. The name of the adult business, a description of the type of business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located;
4. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders who own ten (10) percent or greater interest in the corporation;
5. The residence addresses of the applicant, or of all partners, or of all corporate officers and directors for the five years immediately prior to the date of application;
6. A description of the adult business history of the applicant, or of the partnership and all partners, or of the corporation and all corporate officers and directors;
7. A statement from the applicant, or from all partners, or from all such corporate officers and directors, whether any such person or entity, in previously operating in this or another city, county, or state, has had a business license of any type revoked or suspended, and if so, the reason therefore, and the activity or occupation subjected to such action, suspension or revocation;
8. A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application;
9. A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:
 - a. Any felony within five (5) years immediately preceding the application, or
 - b. A misdemeanor criminal act within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or other statutes of the State of Missouri or ordinances of the city,
 - c. The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics;
10. On applications requesting a license to operate a bath house or body painting studio, the applicant shall submit to the City Clerk within forty-eight (48) hours of the time for each person to begin working on the premises a health certificate from a duly licensed Missouri physician stating that within ninety (90) days prior thereto, the applicant and all other persons working the premises have been examined and found free of any contagious or communicable

disease as defined herein. This shall be a continuing requirement and shall also initially apply to the applicant;

11. A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all such corporate officers and directors if the applicant is a corporation;

12. If the applicant is a corporation, a current certificate of registration issued by the Missouri Secretary of State;

13. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult businesses. Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

B. Manager, Server or Entertainer License.

All persons desiring to secure a license under the provisions of this chapter to be a manager, server or entertainer shall make a notarized application with the City Clerk. All applications shall be submitted in the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

1. The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining or at the business;

2. The name and address of each adult business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult business that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises. Failure to provide an "intent to hire" statement shall not invalidate the application;

3. A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

a. A felony within five (5) years immediately preceding the application; or

b. A misdemeanor within two (2) years immediately preceding the application.

Where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses as defined in the Missouri Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Missouri Controlled Substances Act or the statutes of the State of Missouri or ordinances of the city.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics;

4. A full set of fingerprints and a photograph of the applicant to be taken by the police department;

5. The applicant shall present to the City Clerk who shall copy documentation that the applicant has attained the age of eighteen (18) years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

- a. A valid motor vehicle operator's license issued by any state, bearing this applicant's photograph and date of birth,
- b. A state-issued identification card bearing the applicant's photograph and date of birth,
- c. An official and valid passport issued by the United States of America,
- d. An immigration card issued by the United States of America,
- e. Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk, or
- f. Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection B shall constitute an incomplete application and shall not be processed.

C. Facilities Necessary. No adult business license to conduct a bath house or body painting studio shall be issued unless an inspection by the director of the Jasper County Health Department, or his or her authorized representative reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets; provided, that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

2. Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The director of the Jasper County Health Department, or his or her representative, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

D. Application Processing. Upon receipt of a complete application for an adult business, manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application.

1. It shall be the duty of the Chief of Police, or his or her designee, to investigate such application to determine whether the information contained in the application is accurate and

whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the City Clerk not later than twenty (20) working days from the date the application is received by the City Clerk.

2. It shall be the duty of the City Clerk to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the city. The determination shall be completed not later than twenty (20) working days from the date the application is received by the City Clerk.

3. Upon receipt of the report from the Chief of Police, the City Clerk shall submit its report and that of the Chief of Police to the city for consideration; provided, the license application for an adult business, manager, server or entertainer license shall be approved or disapproved within forty-five (45) days from the date of filing of a completed application with the City Clerk.

630.070 Examination of application--Issuance of license--Disapproval.

A. If the application for an adult business, manager, server or entertainer license is in proper form and accompanied by the appropriate license fee, the City Clerk shall examine the application, and after such examination, the city shall, if the applicant is qualified, approve a license as provided for by law; provided a license shall not be approved to any person ineligible pursuant to Section 605.080.

B. The record of the city shall show the action taken on the application, and if the license is granted, the city shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

C. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law.

630.080 Licenses--Ineligibility and disqualification.

No person is eligible nor shall a license be issued to:

A. An adult business applicant if one or more of the following conditions exist:

1. The applicant's premises is located within one thousand (1,000) feet of any school, church, public park, licensed child care center, child daycare, or licensed child care home. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of such school, church, public park, licensed day care center, or licensed child care home;

2. The applicant's premises is located within one thousand (1,000) feet of any other adult business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of such other adult business;

3. The applicant's premises is located within three hundred (300) feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to

intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property;

4. In the case of an application for an adult business license for a business use defined in Section 605.010, described as adult entertainment business, adult motion picture theater, adult entertainment cabaret, adult entertainment studio, adult encounter parlor, body painting studio, bath house or adult motel, the applicant's premises is located within three hundred (300) feet of any residentially zoned property. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's business to the nearest point on the property line of the residentially zoned property;

5. The applicant failed to supply all of the information requested on the application;

6. The applicant gave materially false, fraudulent or untruthful information on the application;

7. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the City.

8. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 605.060(A)(8) during the time period set forth in said section;

9. The applicant has had an adult business or comparable license revoked or suspended in this or any other city during the past five (5) years;

10. If the applicant is applying for a license to operate a bath house or body painting studio and has not produced a health certificate as required herein for all persons working on the premises.

B. An applicant for a manager, server or entertainer license if one or more of the following conditions exist:

1. The employer for whom the applicant intends to work does not have or is ineligible to receive an adult business license for any of the reasons stated in subsection A of this section;

2. The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in Section 605.060(A)(8) during the time period set forth in said section;

3. The applicant failed to provide all of the information required on the application;

4. The applicant gave materially false, fraudulent or untruthful information on the application;

5. The applicant has had a manager, server, entertainer or comparable license revoked or suspended in this or any other city during the past five (5) years;

6. The applicant is applying for a license for a manager, server, entertainer or comparable license in a bath house or body painting studio and has not produced a health certificate as required herein.

630.090 Standards of conduct.

The following standards of conduct shall be adhered to by all adult business licensees, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:

A. Identification Cards. All or any manager, server or entertainer issued a license by the City under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this chapter, have in their possession a valid identification card issued by the city, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration.

B. Age Restriction. Only persons eighteen (18) years of age or older shall be permitted on the premises of any adult business.

C. Exterior Observation and Display. No adult business will be conducted in any manner that permits the observation or display of performers, servers, or entertainers engaged in an erotic depiction or dance or any material or persons, caricatures, animals, or any portion thereof depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, or any books, cards, magazines, periodicals or other printed matter, photographs, slides, films, motion pictures, or videotapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" from any exterior source including, but not limited to, by display, decoration, sign, show window or other opening.

D. Nudity Prohibited. No manager, server, employee, entertainer or patron in an adult business, other than a licensed bath house, shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any "specified anatomical areas".

E. Certain Acts Prohibited.

1. No manager, employee, server, entertainer or patron shall perform any "specified sexual activities" as defined herein, wear or use any device or covering exposed to view which simulates any "specified anatomical area", use artificial devices or inanimate objects to perform or depict any of the "specified sexual activities" as defined herein, or participate in any act of prostitution.

2. No manager, employee, server, entertainer or patron of an adult business shall knowingly touch, fondle or caress any "specified anatomical area" of another person, or knowingly permit another person to touch, fondle or caress any "specified anatomical area" of such manager, employee, server, entertainer or patron, whether such "specified anatomical areas" are clothed, unclothed, covered or exposed.

3. No manager, employee, server or entertainer of an adult business shall be visible from the exterior of the adult business while such person is unclothed or in such attire, costume or clothing as to expose to view any "specified anatomical area."

4. No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:

a. While such entertainer is on the stage or platform, a customer or patron may place such payment or gratuity into a box affixed to the stage; or

b. While such entertainer is not on the stage or platform and is clothed so as to not expose to view any "specified anatomical area", a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.

5. No owner, operator, manager, other person in charge of the premises, or employee of an adult entertainment business shall:

a. Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises, (unless otherwise permitted pursuant to this code);

- b. Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
- c. Knowingly allow or permit any person under the age of eighteen (18) years of age to be in or upon the premises;
- d. Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises;
- e. Knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.

F. Signs Required. All adult businesses shall have conspicuously displayed in the common area at the principal entrance to the premises, a sign visible from the exterior of the premises on which uppercase letters shall be at least two (2) inches high, and lowercase letters at least one (1) inch high, which shall read as follows:

THIS BUSINESS IS AN ADULT BUSINESS. ONLY PERSONS EIGHTEEN (18) YEARS OF AGE OR OLDER SHALL BE PERMITTED ON THE PREMISES.

THIS ADULT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF
WEBB CITY, ENTERTAINERS ARE:

- * Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- * Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.
- * Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or
 - While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

- * Not permitted to be upon the stage at any time.
- * Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

G. Lighting Required.

1. The interior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1) foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.
2. The exterior premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination equivalent to not less than one (1) foot-candle in all parking areas and on the general grounds of the premises as measured at the ground level, and there shall be illumination to the

equivalent of not less than five (5) foot-candles as measured at the ground level at each entrance and doorway area, and such illumination must be maintained at all times that any customer or patron is present on the premises.

H. Closed Booths or Rooms Prohibited.

1. The premises of all adult businesses shall be physically arranged in such manner that the entire interior portions of the premises and of any booths, cubicles, rooms or stalls are visible from a common area of the premises. The use of video cameras to meet this requirement is not allowed. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever. "Adult video viewing booths" are prohibited, whether or not the booth is visible from a common area of the premises. The manager shall be required to position himself or herself so as to be able to view the entire interior portion of the premises while on duty.

2. Only one person shall be allowed in any booth, cubicle or stall at a time. Such booths, cubicles or stalls shall be constructed out of metal or such other material that is incapable of perforation by any customer, employee, entertainer, server or manager on the premises. Other than the entryways, there shall be no openings, holes, access doors or any other manner of accessibility between any booth, cubicle, room or stall and any other booth, cubicle, room or stall.

I. Ventilation and Sanitation Requirements. The premises of all adult businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

J. Hours of Operation. No adult business may be open or in use between the hours of one-thirty a.m. (1:30 a.m.) and ten a.m. (10:00 a.m.) on any day other than a Sunday when the business may not be open between the hours of one-thirty a.m. (1:30 a.m.) and twelve noon (12:00 p.m.), or between the hours of twelve a.m. (12:00 a.m.) and eleven fifty-nine p.m. (11:59 p.m.) on public holidays, as defined in Section 9.010 of the Revised Statutes of the State of Missouri.

K. Facilities Necessary. No adult business license to conduct a bath house or body painting studio shall be issued unless an inspection by an appropriate city official reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:

1. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

2. Toilet facilities shall be provided in convenient locations. Toilets shall be designated as to the sex accommodated therein.

3. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

An appropriate City official shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk.

Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

630.100 License, posting or display.

A. Every person, corporation, partnership, or association licensed under this chapter as an adult business shall post such license in a conspicuous place and manner on the adult business premises.

B. Every person holding a server, manager or entertainer license shall post his or her license in his or her work area on the adult business premises so it shall be readily available for inspection by city authorities responsible for enforcement of this chapter.

630.110 Manager on premises.

A. A manager shall be on duty at any adult business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

B. It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer's license or an adult entertainment server's license and that such licenses are prominently posted.

C. It shall be the responsibility of the manager to insure persons under the age of eighteen (18) do not enter upon the premises.

630.120 Inspector and inspections.

All adult businesses shall permit representatives of the Police Department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

630.130 Suspension, revocation or nonrenewal of license.

Whenever the City Clerk has information that:

A. The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated or knowingly allowed or permitted the violation of, any of the provisions of this chapter; or

B. There have been recurrent violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or

C. The adult business license or the manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or

D. The adult business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or

E. The owner or operator or any partner or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided in Section 605.080; or

F. The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided in Section 605.080;

then the City Clerk shall make this information known to the city council, which upon five days written notice to the person holding the license, shall conduct a public hearing to determine whether the license should be suspended or revoked. The city council may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the city council may take any of the following actions:

G. Suspend the license for up to ninety (90) days;

H. Revoke the license for the remainder of the license year; or

I. Place the license holder on administrative probation for a period of up to one (1) year, on the condition that no further violations of the chapter occur during the period of probation. If a further violation does occur and after a hearing the additional violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

630.140 Notice and Hearing Procedure.

A. In any instance in this article wherein a hearing is required, the governing body shall, after no less than ten (10) days written notice to the applicant or licensee, hold such hearing to ascertain all facts in the matter.

B. Notice of such hearing shall be in writing and shall set forth the reason for the hearing or the complaint against the licensee and shall be served upon the licensee in person or by registered or certified mail to the licensee's last-known address. In the event that the governing body is unable to serve the adult entertainment business licensee in person, and any notice sent by mail is returned by the postal service, the governing body shall cause such notice to be posted at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.

C. At such hearing, an applicant or licensee shall have full right to be represented by counsel, to produce witnesses and other evidence, and to cross-examine all witnesses who appear against him or her. Oral evidence shall be taken only upon oath or affirmation. All proceedings in such hearing shall be recorded and transcribed as required by law. The governing body may receive evidence relevant to the issues from the applicant or licensee. Witnesses may be subpoenaed, and upon request of any party, the governing body shall issue subpoenas, and in the proper case, subpoenas duces tecum, which shall be served and returned as in civil actions in Circuit Court.

D. The governing body shall issue findings of fact and conclusions of law, and an order wherein it dismisses the complaint, or suspends or revokes the license previously issued. The governing body's order shall be served upon the applicant or licensee in person or by registered or certified mail to the applicant's or licensee's last-known address. In the event that the governing body is not able to serve such order upon the licensee or applicant for renewal license in the manner stated above, such order may be served by posting such order at the principal entrance of the adult entertainment business and such posting shall be a valid means of service.

630.150 Renewal.

A. A license may be renewed by making application to the City clerk on application forms provided for that purpose. Licenses shall expire on June thirtieth of each calendar year, and renewal applications for such licenses shall be submitted between June fifteenth and June thirtieth.

B. Upon timely application and review as provided for a new license, a license issued under the provisions of this chapter shall be renewed by issuance of a new license in the manner provided in this chapter.

C. If the application for renewal of a license is not made during the time provided in subsection A of this section, the expiration of such license shall not be affected, and a new application shall be required.

630.160 Judicial review--Stay of enforcement of orders.

Following the entry of an order by the City Council, suspending or revoking a license issued pursuant to this chapter, or the City Clerk disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Council may stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

630.170 Penalty.

It is unlawful for any person to violate any of the provisions of this chapter. Upon conviction thereof, such person shall be punished by a fine not to exceed five hundred dollars (\$500.00), or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of, or failure, refusal or neglect to comply with, any provision of this chapter shall constitute a separate and distinct offense.

630.180 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter, or the application thereof to any circumstances, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

Administrator's Report

Steve Garrett

September 25, 2009

I have asked Councilman Mense to look over the revision of the proposed budget this weekend. Tracy and I have made the requested changes to the proposed budget as requested, but due to time constraints we did not have a chance to review the document with Mr. Mense before the end of the day. It will be ready for review and discussion at Monday evening's meeting.

As usual, if you have any questions, feel free to contact either Tracy or I at City Hall.

Other items of interest.

The clearing and grubbing of Stadium Drive started this week.

The purchase of the Church building at the corner of Church and Webb was completed this week.

The purchase of the house at Cook and Main for the right-of-way for the expanded intersection for Main/Stadium Drive was completed this week. The purchase of the property from the American Legion will most likely be worked out next week, completing all the necessary right-of-way purchasing for this project.

News crews were out today to report on a hidden shaft that was revealed through the EPA clean-up process. The shaft was 108 feet deep and very close to the south side of Daughtery Street near the Webb City-Cartersville city limits. The hole presented no danger to the street and city crews were keeping a close eye on the situation to determine that it would not become a problem.

Milling on Broadway will begin next week, weather permitting.