

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 14, ARTICLE IV "ADULT ESTABLISHMENTS" OF THE
BUNCOMBE COUNTY CODE

AUTHORIZING THE BUNCOMBE COUNTY SHERIFF'S DEPARTMENT TO SEEK STATE ACCESS TO
SBI/DCI CRIMINAL HISTORY RECORD INFORMATION FOR USE IN DETERMINING THE SUITABILITY
OF AN APPLICANT FOR AN ADULT BUSINESS OR ADULT ENTERTAINER LICENSE.

- WHEREAS, North Carolina General Statute § 14-202.11 provides that a local government may regulate the location and operation of adult establishments or other sexually oriented businesses within its jurisdiction; and
- WHEREAS, pursuant to Chapter 14, Article IV, Buncombe County has established a permitting scheme to regulate adult establishments and adult entertainers; and
- WHEREAS, in order to determine the suitability of an applicant, the Buncombe County Sheriff's Department desires State access to the SBI/DCI Criminal History Record Information to obtain criminal history information on all persons applying for adult establishment and adult entertainer licenses within the County; and
- WHEREAS, the Sheriff or his designee is responsible for conducting the background investigations for each applicant and shall obtain said criminal history information on each applicant based on the identification information regarding the applicant contained in the notice of permit application; and
- WHEREAS, if said criminal history information reveals that an applicant has been convicted of any felony within five years immediately preceding the application or a misdemeanor criminal action within two years immediately preceding the application involving sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or other related offenses, the County will deny the permit application; and
- WHEREAS, the County's Planning Department is the government agency responsible for the issuance of all adult establishment/entertainer permits based on the Sheriff Department's recommendations.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONS OF BUNCOMBE COUNTY THAT:

Section 1. Chapter 14, Article IV, Sec. 14-124 of the Buncombe County Code of Ordinances is amended to read as follows by adding the following section:

“14-124(g). The Sheriff’s authority regarding criminal history information for applicants for adult establishment and adult entertainer licenses.

The Sheriff department shall be authorized to seek state access to SBI/DCI Criminal History Record Information to obtain criminal history information on all persons applying for an adult establishment licenses and an adult entertainer licenses to assist the Planning Department in determine the suitability of each applicant. The Applicant shall be responsible for all fees charged by the SBI/DCI as set by the State of North Carolina and by the County Commissioners in the annual fee schedule for the criminal history check.”

Section 2. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 3. Should any provision of this ordinance be declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4. This ordinance shall take effect and be in force from and after the date of its adoption.

Read, approved and adopted this _____ day of August 2013.

ATTEST

BOARD OF COMMISSIONERS FOR THE
COUNTY OF BUNCOMBE

KATHY HUGHES, CLERK

BY: _____
DAVID GANTT, CHAIRMAN

APPROVED AS TO FORM

COUNTY ATTORNEY