

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Transient Retail Business****§13-101. Definitions.**

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Legal holiday - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

Person - any natural person, partnership, association, corporation, or other legal entity.

Transient retail business -

(1) Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough.

(2) Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays.

2. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 76, 12/29/2003)

§13-102. License Required; Conditions of Issuance; Fee.

No person shall engage in any transient retail business within the Borough without first having obtained from the Borough Manager a license, for which a fee, which shall be for the use of the Borough, shall be charged, said fee to be in such amount established, from time to time by resolution of the Borough Council.

(Ord. 76, 12/29/2003)

§13-103. Exceptions.

1. No license fee shall be charged:

A. To farmers selling their own produce.

B. For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.

E. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.

F. To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

H. To persons engaging in religious or political door-to-door advocacy.

2. But all persons exempted hereby from the payment of the license fee shall be required to register with the Borough Manager and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this Section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided, further, the Borough Secretary may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants.

(Ord. 76, 12/29/2003)

§13-104. License Application.

Every person desiring a license under this Part shall first make application to the Borough Manager for such license. He shall, when making such application, exhibit a valid license from any State or County officer, if such license is also required. The applicant shall state:

A. His criminal record, if any.

B. Name and address of the person by whom he is employed.

C. Type of goods, wares, and merchandise he wishes to deal with in such transient retail business.

D. Length of time for which license is to be issued.

(Ord. 76, 12/29/2003)

§13-105. Issuance of License; Custody, Display and Exhibit.

Upon receipt of such application and the prescribed fee, the Borough Secretary, if he shall find such application in order, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal officials, and citizens or residents of the

Borough.

(Ord. 76, 12/29/2003)

§13-106. Prohibited Acts.

No person in any transient retail business shall:

- A. Sell any product or type of product not mentioned in his license.
- B. Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough.
- C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.
- D. Park a vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.
- E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time except during daylight hours only on any day of the week other than a Sunday or legal holiday.

(Ord. 76, 12/29/2003)

§13-107. Supervision; Records and Reports.

The Borough Manager shall supervise the activities of all persons holding licenses under this Part. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council.

(Ord. 76, 12/29/2003)

§13-108. Denial, Suspension and Revocation of License; Appeal.

The Borough Secretary is hereby authorized to deny, suspend or revoke any license issued under this Part when he deems such denial, suspension or revocation to be beneficial to the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any a application for a license hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Borough Council at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 76, 12/29/2003)

§13-109. Penalties.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 76, 12/29/2003*)

Part 2

Obscenity

§13-201. Purpose and Findings.

1. *Purpose.*

A. Pursuant to the authority granted in the Borough Code to prohibit nuisances; to promote the health, cleanliness, comfort and safety of the citizens of the Borough and to regulate the time of opening and closing, and the conduct of places of public entertainment, amusement and recreation, the Borough enacts this Part to minimize and control the adverse effects of adult entertainment businesses and thereby protect the health, safety and welfare of its citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of blight.

B. The Borough Council has determined that locational criteria alone does not adequately protect the health, safety and general welfare of the people of the Borough, and that licensing is a legitimate and reasonable means of accountability to insure that operators of adult entertainment businesses comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

C. The Borough Council does not intend this Part to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult entertainment businesses.

2. *Findings.* The Borough Council finds:

A. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may go uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

B. Certain employees of sexually oriented businesses defined in this Part as adult theaters and cabarets engage in higher incident of certain types of sexually oriented behavior at these businesses than employees of other establishments.

C. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as defined under this Part as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.

D. Offering and providing such space encourages such activities, which create unhealthy conditions.

E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

F. At least fifty communicable diseases maybe spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, Non

B. amebiasis, salmonella infections and shigella infections.

G. As of May 1, 1995, there have been 13,559 reported cases of AIDS in the State of Pennsylvania.

H. Since 1981, and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Butler County, Pennsylvania.

I. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

J. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

K. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

L. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

M. The findings noted in subsections .A through .L raise substantial governmental concerns. Adult entertainment businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

N. A reasonable licensing procedure is an, appropriate mechanism to place the burden, of that reasonable regulation on the, owners and the operators of the adult entertainment businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the adult entertainment business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Borough. It is appropriate to require reasonable assurances that the licensee is the actual operator of the adult entertainment business, fully in possession and control of the premises and activities occurring therein.

O. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

P. Requiring licensees of adult entertainment businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

Q. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

R. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Part is designed to prevent or who are likely witnesses to such activity.

S. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this Part.

T. The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

U. The general welfare, health and safety of the citizens of the Borough will be promoted by the enactment of this Part.

(Ord. 76, 12/29/2003)

§13-202. Definitions.

As used in this Part the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning:

Adult arcade - any place to which the public is permitted or invited to operate still or motion-producing devices which show images to five or fewer persons per machine at any one time and where the image so displayed or distinguished or characterized depicts or describes specified anatomical areas or specific sexual activities.

Adult bookstore -

(1) Any commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video productions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is offering for sale or rental for consideration the specified material which depict or describe specified sexual activities or specified anatomical areas.

Adult cabaret / dance hall / private club / tavern / nightclub / restaurant or similar commercial establishment - any type of establishment offering adult entertainment which presents material distinguished or characterized by an emphasis on matter depicting or describing specific sexual activities or specified anatomical areas for

observation by patrons therein. Such presentation or material may be live or through films, motion pictures, video cassettes, slides or other means of photographic reproduction.

Adult entertainment - live or nonlive entertainment containing sexual activities or displaying or presenting specified anatomical areas. This definition is a broad overall definition which includes the activities of adult arcades/cabarets/dance halls/private clubs/bars/gentlemen's bars/taverns/adult bookstores, adult video stores, adult minimotion picture theaters and peep shows, adult motels and sexual encounter centers as part of its definition for adult entertainment.

Adult motion picture theater - a structure used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Adult motel - a hotel, motel or similar commercial establishment which offers accommodation 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 which are used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

Knowingly - having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

- (1) The character and content of any material or performance described herein which is reasonably susceptible of examination by a licensee or person.
- (2) The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the licensee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

Licensee - a person in whose name a license to operate an adult entertainment business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in an adult entertainment business.

Nudity - the appearance of the specified anatomical area without any covering on the body area.

Peep shows - any structure which houses a commercial establishment with the capacity for one or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting or describing specified sexual activity or specified anatomical areas for observation by parties therein.

Seminudity - state of dress in which clothing partially or transparently covers the specified anatomical areas.

Sexual encounter center - a business or commercial enterprise that, as one of its primary business purposes, offers physical contact in the form of wrestling or tumbling between persons of the opposite sex or activities between two or more persons when one or more of the persons is in a state of nudity or seminudity

Specified anatomical areas - human genitals, pubic region, anus, buttocks, female breasts below the top of the areola or human male genitals in a discernibly

turgid state, even if completely and opaquely covered.

Specified criminal activity - any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or/ penal code of other states or countries.

(2) For which:

(a) Less than 2 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.

(b) Less than 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.

(c) Less than 5 years have elapsed since the date of the last conviction or the date of 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.

(3) The fact that a conviction is being appealed shall have no affect on the disqualification of the applicant or a person residing with the applicant.

Specified sexual activities - activities which include any of the following:

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts or simulated acts of sexual intercourse, masturbation, sodomy, oral copulation or bestiality.

(3) Fondling or other erotic touching of specified anatomical areas.

Transfer of ownership or control of an entertainment business -

(1) The sale, lease, or sublease of the business.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means.

(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.

(Ord. 76, 12/29/2003)

§13-203. License Required.

1. It is unlawful:

A. For any person to operate-an-adult entertainment business without a valid adult entertainment business license issued by the Borough pursuant to this Part.

B. For any person who operates an adult entertainment business to employ a person to work for the adult entertainment business who is not licensed as an adult entertainment business employee by the Borough pursuant to this Part.

C. For any person to obtain employment with an adult entertainment business without having secured an adult entertainment business employee license pursuant to this Part.

2. An application for a license must be made on a form provided by the Borough.

3. All applicants must be qualified according to the provisions of this Part. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Borough to determine whether the applicant meets the qualifications established in this Part.

4. If a person who wishes to operate an adult entertainment business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate an adult entertainment business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license, as applicant. Each applicant must be qualified under the following subsection and each applicant shall be considered a licensee if a license is granted.

5. The completed application for an adult entertainment business license shall contain the following information and shall be accompanied by the following documents:

A. If the applicant is:

(1) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.

(2) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement.

(3) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

B. If the applicant intends to operate the adult entertainment business under a name other than that of the applicant; he or she must state a) the adult entertainment business's fictitious name and b) submit the required registration documents.

C. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Part, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

D. Whether the applicant, or a person residing with the applicant, has had a previous license under this Part or other similar adult entertainment business ordinance from another municipality or county denied, suspended or revoked, including the name and location of the adult entertainment business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the

applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Part whose license has previously been denied, suspended or revoked, including the name and location of the adult entertainment business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

E. Whether the applicant or person residing with the applicant holds any other licenses under this Part or other similar adult entertainment business ordinance from another municipality or county and, if so, the names and locations of such other licensed businesses.

F. The specific classification of adult entertainment use license for which the applicant is filing.

G. The location of the proposed adult entertainment business, including a legal description of the property, street address, and telephone number (s), if any.

H. The applicant's mailing address and residential address.

I. A recent photograph of the applicant(s).

J. The applicant's driver's permit number, Social Security number, and or his/her State or Federally issued tax identification number.

K. 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 it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus 6 inches.

L. A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines, the property to be certified:

(1) Any of the following located within 500 feet of the property to be certified:

(a) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(b) A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities, school includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

(c) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the Commonwealth of Pennsylvania.

(d) A boundary of a residential district as defined in the Borough Zoning Ordinance [Chapter 27].

(e) Any residential use.

(f) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, park,

playground, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, or other similar public land within the Borough which is under the control, operation, or management of the Borough park and recreation authorities.

(2) Or within 1,000 feet of:

(a) Any other adult entertainment use.

M. If an applicant wishes to operate an adult entertainment business which shall exhibit on the premises, in a viewing room or booth of less than 150 square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall also comply with the application requirements set forth in subsection .L.

6. Before any applicant may be issued an adult entertainment business employee license, the applicant shall submit on a form to be provided by the Borough the following information:

A. The applicant's name or any other, name (including "stage" names) or aliases used by the individual.

B. Age, date, and place of birth.

C. Height, weight, hair and eye color.

D. Present residence address and telephone number.

E. Present business address and telephone number.

F. Date, issuing state and number of driver's license or other identification card information.

G. Social Security number.

H. Proof that the individual is at least 18 years of age.

7. Attached to the application form for an adult entertainment business employee license as provided above shall be the following:

A. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by any police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

B. A statement detailing the license history of the applicant for the 5 years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, municipality, state, or country any business or has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order or denial, revocation, or suspension shall be attached to the application.

C. A statement whether the applicant has been convicted of a specified, criminal activity as defined in this Part, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(Ord. 76, 12/29/2003)

§13-204. Issuance of License.

1. Upon the filing of said application in a fully completed form for an adult entertainment business employee license, the Borough shall issue a temporary license to said applicant. The application shall then be referred to the appropriate Borough official and/or consultant for an investigation to be made on such information as is contained on the application. The application process shall be completed within 30 days from the date the completed application is filed. After the investigation, the Borough shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

A. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

B. The applicant is under the age 18 years.

C. The applicant has been convicted of a specified criminal activity as defined in this Part.

D. The adult entertainment business employee license is to be used for employment in a business prohibited by local or State law, statute, rule of regulation, or prohibited by a particular provision of this Part.

E. The applicant has had an adult entertainment business employee license revoked by the Borough within 2 years of the date of the current application. If the adult entertainment business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in §13-209.

2. A license granted to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Borough that the applicant has not been convicted of any specified criminal activity as defined in this Part or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in §13-205.

3. Within 30 days after receipt of a Borough complete adult entertainment business application, the Borough shall approve or deny the issuance of a license to an applicant. The Borough shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

A. An applicant is under 18 years of age.

B. An applicant or person with whom applicant is residing is overdue in payment to the Borough of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

C. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

D. An applicant or a person with whom the applicant is residing has been denied a license by the Borough to operate an adult entertainment business within the preceding 12 months or whose license to operate an adult entertainment

business has been revoked within the preceding 12 months.

E. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Part.

F. The premises to be used for the adult entertainment business has not been approved by the fire marshall and the building official as being in compliance with applicable laws and ordinances.

G. The license fee required by this Part has not been paid.

H. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Part.

4. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult entertainment business and the specific classification of adult entertainment use for which the license is issued. All licenses shall be posted in a conspicuous place at or near the entrance to the adult entertainment business so that they may be easily read at any time.

5. The Fire Marshall and the Code Enforcement Officer shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Borough.

6. An adult entertainment business license shall issue for the specific classification of adult entertainment use as permitted by ordinance and applied for.

(Ord. 76, 12/29/2003)

§13-205. Fees.

1. Every application for an adult entertainment business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee, which amount shall be set from time to time by Borough Council, by resolution.

2. In addition to the application and investigation fee required above, every adult entertainment business that is granted a license (new or renewal) shall pay to the Borough an annual non-refundable license fee within 30 days of license issuance or renewal, which amount shall be set from time to time by Borough Council, by resolution.

3. Every application for an adult entertainment business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application, investigation, and license fee, which amount shall be set from time to time by Borough Council, by resolution.

4. All license applications and fees shall be submitted to the Borough Secretary.

(Ord. 76, 12/29/2003)

§13-206. Inspection.

1. An applicant or licensee shall permit representatives of the Borough, including the Fire Marshall, Zoning Officer, or other official and/or consultant to inspect the premises of an adult entertainment business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

2. A person who operates an adult entertainment business or his agent or

employee commits a violation of this Part if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 76, 12/29/2003)

§13-207. Expiration of License.

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in §13-203. Application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the date of expiration of the license will not be extended.

2. When the Borough denies renewal of a license, the applicant shall not be issued a license for 1 year from the date of denial. If, subsequent to denial, the Borough finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 76, 12/29/2003)

§13-208. Suspension.

The Borough shall suspend a license to exceed 30 days if it determines that a licensee or an employee of a licensee has:

- A. Violated a provision of this Part.
- B. Refused to allow an inspection of the adult entertainment business premises as authorized by this Part.
- C. Knowingly permitted gambling by any person on the adult business premises.

(Ord. 76, 12/29/2003)

§13-209. Revocation.

1. The Borough shall revoke a license if suspension in §13-208 occurs and the license has been suspended within the preceding 12 months.

2. The Borough shall revoke a license if it determines that:

- A. A licensee gave false or misleading information in the material submitted during the application process.
- B. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.
- C. A licensee has knowingly allowed prostitution on the premises.
- D. A licensee knowingly operated the adult entertainment business during a period of time when the licensee's license was suspended.
- E. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensee's premises.

F. A licensee is delinquent in payment to the Township, County or State for any taxes or fees past due.

3. When the Borough revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued an adult entertainment business license for 1 year from the date the revocation became effective. If, subsequent to revocation, the Borough finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

4. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any, license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

(Ord. 76, 12/29/2003)

§13-210. Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult entertainment business under the authority of a license at any place other than the address designated in the application.

(Ord. 76, 12/29/2003)

§13-211. Location of Adult Entertainment Business.

1. A person commits, a violation of this Part if that person operates or causes to be operated an adult entertainment business in any zoning district other than Commercial, as defined and described in the Borough Zoning Ordinance [Chapter 27].

2. A person commits a violation of this Part if the person operates or causes to be operated an adult entertainment business within five 500 feet of:

A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

B. A public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

C. Any other adult entertainment use; or within 500 feet of (a) a boundary of a residential district as defined in the Borough Zoning Ordinance [Chapter 27].

D. Any other residential use.

E. A public or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, or other similar public land within the Borough which is under the control, operation, or management of the Borough park and recreation authorities.

F. A person commits a violation of this Part if that person causes or operation, substantial transfer of control of an adult within one another permits the establishment, enlargement, or ownership or entertainment business 1,000 feet of adult entertainment use.

G. A person commits a violation of this if that person causes or ordinance permits establishment, more than one adult entertainment the same building, thereof, or area of any adult entertainment business in any or portion the operation, or maintenance of business in structure, or portion the increase of floor building, structure, thereof containing another adult entertainment business.

H. For the purpose of subsection .B of this §13-211, measurement shall be made in a straight line, without regard to the building or structure used as the part of the premises where an adult entertainment business is conducted, to the nearest property line of the premises of a use listed in subsection .B. Presence of a municipal, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

(Ord. 76, 12/29/2003)

§13-212. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.

1. A person who operates or causes to be operated an adult entertainment business which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

A. Upon application for an adult entertainment 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 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 or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus 6 inches. The Borough 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 not been altered since it was prepared.

B. The application shall be sworn to be true and correct by the applicant.

C. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Borough.

D. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

E. 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. If the premises has 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.

F. It shall be the duty of the licensees to ensure that the view area specified in subsection .5 remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection .A of this Section.

G. No viewing room may be occupied by more than one person at any time.

H. 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 5.0 foot candle as measured at the floor level.

I. It shall be the duty of the licensee to ensure that the illumination described above as maintained at all times that any patron is present in the premises.

J. No licensee shall allow openings of any kind to exist between viewing rooms or booths.

K. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

L. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

M. The licensee shall cause all floor coverings in viewing booths, nonporous, easily cleanable surfaces with no rugs or carpeting.

N. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths 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.

2. A person having a duty under subsections .A through .N of subsection .1 above commits a violation of this Part if he knowingly fails to fulfill that duty.

(Ord. 76, 12/29/2003)

§13-213. Additional Regulations for Escort Agencies.

1. An escort agency shall not employ any person under the age of 18 years.

2. A person commits a violation of this Part if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 76, 12/29/2003)

§13-214. Additional Regulations for Nude Model Studios.

1. A nude model studio shall not employ any person under the age of 18 years.

2. A person under the age of 18 years commits a violation of this Part if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years

was in a restroom not open to public view or visible to any other person.

3. A person commits a violation of this Part if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

4. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 76, 12/29/2003)

§13-215. Additional Regulations Concerning Public Nudity.

1. It shall be a violation of this Part for a person who knowingly and intentionally, in an adult entertainment business, appears in a state of nudity or depicts specified sexual activities.

2. It shall be violation of this Part for a person who knowingly or intentionally in an adult entertainment business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be a least 10 feet from any patron or customer and on a stage at least 2 feet from the floor.

3. It shall be a violation of this Part for an employee, while semi-nude in an adult entertainment business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in an adult entertainment business.

(Ord. 76, 12/29/2003)

§13-216. Prohibition Against Children in an Adult Entertainment Business.

A person commits a violation of this Part if the person knowingly allows a person under the age of 18 years on the premises of an adult entertainment business.

(Ord. 76, 12/29/2003)

§13-217. Hours of Operation.

No adult entertainment business may remain open at any time between the hours of 1:00 a.m. and 6:00 a.m. on weekdays and Saturdays, and 1:00 a.m. and 12:00 p.m. on Sundays.

(Ord. 76, 12/29/2003)

§13-218. Exemptions.

It is a defense to prosecution under §13-215 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, a college, junior college, or university supported entirely or partly by taxation.

B. By 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.

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no

other advertising that indicates a nude person is available for viewing.

(2) Where, in order to participate in a class a student must enroll at least 3 days in advance of the class.

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

(Ord. 76, 12/29/2003)

§13-219. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 76, 12/29/2003)