

ARTICLE XVII. SEXUALLY ORIENTED BUSINESSES

Sec. 1701. Purpose.

The Town Board is committed to protecting the general welfare of the Town through the enforcement of laws prohibiting obscenity, indecency, and sexual offenses. It seeks to reduce and eliminate the deleterious effects of sexually oriented businesses while preserving constitutionally protected forms of expression. The Board finds that sexually oriented businesses in certain locations contribute to neighborhood deterioration and blight through an increase in crime and diminution of property values, among other adverse consequences, and finds that such effects are contrary to the general welfare of the Town. The Board recognizes that important and substantial government interests provide a constitutional basis for reasonable regulation of the time, place and manner under which sexually oriented businesses operate, and that, therefore, the Board has determined that persons seeking to operate sexually oriented businesses shall be required to observe specific locational requirements before they commence business, as provided for in this article. The Board finds that the licensing of sexually oriented businesses is necessary to ensure compliance with the locational and zoning requirements of such businesses. The Board finds that sexually oriented businesses as in other communities have been used for unlawful sexual activities, including prostitution, and sexual encounters of a casual nature. The concern over sexually transmitted diseases is a legitimate health concern of the Town. The provisions of this article shall not be construed as permitting any use, activity or structure that is otherwise prohibited, illegal or made punishable by law, nor shall it be construed so as to prohibit conduct or expression that is subject to constitutional protection.

Sec. 1702. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adult arcade (also known as "peep show") means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to persons in booths or viewing rooms where the images so displayed depict or describe "specified sexual activities" or "specified anatomical areas."

Adult bookstore and *adult video store* mean a commercial establishment:

(1) Which receives a majority of its gross income during any calendar month from the sale of or rental of any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

b. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities"; or

(2) Having as a preponderance of its books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult cabaret means a nightclub, bar, restaurant, or other commercial establishment that regularly features, exhibits or displays as one of its principal business purposes:

(1) Persons who appear nude or semi-nude; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment that:

(1) Offers accommodations to the public for any form of consideration, provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that depict or describe "specified sexual activities" or "specified anatomical areas" as one of its principal business purposes; or

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours; or

(4) Offers a refund or rebate for less than ten hours' use.

Adult motion picture theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe "specified sexual activities" or "specified anatomical areas."

Adult theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits or displays, as one of its principal business purposes, persons who appear in a state of nudity or semi-nude, or live performances that expose or depict "specified anatomical areas" or "specified sexual activities."

Applicant means the person who will operate the sexually oriented business, and shall include each of the following persons associated with that business:

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association, or limited liability company;
- (3) Each general partner in a general or limited partnership;
- (4) Each officer and director of a corporation;
- (5) The proposed manager(s) of any sexually oriented business;
- (6) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership.

Town Clerk means the West Jefferson Town Clerk.

Zoning Administrator means the West Jefferson Zoning Administrator or his designee.

Employ, employee and *employment* describe and pertain to any person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Escort means a person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency means a person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or other consideration.

Establishment means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- or

(2) The conversion of any existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

Licensee means person(s) in whose name a license to operate a sexually oriented business has been issued.

Nude model studio means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of considerations. "Nude model studio" shall not include a proprietary school licensed by the State of North Carolina or a college, junior college or university supported entirely or in part or by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or a state of nudity means:

(1) The appearance of a human anus, male genitals, or female genitals; or

(2) A state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

Operates or causes to be operated means to cause to function or put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

Person means an individual, proprietorship, partnership, corporation, association, limited liability company, or other legal entity.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between persons of the opposite sex, or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing.

Specified anatomical areas means and includes any of the following:

- (1) Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttock, or (c) female breast below a point immediately above the top of the areola; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
- (3) Masturbation, actual or emulated; or
- (4) Excretory functions as a part of or in connection with any of the activities set forth in subsections (1) through (3) above.

Transfer of ownership or control of a sexually oriented business means and includes any of the following:

- (1) The sale, lease, or sublease of the business.
- (2) Persons other than those named as applicants for a license becoming associated with the business, as provided in the definition of applicant; except that a mere substitution of a person as manager of an establishment shall only require filing with the Zoning Administrator.

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. 1703. Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios;
- (9) Sexual encounter centers.

Sec. 1704. License required.

(a) It is unlawful for any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Zoning Administrator pursuant to this article.

(b) An application for a license must be made on a form prescribed by the Zoning Administrator and such application shall be made under oath and contain the following information:

(1) If an applicant is an individual, the name and residence address of the individual. If the applicant is a partnership (limited or general), the name and residence address of each general partner. If the applicant is a firm, association, or limited liability company, the name and residence address of each member. If the applicant is a corporation, the name and residence address of each officer and director. The names of the manager(s) of the establishment along with their residence address.

(2) The address of the premises where the establishment shall be located.

(3) A complete statement of all convictions of any persons whose name is required to be given in subsection (b) (1) for any felony.

(4) A complete statement of any revocation by any governmental unit of any license to operate a sexually oriented business.

(5) A complete statement of any conviction of any person whose name is required to be given in subsection (b)(1) above for violation of any statute, law, ordinance, or regulation of any government concerning sexually oriented businesses.

(6) The name and address of any sexually oriented business owned or operated by any person whose name is required to be given in subsection (b)(1) above.

(7) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

(8) An application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale with marked dimensions of the interior of the premises.

(c) The application may request and the applicant shall provide such information as to enable the Zoning Administrator to determine whether each applicant meets the qualification established in this article.

(d) Each applicant must be qualified under subsection (b) (7) of this section and each applicant shall be considered a licensee if a license is granted.

(e) The Zoning Administrator shall transmit a copy of the application to the police department for an investigative report, and to the fire marshal to determine compliance with any law relating to fire protection. The police department, and the fire marshal, shall report the results of their investigations to the Zoning Administrator.

(f) No license shall be issued for any sexually oriented business to operate at any building, premises, structure, or other facility that contains any other kind of sexually oriented business.

Sec. 1705. Issuance of license.

Upon receipt of a complete application, the Zoning Administrator will review such application in accordance with the following conditions and restrictions.

(a) **Conditions.** The following conditions must be met prior to the issuance of a sexually oriented business license.

(1) The sexually oriented business shall be conducted entirely within an enclosed building so that viewing, display, or sound from inside the building cannot be experienced outside the walls of the building.

(2) There shall not be more than one sexually oriented business establishment on the same property or in the same building, structure, or portion thereof.

(3) Except for an adult motel, no use permitted as a sexually oriented business may have sleeping quarters.

(4) No part of a structure within which a sexually oriented business is conducted shall be located within a 60 foot radius (determined by a straight line and not street distance) of the closest boundary line of any residential district, church, public or private school, child care center, public park or playground within or without the Town's zoning jurisdiction.

(5) No sexually oriented business shall be issued a certificate of occupancy until

(i) all licensing requirements have been met; and

(ii) a conditional use permit allowing such business has been issued by the West Jefferson Board of Adjustment; and

(iii) the business complies with all requirements of G.S. 14-202.11.

(6) The maximum gross floor area (GFA) of a principal building or structure which is occupied by a sexually oriented business shall be 5,000 square feet.

(7) A sexually oriented business shall be permitted one wall mounted sign not to exceed 50 square feet. Further, such signs shall not contain materials, words, objects, images or displays that suggest or relate to specified anatomical areas and/or specified sexual activities as defined by G.S. 14-190.13. No freestanding or portable signs shall be permitted. No internally illuminated signs shall be permitted. No other advertising, displays or other promotional materials shall be visible to the public from pedestrian sidewalks, walkways, or vehicular areas.

(8) Sexually oriented businesses shall comply with all off-street parking, buffer and screening regulations.

(9) Patrons of adult establishments shall be separated from entertainers, performers or entertainment employees by a minimum of six feet.

(10) All performers or entertainment employees of adult establishments shall perform on an elevated stage or platform, elevated from the main floor by at least three feet.

(11) No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.

(12) All windows, doors, entries and the like for all adult uses shall be so located, covered, screened or otherwise treated so that any view of the interior of the establishment is not possible from any public or semipublic area, street or way.

(13) Side and rear yards shall be buffered with an opaque vegetative screen at least six feet in height and with a minimum buffer width of twenty (20) feet regardless of the adjoining use or adjoining zoning district.

(14) The sexually oriented business must be located within the corporate limits of the Town of West Jefferson.

(b) Restrictions. The Zoning Administrator will deny the issuance of a license to an applicant if the Zoning Administrator finds any of the following to be true:

(1) An applicant is under 18 years of age.

(2) The license fee required by this section has not been paid.

(3) An applicant is overdue in payment to the Town of taxes, fees, fines, or penalties assessed against or imposed upon the applicant by the Town.

(4) An applicant has failed to provide information required in order to determine the qualifications of the applicant under this article for issuance of the license, or has falsely answered a question or request for information on the application form.

(5) An applicant or the proposed establishment is in violation of or is not in compliance with this article or other provisions of the Town's Code of Ordinances.

(6) An applicant has been convicted of a violation of a provision of this section, other than the offense of operating a sexually oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(7) An applicant has been convicted of a crime involving:

a. Any offense described in G.S. ch. 14, art. 7A, 26, 26A, 27, 37, or 39 (G.S. 14-27.1 et seq., G.S. 14-177 et seq., G.S. 14-202.10 et seq., G.S. 14-203 et seq., G.S. 14-289 et seq., or G.S. 14-313 et seq.); or any similar offenses to those described above under the criminal or penal code of North Carolina, other states, West Jefferson, other cities, or other countries; or facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses, for which:

1. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

2. Less than five 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; or

3. Less than five years have elapsed since the date of the last conviction or the date of the release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

b. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

c. An applicant who has been convicted of an offense listed above may qualify for a sexually oriented business license only when the time period required by this section has lapsed.

d. The license, if granted, shall state on its face the legal name of the person or persons to whom it is granted, the classification of sexually oriented business for which it is granted, the expiration date, and the address of the sexually oriented business. Licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(8) The applicant has failed to make application using a legal name or has failed to produce a valid North Carolina Identification Card.

Sec. 1706. Appeal.

An applicant whose application is denied, suspended, or revoked by the Zoning Administrator may appeal such action in writing within 30 days to the West Jefferson Board of Adjustment.

Sec. 1707. License fees.

(a) Every sexually oriented business that applies for a new license shall pay to the Town a fee of \$1,000.00, which shall be nonrefundable. An application for renewal must be accompanied by a nonrefundable fee of \$250.00. The fee required by this section is imposed for regulatory purposes and not intended to be a tax.

(b) A substitution of a manager of the business which occurs during the license year shall be filed with the Zoning Administrator within 30 days of its occurrence, and a \$100.00 investigation fee paid.

Sec. 1708. Inspections.

(a) A sexually oriented business license applicant or licensee shall permit representatives of the police department or any other Town, county, state, or federal department, division, or agency that enforces codes, regulations or statutes relating to human health, safety or welfare or structural safety to make reasonable inspections of the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or his agent or employee commits a violation if such person refuses to permit a lawful inspection of the premises by persons designated above.

(c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Sec. 1709. Expiration of license.

All licenses shall expire one year from the date of issuance and may be renewed only by making application as provided herein and paying the renewal fee. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be stayed.

Sec. 1710. Suspension of license.

The Zoning Administrator is authorized to suspend a sexually oriented business license for a period not to exceed 60 days if the police department and/or inspection department determines that a business licensee has:

(1) Violated or is not in compliance with this article or with any other requirements of this Code, including those relating to buildings, electricity, plumbing, fire safety, and mechanical equipment; or

(2) Refused to allow an inspection of the sexually oriented business premises as authorized by this article; or

(3) Permitted illegal gambling by any person on the sexually oriented business premises; or

(4) Demonstrated an inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

Sec. 1711. Revocation of license.

(a) The Zoning Administrator is authorized to revoke a license if a cause for suspension occurs and the license has been suspended within the preceding 12 months.

(b) The Zoning Administrator is authorized to revoke a sexually oriented business license if the Zoning Administrator determines that a business licensee:

(1) Gave false or misleading information in the material submitted to the Town during the application process, including, but not limited to, the use of a name other than a legal name to procure a license; or

(2) Has allowed the possession, use, or sale of controlled substances on the premises; or

(3) Has allowed prostitution on the premises; or

(4) Has operated or worked in the sexually oriented business during a period of time when the licensee's license was suspended; or

(5) Has been convicted of an offense named in section 115(a)(6) or (7) for which the time period required in section 115(a)(6) or (7) has not lapsed; or

(6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime named in section 115(a) (7) for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed; or

(7) Has allowed any act of sexual intercourse, masturbation, oral copulation, or sodomy to occur in or on the licensed premises; or

(8) Is delinquent in payment to the Town of ad valorem taxes, sales taxes, or the annual license fee, or any other fee or tax.

(c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.

(d) Subsection (b)(7) of this section does not apply to adult motels as a ground for revoking the license unless the business licensee or employee allowed the act of sexual intercourse, masturbation, oral copulation, sodomy, or sexual contact to occur in a public place or within public view.

(e) When the Zoning Administrator revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the Zoning Administrator finds that the basis for the revocation has been corrected or abated, the licensee may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under the authority of subsection (b)(5) or (6) of this section, an applicant may not be granted another license, until the appropriate number of years required under section 115(a)(6) or (7), as the case may be, have elapsed.

Sec. 1712. Notice of action on license.

If the Town denies the issuance of a license, or suspends or revokes a license, or denies an appeal, the Town will send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action.

Sec. 1713. Transfer of license.

Unless a new application for a license is made, a licensee shall not transfer a license to another, nor shall a business licensee operate a different classification of a sexually oriented business than that designated in the application, or transfer ownership or control to another person(s), or operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. No sexually oriented business shall be operated under any name or conducted under any designation or classification not specified in the license for that business.

Sec. 1714. Hours of operation.

Sexually oriented businesses, except for an adult motel, shall not be open between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 10:00 a.m. on Sundays, except to the extent allowed by state law and regulations pertaining to the sale of alcoholic beverages by the business if the sexually oriented business has a state ABC permit.

Sec. 1715. Additional regulations for escort agencies.

A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Sec. 1716. Additional regulations for adult theaters, adult cabarets, and adult motion picture theaters.

(a) A person commits a violation if the person appears in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.

(b) A licensee or employee commits a violation if the licensee or employee allows a person to appear in a state of nudity in an adult cabaret, adult theater, or adult motion picture theater, or adult arcade.

Sec. 1717. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits a violation if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment whether or not such establishment has a sexually oriented business license, such person rents or sub-rents a sleeping room to another and, within ten hours from the time the room is rented, such person rents or sub-rents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

Sec. 1718. Additional regulations for all sexually oriented businesses.

A person commits a violation if the person allows another person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business, or for a person under the age of 18 years to enter or remain on or in the enclosed portion of a sexually oriented business.

Sec. 1719. Regulations pertaining to sexually oriented businesses with viewing or other rooms.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which either: (i) exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, videocassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, or (ii) has a room or booth (excluding restrooms) of less than 150 square feet to which patrons are admitted for any reason, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the license 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. The Zoning Administrator 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 has to be altered since it was prepared.

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

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Administrator or his designee.

(4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises. It is the duty of the owners and operator of the premises and the employees who are present to ensure that no more than one person occupies a room or booth at any time, and that all other entrances to rooms, booths or viewing areas (and to the aisles, walkways, and hallways leading to rooms, booths or viewing areas), are maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain or other device.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment, cameras, or any other kind of photographic equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of all employees present in the premises to ensure that the line of sight and view area specified in subsection (5) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted in the application filed pursuant to subsection (1).

(7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1.0 foot-candle as measured at the floor level.

(8) It shall be the duty of the owners and operator and it shall also be the duty of all employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(9) No operator, owner or employee shall allow openings of any kind to exist between rooms or booths.

(10) No person shall make or attempt to make an opening of any kind between rooms or booths.

(11) The operator or owner, shall, during each business day, regularly inspect the walls between the rooms or booths to determine if any openings or holes exist.

(12) The owner or operator shall cause all floor coverings in rooms, booths and viewing areas to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(13) The owner or operator shall cause all wall surfaces and seating surfaces in rooms, booths and viewing areas to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(b) A person having a duty under subsections (a) (1) through (13) of this section above commits an offense if the person fails to fulfill that duty.

Sec. 1720. Penalty.

Violation of any provision of this Article shall subject the offender to a civil penalty in the amount of \$500. Each day's continuing violation of any provision of this Article shall constitute a separate and distinct violation.

Sec. 1721. Liability of licensee for acts of employees.

A licensee of a sexually oriented business is jointly and individually liable for violations of and offenses under this article by the employees of the sexually oriented business, and for all civil penalties for such violations and offenses, including but not limited to license suspension or revocation, prescribed herein.

Sec. 1723. Severability.

The terms, provisions, and conditions of this Article are severable.