

PROPOSED RESOLUTION  
LINCOLN PARK CITY COUNCIL

VIII

Date: August 30, 2004

MOVED: COUNCILPERSONS Brady, DiSanto, Higgins, Kandes, Murphy, Vaslo,  
MAYOR Brown

SUPPORT: COUNCILPERSONS Brady, DiSanto, Higgins, Kandes, Murphy, Vaslo,  
MAYOR Brown

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RESOLVED, that an amendment to Codified Ordinances of the City of Lincoln Park, by adding a new Chapter 808 of PART EIGHT, TITLE TWO be given its Third reading in its entirety and ADOPTED.

THE CITY OF LINCOLN PARK ORDAINS:

That the Codified Ordinances of the City of Lincoln Park be amended by adding a NEW Chapter 808 of Part Eight, BUSINESS REGULATION AND TAXATION CODE, entitled ADULT CABARETS.

CHAPTER 808 - ADULT CABARETS

808.01 PURPOSE AND FINDINGS

(a) PURPOSE.

The purpose of this chapter is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of Adult Cabarets within the City of Lincoln Park in order to promote the health, safety and morals of the City. The provisions of this chapter have neither the purpose nor the effect on imposing a limitation or restrictions on the content of any communicative materials including sexually orientated materials. Similarly, it is not the purpose to restrict or deny access by adults to sexually orientated entertainment. Whereas the City desires to minimize these adverse effects and thereby protect the health, safety and welfare of its citizenry, preserve the quality of life, preserve property values, and detour the spread of urban blight.

*morals  
changed  
to welfare  
on 8.30.04  
Council  
Meeting*

(b) FINDINGS.

The City finds that studies conducted in other municipalities establish the existence of negative secondary effects of Adult Entertainment businesses, which include Adult Cabarets; New York City Adult

Entertainment Study, 1997 and "A Digest of Research" prepared for the City of St. Mary, Georgia, 1996, summarizing the results of studies on adult entertainment businesses, McKenna Associates, Inc., "Regulating the Effects of Adult Businesses", January 4, 1999. Furthermore, the City finds that its existing adult entertainment businesses have an abundant amount of crime as reported and documentation supplied, by the Chief of Police on July 13, 2004.

- (1) Unlawful sexual acts and prostitution occur at Adult Cabarets.
- (2) Numerous studies and reports have determined that Adult Cabarets are associated with prostitution, disruptive conduct and other criminal activity which is currently not subject to effective regulation and which constitutes an immediate threat to the public health, safety and morals of the City.
- (3) The findings noted in paragraphs 1 and 2 raise substantial governmental concerns.
- (4) Adult Cabarets have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
- (5) The disclosure of certain information by those persons ultimately responsible for the day-to-day operations and maintenance of Adult Cabarets, and by employees of such business, will facilitate the enforcement of this ordinance and other federal, state and local laws, and will thereby further the substantial governmental concerns in protecting public health, safety and welfare.
- (6) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of Adult Cabarets. Further, such licensing procedure will place an incentive on operators to see that Adult Cabarets are run in a manner consistent with the health, safety and morals of patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the Adult Cabaret and fully in possession and control of the premises and activities occurring on such premises.

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908.02 DEFINITIONS.

(a) "ADULT CABARET" means a nightclub, bar restaurant, gentleman's club, or a similar establishment that regularly features:

- (1) Persons who appear in a state of nudity or state of semi nudity; or
- (2) Live entertainment of an erotic nature including exotic dancers, strippers or similar entertainment.

(b) "SPECIFIED CRIMINAL ACTIVITY" means any of the following:

- (1) Prostitution or promoting prostitution, soliciting, loitering to engage in solicitation, sexual performance by a child, public lewdness, indecent exposure, indecency with a child, sexual assault, molestation of a child, or any similar offenses to those described above under the criminal or penal code or any local jurisdiction, state, or country;

(2) for which:

(a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the latest date, if the conviction is of a misdemeanor offense; or

(b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

908.03 ADULT CABARET LICENSE REQUIRED.

(a) No person shall:

- (1) Operate an Adult Cabaret without a valid Adult Cabaret license issued by the City of Lincoln Park.

- (2) Retain the services of a person as an employee who is not licensed as an Adult Cabaret employee by the City of Lincoln Park.

808.04 ADULT CABARET EMPLOYEE LICENSE REQUIRED.

- (a) No person shall act as an employee on the premises of an Adult Cabaret without having secured an Adult Cabaret employee license from the City of Lincoln Park

808.05 ADULT CABARET LICENSE APPLICATION.

- (a) An application for an Adult Cabaret license shall be submitted to the City Clerk on a form provided by the City Clerk. The application may request and the applicant shall provide such information as reasonably necessary, including fingerprints to enable the City of Lincoln park to determine whether the applicant meets the qualifications established by the City of Lincoln Park.
- (b) An application for an Adult Cabaret license shall identify and be signed by the following persons:
  - (1) If the business entity is owned by an individual, that individual.
  - (2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than 50 percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the Adult Cabaret
  - (3) If the business entity is owned by a partnership, a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner, and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the Adult Cabaret.
- (c) An application for an Adult Cabaret license must designate one or more individuals who are to be principally responsible for the operation of the Adult Cabaret if a license is granted. At least one

- (4) State the mailing address and residential address of each applicant and each person signing the application.
- (5) Submit a recent photograph of each applicant, taken by the City of Lincoln Park Police Department that clearly shows the applicant's face.
- (6) Submit fingerprints of each applicant, recorded by the City of Lincoln Park Police Department.
- (7) For any applicant describe and identify the location of any tattoos on such person's face, arms, legs, or hands.
- (8) State the driver's license number or state identification number of each applicant.
- (9) Submit proof of each applicant's Social Security number or applicant's federally issued tax identification number
- (10) Submit proof that each applicant is at least eighteen (18) years old.

808.06 ISSUANCE OF ADULT CABARET LICENSE

- (a) Upon receipt of an application for an Adult Cabaret license, the City Clerk shall promptly request that the Chief of Police investigate the information provided in the application concerning the criminal background of the applicant(s) and the Chief of Police shall transmit the results of the investigation in writing to the City Clerk within five (5) days of the completion of the investigation.
- (b) Within twenty-one (21) days after receipt of completed Adult Cabaret license application, the City Clerk shall approve or deny the issuance of a license. The City Clerk shall approve the issuance of a license to an applicant unless the City Clerk determines that one or more of the following findings are true:
  - (1) An applicant is under eighteen (18) years of age.
  - (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents that are insufficient on their face.

- (3) An applicant has been denied an adult business license or has had a license to operate an Adult Cabaret revoked within the proceeding twelve (12) months by any jurisdiction.
  - (4) The application fee required has not been paid.
  - (5) The applicant has been convicted of a specified criminal activity as defined by this chapter.
  - (6) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal action.
  - (7) If the City Clerk determines that no other grounds for denial of a license exists the City Clerk shall not delay approval of the application past the twenty-one (21) day period.
  - (8) An Adult Cabaret license, if granted, shall state on its face the name of the person or persons to whom it was granted, the expiration date, the address of the licensed Adult Cabaret. All Adult Cabaret licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.
- (c) If the Adult Cabaret license is denied, the City Clerk shall advise the applicant in writing of the reason(s) for any such denial.

308.07 ADULT CABARET EMPLOYEE LICENSE APPLICATION.

- (a) An application for an Adult Cabaret Employee license shall be submitted to the City Clerk on a form provided by the City Clerk. The application may request and shall provide such information as reasonably necessary, including fingerprints to enable the City Clerk to determine whether the applicant meets the qualifications established for approval.
- (b) An application for an Adult Cabaret employee license shall be completed according to the instructions of the application form, which shall require the following:
  - (1) State the applicants name and any other names, including stage names or aliases used by the applicant.

- (2) State the applicant's date and place of birth.
- (3) State the applicant's height, weight, hair and eye color.
- (4) Submit a recent photograph of the applicant, taken by the City of Lincoln Park Police Department, which clearly shows the applicants face.
- (5) Submit the applicant's fingerprints, recorded by the Police Department.
- (6) Describe and identify the locations of any tattoos on the applicant's face, arms, legs, or hands or any other area that would normally be visible when the applicant is on the premises of the Adult Cabaret.
- (7) State the applicants present address and telephone number.
- (8) State the applicant's driver license number or State Identification Number.
- (9) Submit proof of each applicants Social Security number or applicant's federally issued tax identification number.
- (10) Submit proof that each applicant is at least eighteen (18) years old.
- (11) State whether any applicant has been convicted of a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.

908.08 ISSUANCE OF ADULT CABARET EMPLOYEE LICENE

- (a) Upon receipt of a completed application for an Adult Cabaret employee license, the City Clerk shall issue a temporary license to said applicant immediately.
- (b) Within five (5) days of receipt of a completed application for an Adult Cabaret employee license, the City Clerk shall request that the Chief of Police initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Chief of Police shall document the results of his investigation in writing within five (5) days of the completion of the investigation



and transmit the results in writing to the City Clerk.

- (c) Within ten (10) days after completion of the investigation of the applicant's criminal background the City Clerk shall approve or deny the issuance of the license. The City Clerk shall approve the issuance of a license to an applicant unless the City Clerk determines that one or more of the following findings are true:
- (1) An applicant is under eighteen (18) years of age.
  - (2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents that are insufficient on their face.
  - (3) An applicant has been denied an Adult Cabaret employee license or has had an Adult Cabaret employee license revoked within the preceding twelve (12) months by any jurisdiction.
  - (4) The application fee required has not been paid.
  - (5) The applicant has been convicted of a specified criminal activity as defined by this chapter.
- (d) If the Adult Cabaret employee license is denied, the temporary license previously issued is deemed null and void. The City Clerk shall advise the applicant in writing of the reason(s) for any such denial.

#### 808.09 FEES

- (a) Every application for a new Adult Cabaret license shall be accompanied by a three hundred and fifty dollar (\$350.00) non-refundable application, investigation and license fee.
- (b) Every application for renewal of an Adult Cabaret license shall be accompanied by a one hundred and fifty dollar (\$150.00) non-refundable application, investigation and license fee.
- (c) Every application for a new Adult Cabaret employee license shall be accompanied by a seventy-five dollar (\$75.00) non-refundable application, investigation and license fee.
- (d) Every application for a renewal of an Adult Cabaret employee license shall be accompanied by a fifty

dollar (\$50.00) non-refundable application,  
investigation and license fee.

808.10 RENEWAL

- (a) Application for renewal shall be made no more than ninety (90) days and no less than thirty(30) days before the expiration date. If application is made less than thirty (30) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.
- (b) the City Clerk shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses.
- (c) The City Clerk shall advise the applicant in writing of the reason(s) for any denial of a license renewal.
- (d) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license.

808.11 SUSPENSION

- (a) The City Clerk shall suspend an Adult Cabaret license for a period not to exceed thirty (30) days if it determines that a licensee:
  - (1) Has violated or is not in compliance with any section of this chapter.
  - (2) Has knowingly allowed an employee to violate or fail to comply with any section of this chapter.
- (b) The City Clerk shall suspend an Adult Cabaret license for a period of thirty (30) days if it is determined that a licensee or an employee or agent has refused to allow, has prohibited or has interfered with an inspection of the licensed Adult Cabaret premises.
- (c) The City Clerk shall advise the licensee in writing of the reason(s) for any suspension.

808.12 REVOCATION

- (a) The City Clerk shall revoke an Adult Cabaret license

requested on the application form, or provided information or documents as requested on the application that are insufficient.

- (2) A licensee has knowingly acted as an employee on the premises of an Adult Cabaret during a period of time when the licensee's license was suspended.
- (3) A licensee has been convicted of a specified criminal activity as defined in this chapter.
- (4) The City Clerk shall advise the licensee in writing of the reason(s) for any revocation.
- (5) No applicant to whom a license has been refused or whose license has been revoked shall make further application for a license for at least six(6) months after such last previous rejections or revocation, unless he or she can show, to the satisfaction of the City Clerk, that the reasons for such rejection or revocation no longer exists.

#### 808.13 TRANSFER OF LICENSE.

- (a) An Adult Cabaret license is not transferable from one to another or from one location to another. Any purported transfer of an Adult Cabaret license shall automatically and immediately revoke that license.
- (b) An Adult Cabaret employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed Adult Cabaret to another such licensed establishment during the term of the license, provided the licensee gives written notice of such transfer to the City Clerk within fifteen (15) days of such transfer.

#### 808.14 ADDITIONAL REGULATIONS CONCERNING ADULT CABARETS

- (a) All live entertainment and performances in an Adult Cabaret must take place on a stage that is at least 24 inches from the floor and a distance of at least 60 inches from all parts of a clear designated area in which patrons will be present.
- (b) The state shall be separated from the area in which patrons may be present.
- (c) All Adult Cabarets that offer live entertainment must

provide separate dressing room facilities for female and male entertainers that shall not be occupied or used by any patrons of said establishment.

- (d) No live performances shall be provided or allowed at any time in the restrooms of an Adult Cabaret.
- (e) No Adult Cabaret shall be operated in any manner that permits the observation from the outside of the premises of any material or entertainment.
- (f) It shall be the duty of the operator of an Adult Cabaret to initiate and enforce a no loitering policy within the external boundaries of the real property upon which the Adult Cabaret is located.
- (g) Provide adequate signs that state no loitering is permitted on premises.
- (h) The operator of an Adult Cabaret must designate one or more employees to monitor the activities of persons on such property at least once every thirty (30) minutes or inspecting such property by use of video cameras and monitors, during the hours of operation. If video equipment is utilized the Adult Cabaret licensee shall provide sufficient exterior lighting to provide clear viewing of the premises. The monitors shall be installed within a manager's station.

808.15 EXISTING ADULT CABARETS; EXEMPTION FROM REGISTRATION UNTIL MAY 2006.

Any establishment in operation on the effective date of this chapter that is considered an Adult Cabaret under the terms of this chapter will be subject to the terms of this chapter. Any such establishment must submit an application for an Adult Cabaret license pursuant to this chapter and in compliance with the license year of the city which license year begins on the first Tuesday in May of each year and shall terminate on the first Tuesday in May of the following calendar year.

808.16 EMPLOYEES OF EXISTING ADULT CABARETS; EXEMPTION FROM REGISTRATION UNTIL MAY 2006.

Any person acting as an employee in an establishment that is considered an Adult Cabaret must submit an application for an Adult Cabaret employee license pursuant to this chapter and in compliance with the licensing year of the City which license year begins on the first Tuesday in May of each year and shall terminate on the first Tuesday in May of the following calendar year.

808.17 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this chapter shall be deemed unconstitutional or invalid, the validity of the remaining sections, subsections and clauses shall not be effected.

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YEAS:	COUNCILPERSONS MAYOR Brown.	Brady,	DiSanto,	Higgins,	Kandes,	Murphy,	Vasio,
NAYS:	COUNCILPERSONS MAYOR Brown	Brady,	DiSanto,	Higgins,	Kandes,	Murphy,	Vasio,
ABSTAINED:	COUNCILPERSONS, MAYOR Brown.	Brady,	DiSanto,	Higgins,	Kandes,	Higgins,	Vasio,