



City of North Port

ORDINANCE NO. 2024-21

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CODE OF THE CITY OF NORTH PORT, FLORIDA, TO UPDATE REFERENCES TO THE DEVELOPMENT SERVICES DEPARTMENT IN CHAPTER 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS, ARTICLE II – BUSINESS TAX RECEIPTS AND ARTICLE IV – ADULT ORIENTED BUSINESSES; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 6, 2024, the City Commission adopted Ordinance No. 2024-13, providing for the repeal of Unified Land Development Code (ULDC), Chapters 1, 5, 9, 13, 14, 17, 18, 21, 25, 28, 33, 37, 41, 45, 49, 53, 54, 55, 57, 58, 59, 60, and 61, and replacement of those chapters with Chapters 1 through 4 and 6, and Appendices; and

WHEREAS, Chapter 34 of the Code of the City of North Port, Florida incorrectly references the non-existent “Building Department,” both in Article II related to business tax receipts and in Article IV related to adult-oriented businesses; and

WHEREAS, these amendments include only non-substantive revisions to the City’s adult-oriented business regulations, and the non-substantive changes do not implicate, change, or otherwise affect any first amendment rights; and

WHEREAS, the City Commission’s findings in the whereas clauses and body of Ordinance No. 2002-57 and in Chapter 34, Article IV, are incorporated as if set forth in this ordinance; and

WHEREAS, the City Commission finds that these amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.

- 1.02 In accordance with Florida Statutes Section 166.041(4)(a), the City timely posted a business impact estimate on the City’s website on or before the date the newspaper published notice of this ordinance’s final reading.

SECTION 2 – ADOPTION

- 2.01 Chapter 34 of the Code of the City of North Port, Florida is hereby amended as follows:

“Chapter 34 – LICENSES, PERMITS AND MISCELLANEOUS BUSINESS REGULATIONS

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ARTICLE II. – BUSINESS TAX RECEIPTS

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Sec. 34-23. – Date taxes are due; delinquencies; penalties; proration of new business tax receipts.

- (a) All business tax receipts shall be sold by the ~~development services department~~ North Port Building Department beginning July 1 of each year and shall be due and payable on or before September 30 of each year and shall expire on September 30 of the succeeding year. In the event that September 30 falls on a weekend or holiday, the tax shall be due and payable on or before the first working day following September 30.

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ARTICLE IV. – ADULT ORIENTED BUSINESSES

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Sec. 34-102. – Definitions.

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Department: ~~The city’s development services department~~ Building Department for the City of North Port, Florida.

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Sec. 34-103. – Adult use permits required.

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- (b) The ~~building~~ department is responsible for granting, denying, revoking, renewing, suspending, and canceling adult use permits for proposed or existing adult uses. The ~~building~~ department is responsible for inspecting any proposed, permitted or non-permitted establishment in order to ascertain whether it is in compliance with criminal statutes and ordinances, and for enforcing applicable criminal standards and ordinances. The ~~building~~ department is responsible for ascertaining whether a proposed establishment for which a permit is being applied for complies with all local requirements of ~~this article section 34-106~~ and all applicable zoning regulations.

- (c) Any person desiring to operate an adult use shall file with the ~~building~~ department three copies of a sworn permit application form supplied by the ~~building~~ department and shall pay the nonrefundable fee, as set forth in ~~section 34-107~~ the City Code.

- (d) The completed application shall contain the following information and shall be accompanied by the following documents:

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- (13) If the application is for an adult store, the application shall include, in addition to the requirements of subsections (1) through (12) hereof:

A diagram of the premises showing a plan thereof specifying the gross floor area of the section or portion of the establishment set aside for the display of adult materials. A professionally prepared diagram in the nature of an engineer's or architect's blueprint is not required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The building department may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises and size of the sections set aside for the display of adult materials has not been altered since it was prepared.

- (e) In the event the building department determines or learns at any time that the applicant has not properly completed the application for a proposed adult use, the building department shall promptly notify the applicant in writing of such fact and shall allow the applicant ten working days to properly complete the application. (The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)
- (f) By applying for a permit under this article, the applicant shall be deemed to have consented to the provisions of this article and to the exercise by the building department of their responsibilities under this article, including the inspection of an adult use for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

Sec. 34-104. – Investigation of application.

- (a) Upon receipt of an application properly filed with the building department and upon payment of the nonrefundable application fee, the building department shall immediately stamp the application received. At the conclusion of its review, the building department shall indicate on the photocopy of the application its approval or disapproval of the application, and shall date it, sign it, and, in the event of a disapproval, shall state the reasons therefore.
- (b) The building department shall disapprove an application if it finds that the proposed establishment will be in violation of any provision of any statute, code, ordinance, or regulation in effect in the City of North Port city.

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Sec. 34-106. – Issuance of permit.

(a) The ~~building~~ department shall grant or deny an application for a permit within 30 working days from the date of its proper filing. Upon the expiration of the 30th day or if the 30th day is a Saturday, Sunday, or holiday, upon expiration of the following work day, the applicant shall be permitted to begin operating the establishment for which a permit is sought, without benefit of a permit, unless and until the ~~building~~ department notifies the applicant of a denial of the application and states the reason(s) for that denial. Failure to timely grant or deny an application for a permit, and the provisions hereof that allow for the operation of a business without benefit of a permit, shall not serve to, or be interpreted to have, granted the permit. All operations of the establishment, under this subsection shall conform to the provisions of this article of these regulations during the pendency of the application review.

(b) Grant of application for a permit:

(1) If there are no grounds requiring denial, the ~~building~~ department shall grant the application; notify the applicant in writing of that action, and shall issue the permit to the applicant upon payment of the appropriate annual permit fee required by this article section 34-107.

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(c) Denial of application for a permit:

(1) The ~~building~~ department shall deny the application for an adult use permit for any of the following reasons:

a. The ~~building~~ department has disapproved the application;

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(2) If the ~~building~~ department denies the application, the ~~building~~ department shall notify the applicant of the denial by certified mail or hand delivery, and shall state the reason(s) for denial.

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Sec. 34-107. – Annual permit fees.

In order to defray the administrative and inspection costs associated with these regulations, there is hereby levied an annual permit fee for adult uses in the sum of \$2,000.00. All permit fees are nonrefundable and are subject to modification by ordinance of the city commission.

Sec. 34-109. – Expiration of permit.

- (a) Each permit shall expire one year from the date of issuance and may be renewed only by the permittee making application for renewal as provided in this article ~~section 34-103~~. The director of the ~~building~~ department or his or her designee, may waive the certificate and straight-line drawing required by this article ~~specified in section 34-103(d)(12)~~ if the applicant adopts the certificate and straight-line drawing that was previously submitted and certifies their accuracy. Application for renewal should be made at least 30 days before the expiration date, and if made less than 30 days before the permit will not be stayed. It is a violation of this article to operate an adult use with an expired permit.
- (b) If the application for renewal of a permit is denied and the director of the ~~building~~ department, or his or her designee, subsequently finds that the basis for denial of the renewal permit has been corrected or abated, the applicant shall be granted a permit.

Sec. 34-110. – Suspension of permit.

- (a) In the event the ~~building~~ department learns or finds upon sufficient cause that a permitted adult use is operating in violation of a zoning, code, ordinance or regulation, whether state or local, the ~~building~~ department shall promptly notify the permittee of the violation. Notice shall be given in writing, by hand delivery, or certified mail. The permittee shall have a 14-day period, from the date of mailing the certified notice or date of hand delivery, in which to correct the violation. If the permittee fails to correct the violation before the expiration of the 14-day period, the ~~building~~ department shall forthwith suspend the permit, and shall notify the permittee of the suspension. The adult use may not operate as an adult use during suspension of its permit. The suspension shall remain in effect until the ~~building~~ department finds that the violation has been corrected. Within 24 hours of receipt of notice that the violation(s) requiring the suspension have been corrected, the ~~building~~ department shall provide written notice to the permittee that the suspension is lifted.
- (b) In the event that the ~~building~~ department learns or finds, upon sufficient cause, that a permittee has engaged in a permit transfer contrary to the requirements of this article, ~~section 34-118~~, the ~~building~~ department shall forthwith suspend the permit, and notify the permittee of the suspension in the manner provided for in subsection (a) above. The suspension shall remain in effect until the ~~building~~ department is satisfied that all requirements of this article have been met.

Sec. 34-111. – Revocation of permit.

- (a) The director of the ~~building~~ department or his or her designee, shall revoke a permit if a cause for suspension in this article ~~section 34-110~~ occurs and the permit has been previously suspended within the preceding 12 months.

- (b) The director of the ~~building~~ department or his or her designee shall revoke a permit if it is determined in a judicial or administrative proceeding that:
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(d) When the ~~building~~ department revokes a permit, the revocation shall continue for one year and the permittee shall not be issued an adult use permit for one year from the day the revocation became effective. If, subsequent to revocation, the ~~building~~ department finds that the basis for revocation has been corrected or abated, the applicant may be granted a permit. If the permit was revoked because of the conviction of a permittee under subsection (b)(5) of this section, an applicant may not be granted another permit until the number of years set by section 34-106(c)(1)e has elapsed.
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Sec. 34-113. – In-store viewing booth regulations.

A person who operates or causes to be operated an adult store, which offers viewing booths for the use of its patrons, shall comply with the following requirements:

- (1) Upon application for an adult use permit, the application shall be accompanied by a diagram of the premises showing the plan thereof, specifying the location of one or more manager's stations, the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be allowed. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the adult use permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The ~~building~~ department may waive the requirement of a new diagram for renewal applications if the applicant certifies that a diagram previously submitted is still the existing configuration of the premises.

- (2) The application shall be sworn to be true and correct by the applicant.

- (3) No alteration in the configuration or location of a manager's station may be made without prior approval of the ~~building~~ department.

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Sec. 34-115. – Adult photographic or adult modeling studios.

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- (1) Upon application for an adult use permit, the application shall be accompanied by a diagram of the premises showing the plan thereof, specifying the location of one or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be allowed. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The ~~building~~ department may waive the requirement of a new diagram for renewal applications if the applicant certifies that a diagram previously submitted is still the existing configuration of the premises.
- (2) The application shall be sworn to be true and correct by the applicant.
- (3) No alteration in the configuration or location of a manager's station may be made without prior approval of the ~~building~~ department.

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Sec. 34-117. – Appeal.

Any decision of ~~building~~ department pursuant to ~~this article~~ these regulations may be reviewed as a matter of right by the circuit court upon the filing of an appropriate pleading by an aggrieved party.

Sec. 34-118. – Transfer of permit.

- (a) A permittee shall not transfer his or her permit to another person, and thereby surrender possession, control, and operation of the permitted establishment to such other person, unless and until the proposed transferee satisfies the following requirements:
 - (1) Obtains an amendment to the permit from the ~~building~~ department which provides that he or she is now the permittee, which amendment may be obtained only if he or she has completed and properly filed an application with the ~~building~~ department setting forth the information required by this article ~~called for under section 34-107~~ and the application has been granted by the ~~building~~ department.
 - (2) Pays a transfer fee of 20 percent of the original permit fee.

- (b) No adult use permit may be transferred when the building department has notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.
- (c) A permittee shall not transfer his or her permit to another location.
- (d) Any attempted transfer of a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed abandoned and shall automatically revert to the building department.

Sec. 34-119. – Change of business name.

No permittee/operator of an adult use may change the name of the business unless and until he or she satisfies each of the following requirements:

- (1) Provide the building department with 30 days advance notice, in writing, of the proposed name change; and
- (2) Pays the building department a \$50.00 change of name fee to cover the administrative costs associated with the name change process.

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Sec. 34-124. – Notice.

Any notice required or furnished under this article may be accomplished by sending a written notification by certified mail to any mailing address disclosed on the permit application. Said mailing address shall be considered the correct mailing address unless the building department is otherwise notified in writing by certified mail.

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SECTION 3 – CONFLICTS

- 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 4 – SEVERABILITY

- 4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 5 – CODIFICATION

5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

SECTION 6 – EFFECTIVE DATE

6.01 This ordinance takes effect on October 28, 2024.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on July 23, 2024.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on August 6, 2024.

CITY OF NORTH PORT, FLORIDA

ALICE WHITE
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY