



## License Fees – Adult Bookstores - #845

### Executive Summary

#### *Why CAO Did This Review*

Pursuant to Section 5.10 of the Charter of the City of Jacksonville and Chapter 102 of the Municipal Code, we conducted an audit of the City's activities related to the "adult bookstores" as defined by Section 150.103 (a).

The adult bookstore licensing and administration process is governed by Chapter 150 of the Municipal Code. Any new adult bookstores must apply for a license with the Jacksonville Sheriff's Office (JSO) and pay an application fee of \$400. Licenses must be renewed annually by October 1 for a fee of \$400. Per Section 150.215(b) of the Municipal Code, this license fee is in addition to and not in lieu of the occupational license taxes imposed by Chapter 770 and Chapter 772 of the Municipal Code, which are collected by the Tax Collector's Office (see Audit Report #834). The adult bookstore licensing fee is paid for the purpose of examination and inspection of licensed premises.

Section 150.201 of the Municipal Code states that the responsibility for the administration and enforcement of Chapter 150 of the Municipal Code is vested in the Sheriff.

#### *What CAO Found*

While the Sheriff's Office appears to be able to assess and collect the adult bookstore license fees required by Chapter 150 of the Municipal Code, the processes and procedures were not documented, and no transactions had been processed since no applications or renewals had been received.

The following issues were noted:

- JSO did not have any applications for adult bookstore licenses since the implementation of Chapter 150 and no payments had been received at the time of our audit.
- The written standard operating procedures for the division that is in charge of compliance with Chapter 150 of the Municipal Code at JSO did not have sufficient detail on the application process and managing of licenses for adult bookstores.
- The Planning and Development Department did not have written standard operating procedures for the adult bookstore certificate of use issuance process.

#### *What CAO Recommends*

- JSO should contact all suspected adult bookstores and begin the process of bringing these businesses into compliance with Chapter 150 of the Municipal Code.
- JSO should develop and maintain comprehensive written standard operating procedures related to processing adult bookstore applications and managing licenses.
- The Planning and Development Department should develop and maintain written standard operating procedures related to issuance of certificates of use for adult bookstores.



**Council Auditor's Office**

**License Fees – Adult Bookstores**

**September 16, 2020**

**Report #845**

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**EXECUTIVE SUMMARY**

**AUDIT REPORT #845**

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**OFFICE OF THE COUNCIL AUDITOR**  
Suite 200, St. James Building



September 16, 2020

Report #845

Honorable Members of the City Council  
City of Jacksonville

**INTRODUCTION**

Pursuant to Section 5.10 of the Charter of the City of Jacksonville and Chapter 102 of the Municipal Code, we conducted an audit of the City's activities related to the "adult bookstores" as defined by Section 150.103 (a).

The adult bookstore licensing and administration process is governed by Chapter 150 of the Municipal Code. Any new adult bookstores must apply for a license with the Jacksonville Sheriff's Office (JSO) and pay an application fee of \$400. Licenses must be renewed annually by October 1 for a fee of \$400. Per Section 150.215(b) of the Municipal Code, this license fee is in addition to and not in lieu of the occupational license taxes imposed by Chapter 770 and Chapter 772 of the Municipal Code, which are collected by the Tax Collector's Office (see Audit Report #834). The adult bookstore licensing fee is paid for the purpose of examination and inspection of licensed premises.

When a business applies for a license, a sworn application must be filed. Detailed information must be provided in the application, and it should include a proof of proper zoning from the Planning and Development Department. Upon a receipt of an application and payment, JSO must investigate both the qualifications of the applicant and the proposed licensed premises. The Public Health Unit, the Building Inspection Division and Jacksonville Fire and Rescue Department must also investigate the proposed licensed premises for compliance with Chapter 150 and other applicable ordinances related to construction, safety, fire protection, and public health. For example, all materials, devices, and novelties must be displayed so that they cannot be seen by anyone other than customers who have entered the premises. There are also restrictions on where an adult bookstore can be located. Per Section 656.313 of the Municipal Code, adult bookstores must be zoned as Commercial Community/General-2 (CCG-2) District. Also, Chapter 656 of the Municipal Code lists additional requirements for adult bookstores such as distance from another adult entertainment facility (which is a broader category in which adult bookstores fall into), residential district, school, church, or business with an on premises consumption beverage license.

Finally, Section 150.201 of the Municipal Code states that the responsibility for the administration and enforcement of Chapter 150 of the Municipal Code is vested in the Sheriff.

## **STATEMENT OF OBJECTIVE**

To determine if there are written processes and procedures in place for the Sheriff's Office to properly assess and collect license fees against adult bookstores as required by Chapter 150 of the Municipal Code.

## **STATEMENT OF SCOPE AND METHODOLOGY**

The scope of the audit was JSO's licensing process for adult bookstores. A list of adult bookstores was provided by JSO on March 10, 2020. Based on information provided by JSO, no license had ever been applied for and therefore, there had never been any initial application or renewal payments.

We conducted staff interviews with JSO, Planning & Development Department, and Jacksonville Fire Rescue Department to get an understanding of the adult bookstore licensing process. We reviewed the applicable written standard operating procedures, rules, laws, and regulations regarding adult bookstores. We evaluated the current processes and tools in place to license and monitor adult bookstores located in the City.

As there had never been any adult bookstores that applied for or been issued a license under Chapter 150 of the Municipal Code, no transactional testing was able to be performed.

## **REPORT FORMAT**

Our report is structured to identify Internal Control Weaknesses, Audit Findings, and Opportunities for Improvement as they relate to our audit objective(s). Internal control is a process implemented by management to provide reasonable assurance that they achieve their objectives in relation to the effectiveness and efficiency of operations and compliance with applicable laws and regulations. An Internal Control Weakness is therefore defined as either a defect in the design or operation of the internal controls or is an area in which there are currently no internal controls in place to ensure that management's objectives are met. An Audit Finding is an instance where management has established internal controls and procedures, but responsible parties are not operating in compliance with the established controls and procedures. An Opportunity for Improvement is a suggestion that we believe could enhance operations.

## **STATEMENT OF AUDITING STANDARDS**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## **AUDITEE RESPONSES**

Responses from the auditee have been inserted after the respective finding and recommendation. We received these responses from the Sheriff's Office, via Assistant Chief S.G. Gallaher, in a memorandum dated April 2, 2021 and from the Planning and Development Department, via William Killingsworth, Director of Planning and Development Department, in a memorandum dated April 12, 2021.

## **AUDIT CONCLUSION**

While the Sheriff's Office appears to be able to assess and collect the adult bookstore license fees required by Chapter 150 of the Municipal Code, the processes and procedures were not documented and no transactions had been processed since no applications or renewals had been received.

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## **AUDIT OBJECTIVE**

To determine if there are written processes and procedures in place for the Sheriff's Office to properly assess and collect license fees against adult bookstores as required by Chapter 150 of the Municipal Code.

### ***Finding 1 – Adult Bookstores Operating Without License***

JSO did not have any applications for adult bookstore licenses since the implementation of Chapter 150 and no payments had been received at the time of our audit. JSO staff identified twelve potential adult bookstores in the City at the time we conducted our audit that had not been issued an adult bookstore license by JSO as required by the Chapter 150 of the Municipal Code. This would be a loss of \$4,800 in annual renewal fees (12 potential locations times \$400).

One cause for why there may not have been applications was that adult bookstores were usually classified as regular "retail" if a certificate of use was issued by the City. Moreover, even if a certificate of use for an "adult bookstore" was issued to a business, JSO was not notified by the City (see Supplemental Opportunity for Improvement 1).

### **Recommendation to Finding 1**

JSO should contact all suspected adult bookstores and begin the process of bringing these businesses into licensing compliance with Chapter 150 of the Municipal Code.

**JSO Response to Finding 1**

Agree                       Disagree                       Partially Agree

*JSO, in coordination with the Planning and Development Department, will contact all of the suspected adult bookstores and begin the process of bringing them into licensing compliance. At present, portions of Chapters 150 & 151 of the Municipal Code are the subject of Federal litigation; however, those portions are not specifically related to adult bookstores and are not expected to affect any of the current legislation pertaining to adult bookstores. JSO's goal is to complete this notification process within 90 days, although the exact timeline of completion may depend in part on the outcome of the pending Federal Court's decision(s).*

**Internal Control Weakness 1 – Lack of Standard Operating Procedures for JSO**

We reviewed the written standard operating procedures for the JSO division that is in charge of compliance with Chapter 150 of the Municipal Code. They covered various processes that this division is involved with; however, there was not sufficient detail on the application process and managing of licenses for adult bookstores.

**Recommendation to Internal Control Weakness 1**

We recommend that JSO develop and maintain comprehensive written standard operating procedures related to processing adult bookstore applications and managing licenses.

**JSO Response to Internal Control Weakness 1**

Agree                       Disagree                       Partially Agree

*JSO will begin developing a written policy related to processing adult bookstore applications and managing licenses. JSO will consult with all City entities involved in the licensing and administrative processes to ensure proper delegation and authority.*

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**SUPPLEMENTAL ISSUES**

**Supplemental Internal Control Weakness 1 – Lack of Standard Operating Procedures for Planning and Development Department**

The certificate of use process is administered by the Planning and Development Department for businesses which either opened or changed after 2006. The Planning and Development Department did not have written standard operating procedures for the adult bookstore certificate of use issuance process. While researching a listing of adult bookstores provided by JSO, we reviewed the certificates of use issued to the businesses at those locations. Municipal Code Section 656.151(a) states “no structure, other than a single-family residence or duplex, shall be

used or any existing use enlarged, or any new use made of any land, body of water, or structure, without first obtaining a certificate of use from the Department. Said certificate of use shall be required for each individual business and each multi-family building located within the City.” This process is administered by the Planning and Development Department.

When a certificate of use is issued to an adult bookstore, additional steps have to be performed. For example, adult bookstores can only be located in Commercial Community/General-2 District per Section 656.313 of the Municipal Code. However, the only business that was issued an “adult bookstore” certificate of use was not in compliance with this requirement (See Supplemental Opportunity for Improvement 2 for additional information about why the others may not have had an “adult bookstore” certificate of use). Also, per Planning and Development Department, a distance survey completed by a registered surveyor must be provided. Therefore, to ensure compliance with the Municipal Code, it would be beneficial for the department to have standard operating procedures that would list all of the additional steps that need to be performed.

**Recommendation to Supplemental Internal Control Weakness 1**

The Planning and Development Department should develop and maintain written standard operating procedures related to issuance of certificates of use for adult bookstores.

**Planning and Development Response to Supplemental Internal Control Weakness 1**

Agree                       Disagree                       Partially Agree

*The Department will prepare SOPs for COUs regarding Adult Bookstores by October 29, 2021.*

**Supplemental Opportunity for Improvement 1 – Notifying JSO of Adult Bookstore Application**

The Planning and Development Department keeps track of certificates of use by using a computer system. When one applies for a certificate of use, data about the applicant must be entered in this system. There is a separate yes/no checkbox that one must fill out to indicate if a business is a new or existing adult entertainment facility which is the category that adult bookstores fall into. Even if this box is checked by the Planning and Development Department, the system would not notify JSO (or any other relevant parties) about a new adult bookstore, nor would the Planning and Development Department contact JSO directly.

**Recommendation to Supplemental Opportunity for Improvement 1**

The Planning and Development Department and JSO should collaborate on a method to ensure that JSO is notified when an entity has applied for a certificate of use and indicated that it is in in the “Adult Bookstore” category or any other category that requires actions to be taken by JSO.

**JSO Response to Supplemental Opportunity for Improvement 1**

Agree                       Disagree                       Partially Agree



*JSO will collaborate with the Planning and Development Department on a method to ensure that JSO is notified when an entity has applied for a COU as an adult bookstore.*

**Planning and Development Response to Supplemental Opportunity for Improvement 1**

Agree                       Disagree                       Partially Agree

*The Department will forward COUs regarding adult entertainment facility to JSO starting May 3<sup>rd</sup> 2021.*

**Supplemental Opportunity for Improvement 2 – Providing Definition of Adult Entertainment Facility on Application**

Of the 12 potential locations, 6 had a certificate of use on file with the Planning and Development Department (due to when the certificate of use process went into effect, not all may be required to have one). Of the 6 locations that were issued certificates of use, 5 were classified as some type of retail businesses rather than being classified as an adult entertainment facility (which is the category that adult bookstores fall into) in the Planning and Development Department’s system. The certificate of use application has various business categories (e.g., restaurant and day care), and an applicant must mark one of those categories. While this list includes adult entertainment facility, there are no examples of what businesses fall under this category. Naturally, if an adult bookstore applies for a certificate of use, it is more likely that “retail sales” instead of “adult entertainment facility” would be chosen by an applicant without additional information necessary to identify if the facility meets the definition of an adult bookstore.

**Recommendation to Supplemental Opportunity for Improvement 2**

The Planning and Development Department’s certificate of use application should expand on the definition of adult entertainment facility or provide examples of what types of businesses are included in the term.

**Planning and Development Response to Supplemental Opportunity for Improvement 2**

Agree                       Disagree                       Partially Agree

*The Department will place the definition of adult entertainment facility on the COU application; as well as, the definitions of the terms defined in Chapter 150.*

**Supplemental Opportunity for Improvement 3 – Submitting Certificate of Use Applications Electronically**

The Planning and Development Department’s certificate of use application is currently available only in paper form. Once an application is filled out by a customer and received by the Planning and Development Department, employees have to enter the information from the paper application into the system. Also, this system was not available online to the public. Allowing

customers to electronically submit applications directly to the system could improve customer experience. Also, City employees would not need to spend their time manually entering the information from the paper application into the electronic system.

**Recommendation to Supplemental Opportunity for Improvement 3**

When a new system is being implemented or the existing system is upgraded, the Planning and Development Department should consider offering an online option for certificate of use applications.

**Planning and Development Response to Supplemental Opportunity for Improvement 3**

Agree                       Disagree                       Partially Agree

*The Department will consider offering online option for COUs as part of the new system.*

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We appreciate the assistance and cooperation we received from the Jacksonville Sheriff's Office, Planning and Development Department, and the Fire and Rescue Department throughout the course of this audit.

Respectfully submitted,

*Kim Taylor*

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Council Auditor

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