

ARTICLE IX. - SEXUALLY ORIENTED BUSINESSES

Sec. 6-466. - Purpose and authority.

It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, and general welfare of the citizens of the city and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses. This article has neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials or other expressive activities, including sexually oriented materials or activities. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to in any way condone or legitimize the distribution of obscene material or material harmful to minors. The authority for this article is G.S. 160A-174, G.S. 160A-194, and G.S. 160A-181.1.

(Code 1985, § 6-134)

Sec. 6-467. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adult bookstore means a retail establishment that has:

- (1) As one of its principal business purposes the sale or rental of or a substantial or significant portion of its stock in trade for sale or rental:
 - a. Publications which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section; and/or
 - b. Sexually oriented devices, as defined in this section.
- (2) As used in this definition, publications include, by way of illustration, books, magazines, other periodicals, movies, videotapes, and other products offered in photographic, electronic, magnetic, digital, or other imaging medium.
- (3) Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of: (i) publications which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; and/or (ii) sexually oriented devices, as defined in this section:
 - a. The business advertises the sale or rental of adult publications and/or sexually oriented devices.
 - b. Access by persons under 18 years of age to the business establishment or portions of the business establishment is restricted.
 - c. Signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive.
 - d. The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental.

Such indicia shall be considered along with all other factors and available information.

- (4) Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented material shall not constitute an "adult bookstore" even though it offers for sale and/or rental videotapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or activities, as defined in this section, so long as:
- a. Such described videotapes are stocked and displayed in a room separate from the area of the business establishment where general circulation videotapes are stocked and displayed;
 - b. Access by persons under 18 years of age to the room where such described videotapes are stocked and displayed is restricted;
 - c. The square footage of the separate room where such described videotapes are stocked and displayed is no more than ten percent of the square footage of the area where general circulation videotapes are stocked and displayed; and
 - d. The general circulation videotape portion of the business establishment offers a quantity and selection of new release general circulation videotapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation videotapes that are organized and displayed in a manner that is typical of a general circulation video store.

Adult live entertainer means an employee who engages in or performs adult live entertainment.

Adult live entertainment means any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult live entertainment business means any establishment or business which has as one of its principal business purposes the presentation of adult live entertainment for observation by patrons.

Adult mini-motion-picture booth means any booth or partitioned area of less than 150 square feet in an adult mini-motion-picture theater that is designed to hold patrons for the presentation and viewing of still or motion pictures (slides, film, videotape, laser disc, CD-ROM or other imaging media) that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section.

Adult mini-motion-picture theater means a commercial establishment with one or more adult mini-motion-picture booths where:

- (1) One of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section; or
- (2) A substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section.
- (3) Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths still or motion pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section:
 - a. Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under 18 years of age.
 - b. Posted signs or notices outside and/or inside the business establishment indicating that the

material offered for presentation and viewing in the viewing booths might be offensive.

Such indicia shall be considered along with all other factors and available information.

Adult motion-picture theater means a commercial establishment that regularly presents motion pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, in an area, whether enclosed or not, of 150 square feet or greater, for observation by patrons therein.

Applicant means and includes the owner of a sexually oriented business.

Chief of police means the chief of the Charlotte-Mecklenburg Police Department, or his designee.

City manager means the city manager, or his designee (who shall not be an employee of the Charlotte-Mecklenburg Police Department).

Clothing modeling studio means any place where, for any form of consideration or gratuity, a person agrees or offers to privately model clothing, including, but not limited to, lingerie, for an individual patron.

Convicted means an adjudication of guilt and entry of judgment following a trial or a plea of guilty or no contest in a criminal case arising under local, state, or federal law.

Employee describes and pertains to any person who performs any service or entertainment upon the premises of a sexually oriented business, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and regardless of whether or not the person is paid a salary, wage, or other compensation by the operator of the business. The term "employee" does not include a person exclusively on the premises for any of the following:

- (1) The repair or maintenance of the premises;
- (2) The delivery of goods to the premises; or
- (3) The delivery of services, such as legal, accounting, insurance, or other similar services provided to businesses generally.

Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Operator means and includes any person who is both present on and in charge of any sexually oriented business premises.

Owner means the legal owner of a sexually oriented business and includes the following:

- (1) The owner of a sole proprietorship;
- (2) Each member of a firm, association, or general partnership;
- (3) Each general partner in a limited partnership; or
- (4) Each officer, director, and owner of 50 percent or more of the stock of a corporation.

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

Sexually oriented business means and includes any adult bookstore, adult live entertainment business, adult mini-motion-picture theater, adult motion-picture theater, or clothing modeling studio, as defined in this section.

Sexually oriented crime means and includes any criminal offense under local, state, or federal law involving or related to rape, sex offense, sexual abuse of minors, crime against nature, incest, prostitution, indecent exposure, or this article.

Sexually oriented devices means, without limitation, any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities, but does not mean any contraceptive device.

Specified anatomical areas means:

- (1) Less than completely and opaquely covered:
 - a. Human genitals, pubic region; or
 - 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:

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

Straddle means the straddling of the legs of one person over any part of the body of any other person, regardless of whether there is a touch or touching.

Touch means to touch with a portion of the human body or with any object.

(Code 1985, § 6-135)

Cross reference— Definitions generally, § 1-2.

Sec. 6-468. - Classifications.

Sexually oriented businesses are classified as follows:

- (1) Adult bookstores.
- (2) Adult live entertainment businesses.
- (3) Adult mini-motion-picture theaters.
- (4) Adult motion-picture theaters.
- (5) Clothing modeling studios.

(Code 1985, § 6-136)

Sec. 6-469. - License required.

- (a) No sexually oriented business shall be permitted to operate without a valid sexually oriented business license

issued by the chief of police for the particular classification of business. It shall be unlawful for any person to operate or cause to be operated a sexually oriented business without the license or without the presence of an operator who has been disclosed pursuant to subsection (b)(9) of this section. In furtherance of the policy of the state, the chief of police shall not issue licenses to two or more classifications of sexually oriented businesses to operate in or on the same building, premises, structure, or other facility.

- (b) An application for a license must be made by the owner of the business on a form prescribed by the chief of police and submitted to the Charlotte-Mecklenburg Police Department Vice and Narcotics Bureau. The completed application shall contain the following information and shall be accompanied by the following documents:
- (1) The full true name of the applicant.
 - (2) The full true name under which the sexually oriented business will be operated and, if the business will be operated in a name other than that of the applicant, a certified copy of the assumed name certificate prepared and recorded in the office of the county register of deeds pursuant to G.S. 66-68 et seq.
 - (3) The type of sexually oriented business the applicant intends to operate.
 - (4) Whether the applicant intends to serve alcoholic beverages at the sexually oriented business and/or apply for an ABC permit.
 - (5) The address where the sexually oriented business is to be operated and where the books and records are maintained for examination by the tax collector pursuant to section 13-39 of this Code.
 - (6) If the owner of the real property upon which the sexually oriented business is to be operated is not the applicant, the name and address of the owner of the real property upon which the business is to be operated and a copy of the lease or rental agreement.
 - (7) The principal telephone number to be used by the sexually oriented business.
 - (8) If the applicant is:
 - a. An individual, the applicant shall appear in person and deliver a completed and signed application form and provide the following information:
 1. His present residence and business addresses and telephone numbers;
 2. A valid driver's license or other government-issued picture identification; and
 3. Social security number.
 - b. A partnership or corporation, the applicant shall designate one of its general partners or officers to act as its agent. Such person shall appear in person and deliver a completed and signed application form and shall provide the following information:
 1. His present residence and business addresses and telephone numbers;
 2. A valid driver's license or other government-issued picture identification; and
 3. Social security number.
 - c. A partnership:
 1. The name, residence address and telephone number, and social security number of each partner, including limited partners; and
 2. A copy of the partnership agreement.If one or more of the partners is a corporation, the provisions of subsection (8)d shall apply.
 - d. A corporation:
 1. a certified copy of the articles of incorporation, a certified copy of the certificate of authority,

- and a certified copy of the most recent annual report filed with the secretary of state; and
2. The name, residence address and telephone number, and social security number of each of its current officers and directors and of any stockholder holding 50 percent or more of the stock of the corporation.
- (9) The name, residence address and telephone number, and social security number of each individual who will be an operator of the business.
 - (10) A federal tax identification number assigned to the sexually oriented business and a completed tax information authorization form (IRS Form 8821) authorizing only the verification of such number.
 - (11) 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 or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The requirements of this subsection shall not apply for renewal applications if the applicant adopts a sketch or diagram that was previously submitted for the license sought to be renewed and if the licensee certifies that the licensed premises has not been altered since the immediately preceding issuance of the license and that the previous sketch or diagram continues to accurately depict the layout of the licensed premises.
 - (12) If the applicant wishes to operate an adult live entertainment business or an adult mini-motion-picture theater, the applicant shall comply with the application requirements stated in sections 6-481 and 6-482.
- (c) The application shall be sworn to be true and correct by the applicant.
 - (d) An applicant for a license under this section shall have a continuing duty to promptly supplement application information required by this section if such information changes in any way from what is stated on the application. The applicant shall supplement the application on file with the vice and narcotics bureau within 30 days from the date of such change.
 - (e) If the vice and narcotics bureau determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, it shall promptly notify the applicant of such fact and allow the applicant ten days to properly complete the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.
 - (f) The applicant shall be required to pay a nonrefundable application and investigation fee, the amount of which shall be established pursuant to section 2-1 of this Code.
 - (g) Issuance of a sexually oriented business license does not excuse a licensee from compliance with any other applicable ordinance, regulation, or statute. By issuing a sexually oriented business license, the chief of police has not determined that the recipient is in compliance with any applicable local, state, or federal regulation or law or that the recipient is otherwise engaged in a legal activity or operating a business in a legal manner.

(Code 1985, § 6-137)

Sec. 6-470. - Issuance and posting of license.

- (a) Within 30 days after receipt of a completed application for a license required under this article, the chief of police will approve or deny the issuance of a license. Upon the expiration of the 30th day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the license is sought unless and until the chief of police notifies the applicant of a denial of the application and states the reason for the denial.

(b) The chief of police shall deny the application for any of the following reasons:

- (1) An applicant or any individual identified in the application under section 6-469(b)(8) or (9) is under 18 years of age;
- (2) The application and investigation fee has not been paid;
- (3) An applicant or any individual identified in the application under section 6-469(b)(8) or (9) has refused to allow an inspection of the premises as authorized by section 6-472;
- (4) An applicant or any individual identified in the application under section 6-469(b)(8) or (9) has overdue license fees associated with the operation of a sexually oriented business;
- (5) An applicant or any individual identified in the application under section 6-469(b)(8) or (9) has a license under this article which is suspended or revoked;
- (6) An applicant failed to provide the information necessary to determine the qualifications of the applicant or any individual identified in the application under section 6-469(b)(8) or (9) for issuance of the license, or provided materially false or misleading information on the application form;
- (7) An applicant or any individual identified in the application under section 6-469(b)(8) or (9) has been convicted of any sexually oriented crime and less than five years have elapsed since the latter of the date of conviction or the date of release from confinement, if the conviction is for a felony, or less than two years have elapsed since the latter of the date of conviction or the date of release from confinement, if the conviction is for a misdemeanor. The fact that the conviction is being appealed shall have no effect on the denial of the license; or
- (8) The application demonstrates or reveals information showing that the proposed business fails to meet the requirements of this article.

(c) The license must be posted in the sexually oriented business in a conspicuous place at or near the entrance to the business so that it can be read easily at any time.

(Code 1985, § 6-138)

Sec. 6-471. - Annual license fee.

The licensee of a sexually oriented business license shall be required to pay an annual license fee, the amount of which shall be established pursuant to section 2-1 of this Code.

(Code 1985, § 6-139)

Sec. 6-472. - Inspection.

An applicant or any individual identified in the application under section 6-469(b)(8) or (9) shall permit representatives of the Charlotte-Mecklenburg Police Department to inspect the premises for the purpose of ensuring compliance with this article prior to the issuance of a license under this article.

(Code 1985, § 6-140)

Sec. 6-473. - Notices.

Any notice required or permitted to be given by the chief of police or the city manager under this article to any applicant, licensee, owner, or operator of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, to the most current address as specified in the application for the

license or any notice of change of address which has been received by the chief of police. Notices mailed as provided in this section shall be deemed given upon their deposit in the United States mail and shall be presumed to have been received on the third regular postal delivery day thereafter.

(Code 1985, § 6-141)

Sec. 6-474. - Notice of violation and suspension of license.

- (a) The chief of police shall issue a notice of violation if he determines that a licensee, owner, operator, or employee has violated or is not in compliance with any section of this article. The notice shall specify the section of this article that has been violated.
- (b) The chief of police shall suspend a sexually oriented business license for a period of 30 days if the violation has not been corrected or abated within 20 days after the notice of violation has been received by the licensee, owner, or operator.
- (c) A decision by the chief of police to suspend a license shall not become final until 20 days after notice of the decision has been received by the licensee, owner, or operator.
- (d) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business and such person knows or should know that the business has a license which has been suspended.

(Code 1985, § 6-143)

Sec. 6-475. - Revocation of license.

- (a) The chief of police shall revoke a sexually oriented business license if a suspension of the license becomes effective following a notice of violation which was issued within 12 months of the effective date of a previous suspension.
- (b) The chief of police shall revoke a sexually oriented business license if he determines that:
 - (1) An applicant or licensee provided materially false or misleading information in the material submitted in the application process;
 - (2) A licensee, owner, or operator has knowingly allowed the possession, use, or sale of controlled substances in or on the premises;
 - (3) A licensee, owner, operator, or employee has knowingly allowed the solicitation for prostitution or a crime against nature in or on the premises;
 - (4) A licensee, owner, operator, or employee has knowingly allowed any act of sexual intercourse, masturbation, oral copulation, sodomy, or indecent exposure to occur in or on the premises;
 - (5) A licensee, owner, operator, or employee has served alcoholic beverages to a patron in or on the premises without the premises having the proper ABC permit; or
 - (6) A licensee, owner, or operator has been convicted of a sexually oriented crime since the license was issued. The fact that a conviction is being appealed shall have no effect on the revocation of the license. For the purpose of this subsection, and with respect to adult live entertainment licenses, the term "employee" shall not include an adult live entertainer.
- (c) A decision by the chief of police to revoke a license shall not become final until 20 days after notice of the decision has been received by the licensee, owner, or operator.
- (d) When the chief of police 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.

- (e) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business and such person should know that the business has a license which has been revoked.

(Code 1985, § 6-144)

Sec. 6-476. - Appeal of denial, suspension, or revocation of license.

- (a) After a denial of an application for a sexually oriented business license, a denial of an application for renewal of a sexually oriented business license, or a suspension or revocation of a sexually oriented business license, the applicant or licensee may appeal the denial, suspension, or revocation in writing to the city manager within 20 days after notice of the denial, suspension, or revocation has been received. The city manager shall hold a hearing on whether to issue/renew the license or uphold the denial, suspension, or revocation within five business days after the receipt of the appeal. The applicant or licensee shall have the right to present evidence at the hearing. The decision to issue/renew the license or uphold the denial, suspension, or revocation shall be based solely on the criteria set forth in this article. The city manager shall render a decision on the appeal within five business days after the date of the hearing.
- (b) Upon receipt by the city manager of a written appeal pursuant to subsection (a) of this section, a denial of an application for renewal of the license or a suspension or revocation of the license of any sexually oriented business shall be stayed until a decision is rendered by the city manager. In addition, upon receipt by the city manager of a written appeal pursuant to subsection (a) of this section, the denial of an initial application for a license by any sexually oriented business existing prior to the effective date of the ordinance from which this article derives shall be stayed until a decision is rendered by the city manager.
- (c) The decision of the city manager is subject to review in the superior court of the county by proceedings in the nature of certiorari. Any petition for a writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been received by the applicant or licensee. A denial of an application for renewal of the license or a suspension or revocation of the license of any sexually oriented business shall be stayed until a decision is rendered by the superior court or the time to petition the superior court for a writ of certiorari has expired. In addition, the denial of an initial application for a sexually oriented business license by any sexually oriented business existing prior to the effective date of the ordinance from which this article derives shall be stayed until a decision is rendered by the superior court or the time to petition the superior court for a writ of certiorari has expired. The following shall apply to any appeal to superior court from a decision of the city manager:
- (1) Unless good cause exists to contest a petition for a writ of certiorari, the city shall stipulate to certiorari no later than five business days after the petitioner requests such a stipulation.
 - (2) The city shall transmit the record to the court no later than five business days after receiving the order allowing certiorari.
 - (3) Notwithstanding the provisions of any local rule of the reviewing court which allows for a longer time period, the city shall file its brief within 15 days after it is served with the petitioner's brief. If the petitioner serves his brief by mail, the city shall add three days to this time limit, in accordance with G.S. 1A-1, rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, the shorter time period shall control.
- (d) An appeal by an applicant or licensee from the superior court of the county shall be governed by the North Carolina Rules of Appellate Procedure but, unless a court of competent jurisdiction otherwise provides, such appeal shall not stay any action taken with regard to the license.

(Code 1985, § 6-145)

Sec. 6-477. - Transfer of license.

A licensee shall not transfer a sexually oriented business license to another person or to another premises. The transfer of a sexually oriented business license shall automatically and immediately revoke the license.

(Code 1985, § 6-146)

Sec. 6-478. - Expiration of license.

- (a) Each sexually oriented business license shall expire one year from the date of issuance and may be renewed only by making application, as provided in section 6-469, and paying the annual license fee, as required in section 6-471. 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 expiration of the license will not be affected.
- (b) When the chief of police denies renewal of the license, the applicant shall not be issued a license under this article for one year from the date of denial. If, subsequent to the denial, the chief of police determines that the basis for the denial has been corrected, the applicant shall be granted a license.
- (c) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business and such person knows or should know that the business has a license which has expired.

(Code 1985, § 6-147)

Sec. 6-479. - Prohibitions regarding minors.

It shall be unlawful for a licensee, owner, operator, or employee of a sexually oriented business, regardless of whether or not a license has been issued for the business under this article, to knowingly, or with reasonable cause to know, permit or allow:

- (1) Admittance of a person who is under 18 years of age to the business premises;
- (2) A person who is under 18 years of age to remain at the business premises;
- (3) A person who is under 18 years of age to purchase goods or services at the business premises; or
- (4) A person who is under 18 years of age to work at the business as an employee.

(Code 1985, § 6-148)

Sec. 6-480. - Adult live entertainment businesses.

- (a) The private or semiprivate performance of adult live entertainment in areas commonly known as VIP rooms, VIP booths, or VIP areas presents opportunities for illegal activity such as, but not limited to, indecent exposure and solicitation for prostitution. The purpose of this section is to eliminate VIP adult live entertainment and to require all adult live entertainment to occur in a manner and location that freely permits management and a broad number of patrons to visually observe the entertainment so as to minimize the opportunities for adult live entertainment to lead to illegal activity. This section shall be interpreted and applied in light of this purpose.
- (b) An adult live entertainment business, regardless of whether or not a license has been issued for the business under this article, shall be subject to the following:
 - (1) An application for a sexually oriented business license for adult live entertainment shall be accompanied by a diagram of the premises specifying areas where adult live entertainment may occur. 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 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 to an accuracy of plus or minus six inches. The chief of police may waive the diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises and the areas where adult live entertainment may occur required to be designated in the diagram have not been altered since it was prepared.

- (2) Areas where adult live entertainment may occur must:
 - a. Be at least 750 square feet in area. Notwithstanding the square footage requirement, an adult live entertainment business that, as of the effective date of the ordinance from which this article derives, has as its only area where adult live entertainment occurs an area of less than 750 square feet may continue to offer adult live entertainment in that area so long as:
 1. The square footage of the area is not reduced;
 2. Adult live entertainment does not occur in any other area of the business establishment; and
 3. The business complies with all other sections of this article;
 - b. Contain one or more stages or raised areas where adult live entertainment will occur;
 - c. Be accessible to all patrons without payment of any charge other than the charge, if any, for entry into the premises, such as a cover charge or membership fee; and
 - d. Not contain any areas visually screened, obstructed, or separated from the majority of the patrons located in that area, which patrons are present in that area without payment of any charge other than the charge, if any, for entry into the premises, such as a cover charge or membership fee.
- (3) No alteration in the configuration of the areas where adult live entertainment may occur designated in the diagram required by subsection (b)(1) of this section may be made without first obtaining an amendment to the license by submitting and receiving approval of a new diagram.
- (4) Adult live entertainment may occur only:
 - a. In the presence of and visually observable by an employee who is not an adult live entertainer;
 - b. In the presence of and visually observable by more than one patron;
 - c. In an area that is shown on an approved diagram as an area where adult live entertainment may occur;
 - d. In an area that is not visually screened, obstructed, or separated from the majority of the patrons located in that area, which patrons are present without payment of any charge other than the charge, if any, for entry into the premises, such as a cover charge or membership fee; and
 - e. In an area that is accessible to all patrons without payment of any charge other than the charge, if any, for entry into the premises, such as a cover charge or membership fee.
 - f. Subsections (b)(4)d and (b)(4)e of this section do not prohibit or limit charges to patrons by adult live entertainers or payment to, or the tipping of, such persons by the patrons.
- (c) It shall be the duty of the operator and any owner who is present on the premises to ensure that adult live entertainment is not performed in the presence of patrons in violation of subsection (b)(4) of this section. It shall be unlawful for any such operator or owner to knowingly fail to fulfill that duty.
- (d) It shall be unlawful for an adult live entertainer to engage in or perform adult live entertainment in violation of subsection (b)(4) of this section.

(Code 1985, § 6-149)

Sec. 6-481. - Adult mini-motion-picture theaters.

- (a) An adult mini-motion-picture theater, regardless of whether or not a license has been issued for such business under this article, shall be subject to the following:
- (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, the location of all overhead lighting fixtures, and designating any portion of the premises in which patrons will not be permitted. 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 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 to an accuracy of plus or minus six inches. The chief of police may waive the 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.
 - (2) No alteration in the configuration or location of a manager's station may be made without prior approval of the chief of police.
 - (3) At least one employee must be on duty and situated at each manager's station at all times that any patron is present in or on the premises.
 - (4) 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 have two or more manager's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms, 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.
 - (5) The entrance to each adult mini-motion-picture booth shall be free of any obstruction such as a door, curtain, wall, partial wall, panel, board, merchandise display rack, or other material.
 - (6) There shall be no openings or glass of any kind between booths, and booths shall not be designed, constructed, or configured in such a manner that the interior of any booth may be visible or made to be visible from any other booth.
 - (7) The interior of each booth shall be sufficiently illuminated so that the inside of the booth is visible from the manager's station as set forth in subsection (a)(4) of this section.
 - (8) No booth shall be occupied by more than one patron at any time.
- (b) It shall be the duty of the operator and any owner or employees who are present on the premises to ensure compliance with subsections (a)(3) through (8) of this section. It shall be unlawful for any person having such a duty to knowingly fail to fulfill that duty.

(Code 1985, § 6-150)

Sec. 6-482. - Clothing modeling studios.

- (a) A clothing modeling studio, regardless of whether or not a license has been issued for such business under this article, shall be subject to the following:

- (1) A model shall not encourage or permit a patron to expose or display the patron's specified anatomical area
 - (2) A model shall not suggest or imply that a customer should or is permitted to expose or display the patron's specified anatomical areas.
 - (3) A model shall not expose or display the model's specified anatomical areas at any time the model is in the presence of a patron.
 - (4) A model shall not straddle a patron.
 - (5) A model shall not offer or agree to straddle a patron.
 - (6) A model shall not intentionally touch the clothed or unclothed body of a patron at any point below the waist and above the knee of the patron.
 - (7) A model shall not encourage or permit a patron to touch the clothed or unclothed body of the model at any point below the waist and above the knee of the model.
 - (8) A model shall not encourage or permit a patron to touch the clothed or unclothed breast of the model.
 - (9) All fees and charges, including tips and gratuities, paid by a patron of a clothing modeling studio shall be paid to the model or the studio before the modeling session begins. A model shall not solicit or accept any tip, gratuity, or compensation from a patron in violation of this subsection.
 - (10) All modeling for a patron must occur in the presence of and be visually observable by an employee who is not a model.
 - (11) The entrance to each room in which modeling for a patron is being performed shall be free of any obstruction such as a door, curtain, wall, partial wall, panel, board, or other device, and the entire interior of each such room shall be visible from the aisle, walkway, or hallway leading to the room.
- (b) It shall be the duty of the operator and any owner who is present on the premises to ensure that clothing modeling is not performed in the presence of a patron in violation of subsection (a) of this section. It shall be unlawful for any such operator or owner to knowingly fail to fulfill that duty.
- (c) It shall be unlawful for a model to violate any of the subsections of subsection (a) of this section.

(Code 1985, § 6-151)

Sec. 6-483. - Criminal penalty.

Any person who violates any of the following sections of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 2-21: 6-469(a), 6-472, 6-474(d), 6-475(e), 6-478(c), 6-479, 6-480(c) and (d), 6-481(b), and 6-482(b) and (c). Each violation shall be considered a separate and distinct offense, and each day of continued violation shall be considered as a separate offense. The issuance of a notice of violation or a suspension or revocation of a sexually oriented business license shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the issuance of a notice of violation or a suspension or revocation of the license.

(Code 1985, § 6-153)

Sec. 6-484. - Civil injunction.

In addition to the issuance of a notice of violation, the suspension or revocation of a sexually oriented business license, or a prosecution for criminal violations, any person who violates this article may be subject to all civil and equitable remedies stated in G.S. 160A-175.

(Code 1985, § 6-154)

Secs. 6-485—6-510. - Reserved.