

**Subject Matter:** Adult Entertainment Ordinance

**Date of First Reading:** 8-6-01

**Date of Public Hearing Before Town Council:** 8-6-01 & 8-20-01

**Date of Adoption:** 8-20-01

**TOWN OF SHARPSBURG  
COUNTY OF COWETA  
STATE OF GEORGIA**

**ORDINANCE NUMBER** 01-8  
**(as enacted)**

**TOWN OF SHARPSBURG, GEORGIA**

**WHEREAS**, the Town Council and staff have conducted an extensive review of land use studies concerning the secondary effects of sexually oriented businesses in other cities including, but not limited to, Garden Grove, California (1991); Phoenix, Arizona (1986); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); City of Los Angeles, California (1977); Cleveland, Ohio (1977); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City (1986); Beaumont, Texas (1982); and Whittier, California (1978); and have found such secondary effects to be detrimental to the health, safety and welfare of the Town of Sharpsburg.

**WHEREAS**, it is the purpose and intent of this Ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town of Sharpsburg and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses.

**WHEREAS**, The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance 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 the ordinance to condone or legitimize the distribution of obscene material.

**NOW THEREFORE**, The Mayor and the Council of the Town of Sharpsburg hereby **ENACT** and **ORDAIN** the Town of Sharpsburg's Adult Entertainment Ordinance as follows:

## **CHAPTER 13**

### **Adult Entertainment Ordinance**

#### **13.1 General Findings.**

Town Council and staff have conducted an extensive review of land use studies concerning the secondary effects of sexually oriented businesses in other cities including, but not limited to, Garden Grove, California (1991); Phoenix, Arizona (1986); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); City of Los Angeles, California (1977); Cleveland, Ohio (1977); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City (1986); Beaumont, Texas (1982); and Whittier, California (1978); and have found such secondary effects to be detrimental to the health, safety and welfare of the Town of Sharpsburg.

#### **13.2. Purpose and intent.**

(a) It is the purpose and intent of this Ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the Town of Sharpsburg and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the Town, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance 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 the ordinance to condone or legitimize the distribution of obscene material.

(b) This Chapter is not intended to interfere with or suppress legitimate expression or any speech activities protected by the First Amendment to the United States constitution nor is it intended to permit any use or activity which is otherwise prohibited or made punishable by law.

#### **13.3. Definitions.**

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section, unless the context of their usage clearly indicates another meaning.

*Adult arcade.* An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

*Adult bookstore.* An establishment which, as one of its principal business purposes:

(a) Offers for sale or rental, for any form of consideration, books, magazines, films, videotapes, compact disks, video disks, or software (whether for viewing off-premises or on-premises by use of motion picture machines, televisions, monitors, computers or other image-producing devices), periodicals, or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas; or

(b) Offers for sale or rental, for any form of consideration, instruments, devices, or paraphernalia that are designed for stimulation of human genital organs, for sadomasochistic use or abuse, or for use in conjunction with "specified sexual activities," excluding condoms and other birth control and disease prevention products.

*Adult cabaret.* An establishment, whether or not serving alcoholic beverages, whose primary business is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

*Adult encounter parlor.* An establishment whose primary business is the provision of premises where customers either congregate, associate, or consort with employees who engage in specified sexual activities with or in the presence of such customers, or who display specified anatomical areas in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.

*Adult modeling studio.* An establishment whose primary business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

*Adult movie theater.* An establishment whose primary business is the exhibition to customers of motion pictures, films, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" which are intended to provide sexual stimulation or sexual gratification to such customers.

*Adult service.* A dance, performance or other activity, including, but not limited to, service of food or beverages, modeling, posing, wrestling, singing, reading, talking, or listening conducted for any consideration in an adult service business by a person who exposes one or more specified anatomical areas or performs a specified sexual activity during all or part of the time that the person is providing the service.

*Adult service business.* A commercial establishment where any adult service is provided to patrons in the regular course of business and as one of the principal purposes of the establishment.

*Adult service provider or providers.* Any person who provides an adult service.

*Adult theatre.* A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

*Adult video facility.* A commercial establishment where, for any consideration, films, motion pictures, video cassette projections, slides, photographs or other visual media characterized by depiction of "specified sexual activities" or "specified anatomical areas" are shown in the regular course of business and as a principal business purpose of the establishment. "Adult video facility" does not include a theater where all viewing occurs in a common area with seating for fifty (50) or more persons.

*Applicant.* The applicant for a permit shall be the intended operator of the sexually oriented business.

*Bath.* Any method of washing or cleansing of the structure of the human body or any external part thereof with water or other liquid, vapor or steam, including but not limited to steam rooms, cabinet baths, sauna baths, sitz baths, colon irrigations, showers and baths of all kinds.

*Bathhouse.* Any establishment having a fixed place of business where baths are administered or where any person engages in, carries on or permits to be engaged in or carried on any or all of the activities mentioned in the definition of bath, provided that nothing in this section contained shall be construed to include a duly licensed hospital, nursing home, medical clinic, physician, surgeon, physical therapist, chiropractor, osteopath, naturopath, podiatrist, or person holding a drugless practitioner's certificate under the laws of the State of Georgia. Furthermore, this definition shall exclude from its operation establishments wherein duly licensed barbers and cosmetologists administer baths only to the scalp, the face, the neck or the shoulders.

*Bath technician.* Any person who for any consideration whatsoever administers a bath to another person at a bathhouse.

*Conduct any business in a sexually oriented business.* Any person who does any one (1) or more of the following shall be deemed to be conducting business in a sexually oriented business.

(a) Operates a cash register, cash drawer or other depository on the sexually oriented business premises where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the establishment or the activities conducted therein are kept;

(b) Displays or takes orders from any customer for any merchandise, goods, entertainment or other services offered on the sexually oriented business premises;

(c) Delivers or provides to any customer any merchandise, goods, entertainment or other services offered on the sexually oriented business premises;

(d) Acts as a door attendant to regulate entry of customers or other persons into the sexually oriented business premises; or

(e) Supervises or manages other persons in the performance of any of the foregoing activities on the sexually oriented business premises.

*Customer.* Any person who:

(a) Is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or

(b) Enters a sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(c) Is a member of and on the premises of a sexually oriented business operating as a private club.

*Employee.* Any person who renders any service whatsoever to the customers of a sexually oriented business, whether as an independent contractor or otherwise, or who works in or about a sexually oriented business and who receives compensation for such service or work from the operator or owner of the sexually oriented business or from the customers therein.

*Entertainment.* Any act or performance, such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees, agents, contractors, or customers. The term "entertainment" shall also mean bartenders, waiters, waitresses, or other employees exposing specified anatomical areas or engaging in specified sexual activities in the presence of customers.

*Escort.* A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

*Escort agency.* A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

*Exterior portion.* Any part of the physical structure of a sexually oriented business, including a wall, veneer, door, fence, roof, roof covering, or window, which is visible from any public way or public property.

*Licensed day-care center.* A facility licensed by the State of Georgia, whether situated within the town or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

*Manager.* Any person who supervises, directs or manages any employee of a sexually oriented business or any other person who conducts any business in a sexually oriented business with respect to any activity conducted on the premises of the sexually oriented business, including any on-site manager.

*Massage parlor.* Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation or service related thereto, exposes his or her specified anatomical areas or performs a specified sexual activity. The definition of massage parlor shall not include the practice of massage in any licensed hospital, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for amateur, semiprofessional or professional athlete or athletic team or school athletic program

*Multifamily Tract.* Any residential tract that contains any building or buildings or portion or portions thereof, that is designed, built, rented, leased, sold, let out or hired out to be occupied, or which is occupied, in separate units, each containing living, sleeping and food preparation facilities, as the homes or residences of three or more families, groups, or individuals living independently of each other.

Nudity; state of nudity. A state of dress which fails to opaquely and fully cover the cleft of the human buttocks, anus, male or female genitals, pubic region, or female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola.

*On-site manager.* A person charged by an owner or operator of a sexually oriented business with the responsibility for direct supervision of the operation of the sexually oriented business and with monitoring and observing all areas of the sexually oriented business to which customers are admitted at all times during which the sexually oriented business is open for business or customers are on the premises of the sexually oriented business.

*Operator.* The manager or other natural person principally in charge of a sexually oriented business.

*Owner or Owners.* The proprietor if a sole proprietorship, all general partners if a partnership, or the corporation and all officers, directors, and persons holding twenty percent (20%) or more of the outstanding shares if a corporation.

*Permit.* A current, valid permit issued by the town council pursuant to the terms of this Chapter to an operator of a sexually oriented business, to an adult service provider, manager, operator or other adult service employee.

*Public park.* A publicly owned or leased tract of land, whether situated in the town or not, designated, dedicated, controlled, maintained and operated for use by the general public for active or passive recreational or leisure purposes by the town or any political subdivision of the state and containing improvements, pathways, access or facilities intended for public recreational use. The term "public park" shall not include parkways, public roads, rights-of-way, esplanades, traffic circles,

easements or traffic triangles unless such tracts or areas contain and provide improvements or access to a recreational or leisure use by the public.

*Religious institution.* Any church, synagogue, mosque, temple or building, whether located within the town or not, where persons regularly assemble for religious worship and related religious activities or for propagating a particular form of religious belief.

*Residential.* Pertaining to the use of land, whether situated within the town or not, for premises such as homes, townhomes, patio homes, manufactured homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. A premises which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes, college or university dormitories, hospitals, and nursery schools shall not be considered to be residential. The term "residential" shall also include any unimproved tract zoned for residential uses by the zoning ordinances of the town, and any unimproved tract within Coweta County zoned for residential uses by the zoning ordinances of Coweta County, Georgia.

*School.* A building, whether situated within the town or not, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

(a) Public and private schools used for primary or secondary education, in which any regular kindergarten or grades one through 12 classes are taught; and

(b) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12.

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

*Sexually oriented business.* An adult bookstore, adult cabaret, adult encounter parlor, adult lounge, adult modeling studio, adult movie theater, adult theatre, massage parlor, escort agency or any establishment whose primary business is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified

sexual activities or specified anatomical areas. The term sexually oriented business shall not be construed to include:

(a) Any business operated by or employing Georgia licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the Georgia licenses held;

(b) Any business operated by or employing Georgia licensed physicians or Georgia licensed chiropractors engaged in practicing the healing arts; or

(c) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

*Sexually oriented business manager or manager.* A person on the premises of sexually oriented business who has overall supervisory authority over the operation of the business.

*Separate area.* Any portion of the interior of a sexually oriented business separated from any other portion of a sexually oriented business by any wall, partition or other divider.

*Sign.* Any display, design, pictorial, or other representation, which shall be so constructed, placed, attached, a painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of a sexually oriented business and that is used to seek the attraction of the public to any goods, services or merchandise available at such sexually oriented business. The term "sign" shall also include such representations painted on or otherwise affixed to any exterior portion of a sexually oriented business as well as such representations painted on or otherwise affixed to any part of the tract upon which such a sexually oriented business is situated.

*Specified anatomical areas:*

(a) Less than completely and opaquely covered:

1. Human genitals, pubic region or pubic hair;

2. Anus or cleft of the buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs and any other similar garment that does not completely and opaquely cover the cleft of the buttocks.

3. Female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola; or

4. Any combination of the foregoing; or

(b) Human male genitals in a discernible erect state, even if completely and opaquely covered.

*Specified sexual activities:*

(a) Human genitals in a discernible state of sexual stimulation or arousal; or

(b) Actual or simulated sexual intercourse, masturbation, oral copulation, flagellation, bestiality, fondling, or sodomy; or



(c) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast or breasts; or

(d) Any combination of the foregoing.

*Town.* The Town of Sharpsburg, Georgia.

*Town council.* The Town Council or such person as the town council may designate to perform the duties of the town council under this Chapter.

*Tract.* A contiguous parcel of land under common ownership, whether situated within the town or not.

Transfer of ownership or control of a sexually oriented business. A transfer of ownership or control of a sexually oriented business includes: (1) the sale, lease or sublease of the business; (2) the transfer of securities in the business, whether by sale, exchange or similar means; and (3) the establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

*Zoning administrator.* The person appointed and responsible for the enforcement of the zoning ordinances of the Town of Sharpsburg, or the Town Council.

#### **13.4. Construction of Definitions.**

Words and terms not explicitly defined in these regulations or in the Official Code of Georgia Annotated shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

#### **13.5. Administration.**

(a) The administration of this Chapter, including the duty of prescribing forms, is vested in the town council, except as otherwise specifically provided. The zoning administrator shall render assistance in the administration and enforcement of this Chapter as follows:

- (1) The cost of fingerprinting and photographing shall be paid by the applicant at the time the service is provided. Records of fingerprints and photographs so obtained shall be maintained by the Town.
- (2) A law enforcement officer shall have a criminal history inquiry conducted on all persons listed as applicants in a license or permit application. The inquiry shall be limited to determining whether an applicant for a license or permit has a criminal conviction of the type described and for the period indicated in Section 8-6 of this Chapter. The law enforcement officer shall notify the town council in the event such criminal conviction is found to exist.

(3) The zoning administrator shall notify the town council whether an applicant or designated license holder in a license application has failed to comply with or is in violation of applicable provisions of the zoning ordinances, or the building codes, development standards or other land use ordinances and regulations of the town relating to the business to be operated under the license.

(b) An application for a license, for a permit, or for the renewal of a license or a permit, made pursuant to this Chapter shall be submitted to the town council, who shall grant or deny the application in accordance with the provisions of this Chapter. The town council shall also suspend or revoke a license or a permit in accordance with the provisions of this Chapter.

(c) A license or a permit issued pursuant to this Chapter shall expire on December 31 of the year in and for which it is issued and shall be renewed annually.

(d) A license, if granted, shall state on its face:

(1) The name of the license holder;

(2) The name and address of the licensed premises;

(3) The date of issuance of the license;

(4) The particular classification or classifications of sexually oriented business for which the license is granted; and

(5) The license number.

(e) A permit, if granted, shall state on its face:

(1) The name and address of the permittee;

(2) The date of issuance of the permit;

(3) The type of permit granted, pursuant to the classifications of Section 8-4(f), below; and

(4) The permit number.

(f) Sexually oriented businesses shall be classified as follows, based upon the information in the application and subject to subsequent inspection for verification:

(1) Adult arcade;

(2) Adult bookstore;

(3) Adult cabaret;

- (4) Adult encounter parlor;
- (5) Adult modeling studio;
- (6) Adult movie theater;
- (7) Adult video facility;
- (8) Escort agency; or
- (9) Massage parlor.

**13.6. Sexually oriented business permit: purpose and intent.**

It is the purpose of this Chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent deleterious effects of sexually oriented businesses within the town. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Chapter 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 or effect of this Chapter to in any way condone or legitimize the distribution of obscene material or material harmful to minors.

**13.7. Sexually oriented business license required.**

(a) It shall be unlawful for a person to operate a sexually oriented business without a valid license and permit issued pursuant to this Chapter for the particular classification of sexually oriented business sought to be operated.

(b) It shall be unlawful for a person to operate a sexually oriented business in an establishment that is licensed to sell or dispense alcoholic beverages.

(c) It shall be unlawful for a person to operate a sexually oriented business under any name or designation, or under any premises name or designation, or at any premises address not specified in a valid license issued pursuant to this Chapter. Each additional premises sought to be operated as a sexually oriented business shall require a separate license.

(d) It shall be unlawful for any operator of a sexually oriented business to hire or engage any provider, employee or manager who does not hold a valid permit as required under this Chapter.

(e) It shall be unlawful for any person to own, operate, or conduct any business in a sexually oriented business located within the town unless the permit is posted at or near the principal

public entrance to the sexually oriented business in such a manner that it will be conspicuous to patrons who enter the premises.

(f) In any prosecution under this Section, it shall be presumed that there was no permit at the time of the alleged offense, unless a permit was then posted as provided in subsection (e).

### **13.8. Application for sexually oriented business license.**

(a) A person who wishes to operate a sexually oriented business shall make application for a license in person at the office of the town council. The application shall be on a form prescribed by the town council and obtainable from the town council. The application shall be signed under oath by each individual listed as an applicant and notarized. An application shall be deemed filed with the town when the town council has received the required fee in full, a completed application with all information required in subsection (c), and the photograph and fingerprints of each applicant. The application shall be in triplicate, including all addendum or attachments thereto, with one (1) copy being kept on file with the town council, one (1) copy being transmitted to the police chief, and one (1) copy being transmitted to the zoning administrator.

(b) If a person who wishes to operate a sexually oriented business is an individual, that individual must be listed in the application for the license as the applicant and also as the designated license holder. If a person who wishes to operate a sexually oriented business is a legal entity other than an individual, each officer, manager, or general partner of the entity, and any other individual who will participate directly in decisions relating to management of the sexually oriented business, must be listed in the application as an applicant, with the individual appearing in person to make application being further designated as the primary applicant with general authority to act on behalf of the entity in connection with the application, and the entity listed as the designated license holder. Each applicant shall provide his or her photograph and fingerprints as provided in subsection (a) above.

(c) In addition to such other information as may be requested on the face of the application form, the application shall include the following information:

- (1) The name, premises address, business mailing address if different for the premises address, and phone number of the proposed sexually oriented business;
- (2) The name, address and phone number of the designated license holder;
- (3) Where the person seeking to operate the sexually oriented business is other than an individual, the entity's state of origination and date of formation;
- (4) The name under which the sexually oriented business is to be operated and a general description of the services to be provided;
- (5) The telephone number of the sexually oriented business;

- (6) The address, plat and/or legal description of the tract of land on which the sexually oriented business is to be located;
- (7) If the sexually oriented business is in operation, the date on which the owner(s) acquired the sexually oriented business for which the permit is sought, and the date on which the sexually oriented business began operations as a sexually oriented business at the location for which the permit is sought;
- (8) If the sexually oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;
- (9) Each applicant's full true name and any other names, aliases or stage names used in the preceding five (5) years;
- (10) Each applicant's current residential mailing address and telephone number. This information shall be supplemented in writing to the town council by letter postmarked not later than ten (10) days after any change in this information;
- (11) Written proof of each applicant's age, in the form of either a current drivers license with picture or other picture identification issued by an appropriate governmental agency;
- (12) The issuing jurisdiction and the effective date of any license or permit relating to the operation of a sexually oriented business or relating to the provision of any adult services which is held or has been held at any time by any applicant or by the designated license holder, whether any such license or permit has been revoked or suspended, and the reason or reasons therefore;
- (13) Any "specified criminal" act(s) committed by the applicant or the intended license holder for which:
  - A. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors,

prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this Section.;

- B. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for the “specified criminal” acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this Section.;
- C. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses occurring within any twenty-four (24) month period for the “specified criminal” acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the town or the State of Georgia, would constitute a specified criminal act under this Section;
- D. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(14) The name and address of the statutory agent or other agent authorized to receive service of process;

(15) The name(s) of the sexually oriented business manager(s) who will have actual supervisory authority over the operation of the business. This information shall be supplemented in writing to the town council by letter postmarked not later than ten (10) days after any change in this information; and

(16) An accurate, to-scale, but not necessarily professionally drawn, floor plan or diagram of the business premises clearly showing the configuration of the premises, including a statement of total floor space occupied by the business, the place at which the license will be conspicuously posted, if granted, the location of all manager's stations and overhead lighting fixtures, and clearly designating all portions of the premises in which patrons will not be permitted. Each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or 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 (6) inches. The town council 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.

(d) The application shall be accompanied by the following:

- (1) Payment in full of the fee required in Section 13.8;
- (2) Current photograph and the fingerprints of each applicant. Fingerprints shall be taken at the police department, or by any other law enforcement agency if accompanied by a notarized verification by that agency;
- (3) A certified copy of the tradename certificate filed in compliance with the tradename statute of the Official Code of Georgia Annotated, if the sexually oriented business is to be operated under an assumed name;
- (4) If the sexually oriented business is a Georgia corporation, a certified copy of the Chapters of incorporation, together with all amendments thereto;
- (5) If the sexually oriented business is a foreign corporation, a certified copy of the certificate of authority to transact business in the State of Georgia, together with all amendments thereto;
- (6) If the sexually oriented business is a limited partnership formed under the laws of the State of Georgia, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;
- (7) If the sexually oriented business is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;
- (8) Proof of the current fee ownership of the tract of land on which the sexually oriented business is to be situated in the form of a copy of the recorded deed;

- (9) If the persons identified as the fee owner(s) of the tract of land in item (7) are not also the owners of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business for the purpose of the operation of the sexually oriented business; and
  - (10) Any of items (1) through (9), above shall not be required for a renewal application if the applicant states that the documents previously furnished the town council with the original application or previous renewals thereof remain correct and current.
- (e) The application shall contain a statement under oath that:
- (1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
  - (2) The applicant has read the provisions of this Chapter.
- (f) A separate application and permit shall be required for each sexually oriented business.

### **13.9. Fees.**

Every application for issuance or renewal of a sexually oriented business license shall be accompanied by a non-prorated and non-refundable application fee in the amount of three-hundred fifty dollars (\$350.00).

### **13.10. Issuance or denial.**

(a) Within sixty (60) days after the complete and accurate application for a sexually oriented business license is filed with the town, the town council shall mail to the designated license holder a license or a written notice of intent to deny.

(b) The town council shall issue a permit to the applicant unless one (1) or more of the following conditions exist:

- (1) The applicant's sexually oriented business is located within one thousand five hundred (1,500) feet of any school, religious institution, public park, or licensed day-care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's sexually oriented business to the nearest point on the property line of such school, religious institution, public park, or licensed day-care center;



- (2) The applicant's sexually oriented business is located within one thousand (1,000) feet of any other sexually oriented business for which there is a permit under this Chapter. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's sexually oriented business to the nearest point on the property line of any other sexually oriented business.
- (3) The applicant's sexually oriented business is located in a Section of the Town that is zoned other than general industrial (GI).
- (4) The applicant holds a license, issued under Chapter 10 of this Code, to sell or dispense alcoholic beverages upon the premises of the intended sexually oriented business;
- (5) The applicant failed to supply all of the information requested on the application;
- (5) The applicant gave materially false, fraudulent or untruthful information on the application;
- (6) The applicant, or the intended license holder, has been convicted of a specified criminal act, as described in Section 13.7(13);
- (7) The applicant's sexually oriented business is not in compliance with Section 13.28 of this Chapter (the town council may allow any noncompliance with Section 13.28 to be cured during the town council's review period established in subsection (a), above, provided that it must be cured before the notice of decision on the permit is issued);
- (8) The application or the sexually oriented business does not meet any other requirement of this Chapter;
- (9) The operator has had a permit revoked for the same sexually oriented business within the twelve (12) month period next preceding the date that the application was filed. The fact that a revocation is being appealed shall have no effect; or
- (10) The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof upon which the sexually oriented business will be situated or has a legally enforceable right to acquire the same.
- (11) The applicant, the applicant's spouse, or the designated license holder is delinquent in payment to the town of taxes, fees, fines, or penalties assessed against or imposed upon the applicant, the applicant's spouse, or the designated license holder in relation to a sexually oriented business or arising out of any other business activity owned or operated by the applicant, the applicant's spouse, or the designated license holder and licensed by the town.

- (12) The applicant or the designated license holder has failed to comply with or is in violation of applicable provisions of the zoning ordinances, or the building codes, development standards or other land use ordinances and regulations of the town relating to the business or activity to be conducted under the license or permit.
- (13) Within the past two (2) years, the applicant or the designated license holder has had a license or permit similar to that authorized under this Chapter, but issued in another jurisdiction, revoked on the basis of conduct which would be a ground for revocation of a license or permit issued under this Chapter if committed in the town. The fact that the revocation is being appealed at the time of the decision on this application shall have no effect.
- (14) The granting of a license would violate a state or federal statute, county ordinance, or a court order.

(c) Property uses and distances for original applications shall be determined as of the time that the application is filed. If a renewal application is timely filed as provided in this Chapter, the property uses and measurements for the renewal application shall be determined as of the time that the original application for the sexually oriented business was filed. If not timely filed, renewal applications shall be subject to the same fees and shall be treated in the same manner in all respects as original applications.

### **Sec. 13.11. Appeal from denial of permit.**

(a) In the event that the town council determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within sixty (60) days of the receipt of its complete and accurate application by the town council, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this Chapter. An applicant may appeal the decision of the town council regarding such denial by filing a written request for a hearing with the town council within ten (10) days after he is given notice of such denial. The town council's decision on the application shall be final unless an appeal is timely filed. An appeal shall not stay the town council's decision on the issuance of a permit. The applicant's written request for a hearing shall set out the grounds on which the denial is challenged. The hearing shall be conducted before the Mayor and Town Council at a reasonable date and time established by the Mayor and after reasonable notice to the applicant. At the hearing, the Mayor and Town Council shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the mayor, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross-examine witnesses and be represented by legal counsel.

(b) The Mayor and Town Council shall conduct the hearing within thirty (30) days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The Mayor and Town Council shall render a written decision and issue notice thereof to the

applicant within ten (10) days after the conclusion of the hearing. The written decision of the Mayor and Town Council shall be final.

(c) In any instance in which the applicant's establishment is to be situated within one thousand (1,000) feet, as measured hereunder, from another proposed establishment for which a previously filed permit application under this Chapter has been denied, and the previously filed application is still subject to appeals, the town council may grant the permit on a conditional basis, subject to the outcome of the appeals on the previous application. A permit so issued may be withdrawn and denied effective upon the third day after notice thereof is given to the operator following the resolution of the appeals on the prior permit. In case of denial the applicant shall have the same rights of appeal hereunder as if the permit had been denied in the first instance.

(d) The provisions of item (2) of subsection (b) of Section 13.9, above, shall not be construed to prohibit a sexually oriented business for which there is a permit from relocating to another location situated within one thousand (1,000) feet of its existing location, provided that the proposed location complies with all applicable requirements of this Chapter other than its proximity to its own existing sexually oriented business location. An original permit application shall be required to be filed for the proposed relocation, and the town council shall conditionally grant the application, if granted, on the stipulation that the permit will not actually be issued until the applicant discontinues operation at its existing location and surrenders the permit for its existing location. Any such relocation must be completed within one hundred eighty (180) days from the date that the permit is conditionally granted or the conditional grant of the application will become void. Pending the removal of the sexually oriented business to its new location, both the old and new locations shall be deemed to be operating under a permit for purpose of measurements to locations of other proposed sexually oriented business for which applications may be filed.

(e) In any instance in which the proposed sexually oriented business tract description submitted by an applicant pursuant to Section 13(c)(6) of this Chapter, above, for a permit reflects a tract or parcel of land that has resulted from a subdivision of property for which compliance with the applicable subdivision requirements of this Chapter was required, and the town council determines that the property has not been lawfully subdivided in accordance with the proper subdivision requirements, then the town council shall cause all measurements and determinations regarding the issuance of the permit to be made on the basis of the parent tract from which the subdivision was made, rather than the subdivided tract.

### **13.12. Nontransferability of license or permit.**

(a) Licenses and permits issued under this Chapter are not transferable as to licensee or location. A licensee shall not conduct a different classification of a sexually oriented business than that designated in the license or conduct a sexually oriented business under the authority of a license at any place other than the address designated in the application. No sexually oriented business shall be conducted under any name or under any designation or classification not specified in the license for that business.

(b) It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a permit.

### **13.13. Term; renewal.**

Each permit shall be valid for a period of one (1) year and shall expire on December 31<sup>st</sup> of each year, unless sooner revoked, or surrendered.

### **13.14. Suspension of license or permit.**

The town council shall suspend a license or permit for a period of thirty (30) days if a licensee or permittee is convicted of violating a provision of this Chapter.

### **13.15. Revocation of license or permit.**

(a) The town council shall revoke a license or permit issued pursuant to this Chapter if the licensee or permittee:

- (1) Knowingly allowed a person under eighteen (18) years of age to enter a sexually oriented business;
- (2) Is convicted of two violations of this Chapter in any twelve-month period;
- (3) Is convicted of any crime or crimes on the basis of which a license may be denied under Section 13.7(c)(13).
- (4) Gave false or misleading information in the application;
- (5) The sexually oriented business has not been open for business for a period of thirty (30) consecutive days, unless due to circumstances beyond the control of the owner, and the owner is proceeding with due diligence, given all attendant circumstances, to open or reopen the establishment;
- (6) That the permit was erroneously issued in contravention of the criteria of this Chapter.
- (7) Has knowingly operated or worked in the sexually oriented business during a period of time when the license or permit was suspended; or
- (8) Is delinquent in payment to the town of taxes or fees related to the sexually oriented business.

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

### **13.16. License and permit renewal.**

(a) A license or permit may be renewed by filing an application for renewal on a form provided by the town council. The application for renewal shall be received by the town council not less than forty-five (45) days before the expiration of the license or permit. When the application for renewal is received less than forty-five (45) days before the expiration date, the expiration of the license or permit shall not be delayed, postponed or otherwise affected.

(b) The town council may deny an application for renewal for any reason for which an application may be denied or revoked under this Chapter.

(c) An application for issuance or renewal of a sexually oriented business license shall be accompanied by such fee as required under Section 13.8.

### **13.17. Procedure for revocation, suspension and denial of renewal of existing licenses and permits.**

(a) If the town council determines that grounds exist to suspend or revoke a license or permit, or to deny an application for renewal of a license or permit, the town council shall notify the designated license holder, permit applicant, or permittee (respondent), as applicable, in writing of the intent to deny, suspend, or revoke, which notice shall include a summary of the grounds therefore. The notice shall be sent by registered or certified mail to the address of the designated license holder, permit applicant, or permittee listed in the current year's license or permit application or renewal application.

(b) Within ten (10) days after the effective date of notice, the respondent may provide to the town council in writing a response which shall include a statement of reasons why the license or permit, or renewal thereof, should not be denied, suspended, or revoked and which may include a request for a hearing. If a response is not received by the town council in the time stated, the denial of renewal, suspension or revocation shall be final, and notice thereof shall be sent to the applicable designated license holder, permit applicant or permittee by registered or certified mail.

(c) Within ten (10) days after receipt of a response, the town council shall either withdraw the intent to deny the renewal, suspend, or revoke, and so notify the respondent, or shall deny the renewal, impose a suspension or revoke the license or permit. Following a decision to deny renewal, suspend or revoke a license or permit, the town council shall send notice thereof to the respondent, which shall include a statement of the reason(s) for the denial, suspension or revocation. The effective date of notice shall be the date the notice is actually received or five (5) days after the date the notice is mailed, whichever occurs first.

### **13.18. Appeal from suspension, revocation or denial of renewal.**

(a) An applicant may appeal the decision of the town council regarding a suspension, revocation or denial of renewal of a license or permit by filing a written request for a hearing with the town council within ten (10) days after he is given notice of such denial. The town council's decision

on the application shall be final unless an appeal is timely filed. The applicant's written request for a hearing shall set out the grounds on which the town council's decision is challenged. The hearing shall be conducted before the Mayor and Town Council at a reasonable date and time established by the Mayor and after reasonable notice to the applicant. At the hearing, the Mayor and Town Council shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the mayor, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross-examine witnesses and be represented by legal counsel.

(b) The Mayor and Town Council shall conduct the hearing within forty-five (45) days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The Mayor and Town Council shall render a written decision and issue notice thereof to the applicant within ten (10) days after the conclusion of the hearing. The written decision of the Mayor and Town Council shall be final.

## **EMPLOYEE PERMITS**

### **13.19. Permit required.**

(a) It shall be unlawful for any person who does not hold a permit to act as an adult service provider or a sexually oriented business manager of or in a sexually oriented business.

(b) It shall be the duty of the operator and owners of each sexually oriented business to ensure that no person acts as an adult service provider or manager of or in the sexually oriented business unless that person holds a permit.

### **13.20. Issuance of permits.**

(a) Any person who desires to obtain an original or renewal permit shall make application to the town council in person. The application shall be made under oath upon a form prescribed by the town council and shall include;

- (1) The name, home street address and mailing address (if different) of the applicant;
- (2) The applicant's age, date and place of birth;
- (3) Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency;
- (4) Height, weight, hair and eye color;
- (5) A list of any specified criminal acts, and time of service in jail or prison, as specified in Section (13) 13.7(c)(13) of this Chapter; and

(6) Two passport-type photographs of the applicant of a size specified by the town council, which shall become part of the photographic identity cards if a permit is issued;

(b) Each application shall be accompanied by a non-refundable processing fee of \$30.00. Each applicant shall be required to provide fingerprints to be used to verify the applicant's identity and criminal history information. Each applicant shall sign a waiver and authorization form authorizing the town council to request on behalf of the applicant criminal history reports from the Georgia Department of Public Safety or any other appropriate state or federal government entity.

(c) The town council shall issue the permit within ten days from the date of filing of the application unless he finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in the applicable provisions of Section 13.7(c)(13) of this Chapter within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided below, within ten days from the date of filing of the application.

(d) Each permit issued by the town council shall consist of two (2) photographic identification cards, a personal card and an on-site card.

(e) Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within ten days following the receipt of the request by the Town Council. The hearing shall be conducted as provided in Section 13.10 of this Chapter.

(f) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify the police chief and request a replacement, which shall be issued for a fee of ten dollars (\$10.00) within three (3) days following verification of the identity of the holder.

(g) No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void.

### **13.21. Term, transfer, amendment.**

(a) A permit is valid for one (1) year from the date of its issuance.

(b) A permit is personal to the named permit holder and is not valid for use by any other person.

(c) Each permit holder shall notify the town council of his or her new address within ten days following any change of his or her address.

### **13.22. Display.**

(a) Each manager or adult service provider shall conspicuously display his personal card upon his person at all times while acting as an adult service provider or manager of or in a sexually oriented business.

(b) Each manager or adult service provider shall provide their on-site card to the manager or on-site manager in charge of the sexually oriented business to hold while the manager or adult service provider is on the premises.

(c) In any prosecution for violation of this Section 13.21 of this Chapter, it shall be presumed that the actor did not have a permit unless the permit was in display as required under Section (a) of this subsection.

### **13.23. Revocation.**

In the event that the town council has reasonable grounds to believe that any permit holder has been convicted an offense as specified in the applicable provision of Section 13.7(c)(13) of this Chapter within the time specified therein or after, then the town council may revoke-the permit following a notice of the grounds and a hearing as provided in Section 13.16 and Section 13.17 of this Chapter.

## **OPERATIONS**

### **13.24. Persons younger than eighteen and intoxicated persons prohibited from entry; attendant required.**

(a) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

(b) It shall be unlawful to allow a person who is visibly intoxicated to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

(c) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

- (1) A valid operator's, commercial operator's, or chauffeur's driver's license; or



- (2) A valid personal identification certificate issued by the State of Georgia or another official government agency containing a description of the person so identified, such person's photograph, and such person's date of birth. Appropriate forms of such identification include a passport, military identification card. Appropriate forms of identification shall not include a birth certificate nor any traffic citation or complaint.

### **13.25. Exterior portions of sexually oriented business.**

(a) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the sexually oriented business to be visible from any point outside such sexually oriented business.

(b) It shall be the duty of the owner or operator of a sexually oriented business to opaquely cover each non-opaque area through which a person outside the premises of the sexually oriented business may otherwise see inside the sexually oriented business.

### **13.26. Alcoholic beverages.**

(a) It shall be unlawful for an owner, operator, or manager of an adult sexually oriented business to knowingly allow the sale, dispersion or consumption of alcoholic beverages upon the premises, including all outdoor areas, of a sexually oriented business.

(b) It shall be unlawful for an owner, operator or manager of an adult sexually oriented business to knowingly allow any person, whether a patron, employee or otherwise, to bring any alcoholic beverage onto the premises of the sexually oriented business, including all outdoor areas.

### **13.27. Access, visibility, lighting, supervision.**

(a) It shall be unlawful for any owner, operator or manager of any sexually oriented business to permit any employee to provide any entertainment to any customer in any separate area within a sexually oriented business to which entry or access is blocked or obscured by any door, curtain or other barrier, regardless of whether entry to such separate area is by invitation, admission fee, club membership fee or any form of gratuity or consideration.

(b) It shall be the duty of any owner, operator or manager of a sexually oriented business to allow immediate access by any police officer, town fire department official or health officer to any portion of the premises of the sexually oriented business upon request for purpose of inspection of such premises for compliance with this Chapter, or any other applicable law.

(c) Each sexually oriented business shall be equipped with lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one (1.0) foot-candle as measured at four feet above floor level.

(d) It shall be the duty of any owner, operator or manager of a sexually oriented business to ensure that at least one on-site manager is on duty on the premises at all times during which the sexually oriented business is open for business or during which customers are on the premises.

(e) It shall be the duty of any owner, operator or manager of a sexually oriented business to ensure that all persons acting as managers or adult service providers on the premises hold and display permits required by this Chapter, and that adult service providers comply with the requirements of this Chapter for adult service providers.

(f) It shall be the duty of the on-site manager to ensure that no adult service provider or manager is allowed or suffered to conduct any business on the premises of a sexually oriented business unless the on-site manager thereof has in his possession or control an on-site card, as referenced in Section 13.21(b) of this Chapter for the manager or adult service provider. On-site cards shall be made available for immediate inspection by any police officer, fire department official or health officer. Managers or adult service providers working at more than one sexually oriented business may retrieve their on-site cards upon departing the premises in order to present them to a manager at any other sexually oriented business where such persons are employed to hold while the manager or adult service provider remains on those premises.

(g) It shall be the duty of any owner, operator or manager to maintain a complete list of all persons, including names and addresses, who conduct any business on the premises and are required to obtain a permit under this Chapter.

(h) It shall be the duty of an owner and manager of a sexually oriented business to provide that all off-street parking areas and premise entries of the sexually oriented business are illuminated from sunset to one-hour following the time of closing of the sexually oriented business with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce specified criminal conduct as defined in Section 13.7(c)(13) of this Chapter.

### **13.28. Adult service business; operating requirements.**

(a) An adult service business shall be provided in accordance with the following regulations. Knowing failure of a licensee or manager to ensure compliance with the regulations on the premises is a violation of this Chapter by the licensee or manager.

- (1) A person employed or acting as an adult service provider or manager shall have a valid permit issued pursuant to the provisions of this Chapter. A permit or a certified copy thereof for each manager or provider shall be maintained on the premises in the custody of the manager at all times during which a person is serving as a provider or manager on the premises. Such permits shall be provided by the manager for inspection upon request by a law enforcement officer or other authorized town official.
- (2) A person under the age of eighteen (18) years may not receive, observe or provide an adult service.

- (3) A person may not provide an adult service in an adult service business except upon a stage elevated at least eighteen (18) inches above floor level. All parts of the stage, or a clearly designated area thereof within which the adult service is provided, shall be a distance of at least three (3) feet from all parts of a clearly designated area in which patrons may be present. The stage or designated area thereof shall be separated from the area in which patrons may be located by a solid barrier or railing the top of which is at least three (3) feet in height. A provider or patron may not extend any part of his or her body over or beyond the barrier or railing.
- (4) An adult service provider, in the course of providing an adult service, may not perform or simulate any specified sexual activities.
- (5) Adult services may not be provided between the hours of 1:30 a.m. and 6:00 a.m. or between 1:30 a.m. and 10:00 p.m. on Sunday.
- (6) An adult service may not be provided in any location which is not visible by direct line of sight at all times from a manager's station located in a portion of the premises which is accessible to patrons of the adult service business.
- (7) An adult service shall not be provided in any location or area of a premises so as to be visible or viewable from a public right-of-way.
- (8) An adult service provider shall wear his or her adult service work identification card at all times while on the premises except while providing an adult service. The card shall be affixed to clothing on the front of the person and above waist level so that the picture and permit number are clearly visible to patrons.
- (9) A sexually oriented business manager shall be on the premises of an adult service business at all times during which any adult service is provided on the premises. The manager shall wear his or her work identification card, in the manner described in paragraph (8) above.
- (10) An employee shall not touch the breast, buttocks, or genitals of a patron or another employee while on the premises, nor may a patron touch the breast, buttocks, or genitals of an employee.
- (11) A sign, in a form prescribed by the town council summarizing the provisions of paragraphs (3), (4), and (10) of this Section shall be posted near the entrance of an adult service business in such a manner as to be clearly visible to patrons upon entry.
- (12) An adult service provider or adult service provider shall not touch a customer or the clothing of a customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.

- (13) An adult service provider or adult service provider shall not approach closer than three (3) feet to any customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.
- (14) An adult service provider shall not provide an adult service, expose any specified anatomical areas or perform specified sexual activities in the presence of a customer in any separate area within a sexually oriented business to which entry or access is blocked or obscured by any door, curtain or other barrier separating entry to such are from any other area of the sexually oriented business.
- (15) An adult service provider or adult service provider shall not, by bending, stooping and other postural movements, display the interior of the anus or vagina.

**13.29. Adult video facility; operating requirements.**

(a) An adult video facility shall be operated in accordance with the following regulations. Knowing failure of a licensee or a manager to ensure compliance with the regulations on the premises is a violation of this Chapter by the licensee or manager.

- (1) 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 one (1) foot-candle, as measured at the floor level.
- (2) The premises shall be configured in such a way that a patron, whether sitting or standing, is visible below the waist by direct line of sight from a manager's station at all times during which the patron is viewing video material or other visual media material characterized by depiction of specified anatomical areas or specified sexual activities. The manager's station shall be located in a portion of the premises accessible to patrons and shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) 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 (1) of the manager's stations. The view required in this paragraph must be an unobstructed view from the manager's station. It is the duty of the licensee or manager to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is on the premises.
- (3) A sexually oriented business manager shall be on the premises of an adult video facility at all times that the facility is open for business. The manager shall wear his or her identification card at all times while on the premises.

## CONDUCT OF EMPLOYEES

### 13.30. Conduct of employees.

(a) It shall be unlawful for an adult service provider to touch a customer or the clothing of a customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.

(b) It shall be unlawful for an adult service provider to approach closer than three (3) feet to any customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.

(c) It shall be unlawful for an adult service provider or any employee to engage in entertainment or to expose any specified anatomical areas specified sexual activities in the presence of a customer in any separate area within a sexually oriented business to which entry or access is blocked or obscured by any door, curtain or other barrier separating entry to such area from any other area of the sexually oriented business.

(d) It shall be unlawful for an adult service provider to, by bending, stooping and other postural movements, display the interior of the anus or vagina.

(e) It shall be unlawful for an adult service provider or employee to touch a specified anatomical area of another adult service provider or employee while in the presence of a customer or patron.

(f) It shall be unlawful for an adult service provider to accept a gratuity of any kind from a customer or patron.

(g) It shall be unlawful for any person to act as an adult service provider at a sexually oriented business that he or she knows or should know has no adult use permit or license issued by the town pursuant to this Chapter, or which has an adult use license that is under suspension, has been revoked, or has expired.

(h) It shall be unlawful for any employee of an adult use sexually oriented business to display or expose specified anatomical areas while situated outside any structure on the site of a sexually oriented business or while situated at any other location on the site that is visible from any public right-of-way or sidewalk.

(i) It shall be unlawful for an adult service provider or any other employee, agent, or servant of a sexually oriented business or any person employed on a contractual basis to engage in any activity commonly referred to as lap dancing or private tableside dancing whereby the person intentionally sits upon or rubs against the clothed or unclothed genitals, vulva, anus or buttocks of any patron, customer or spectator therein. It shall be unlawful as well for the patron, customer or spectator upon whose body the lap dancer or private tableside dancer is committing the above proscribed activity to permit the activity to occur.

(h) Notwithstanding any provision of this article which may otherwise be construed to the contrary, it shall not be a violation of this article for any employee of a sexually oriented business to expose any specified anatomical area during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room which is accessible only to employees.

## **BATHHOUSES**

### **13.31. Provisions relating to licensing.**

Except as otherwise provided in this Article, the provisions of this Chapter , relating to licensing of sexually oriented businesses and adult service providers shall apply to bathhouses and bath technicians.

## **MISCELLANEOUS**

### **13.32. Other regulations.**

A license or permit required by this Chapter is in addition to any other licenses or permits required by the town, the county, or the state to engage in the business or occupation. Persons engaging in activities described in this Chapter, including the operation of a sexually oriented business, shall comply with all other ordinances and laws, including the zoning ordinances, as may be required, to engage in the business or profession.

### **13.33. Penalty.**

(a) Violation of any requirement or prohibition stated in this Chapter is a misdemeanor, punishable upon conviction by a fine and/or imprisonment up to the maximum allowed by the Town's Charter. With respect to a violation that is continuous in nature, each day that the violation continues shall constitute a separate offense.

(b) The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license or permit. Imposition of a criminal penalty shall be a prerequisite to the revocation or suspension of a license or permit.

### **13.34. Injunction.**

The operation of a sexually oriented business without a valid license in violation of this Chapter shall constitute a nuisance, and any person who operates or causes to be operated such business shall be subject to a suit for injunctive relief as well as prosecution for criminal violations.

**13.35. Applicability.**

This Chapter shall apply to all persons engaging in the activities described herein. Persons so engaged as of the effective date of this Chapter shall be in full compliance with the provisions of this Chapter, including receipt of any license or permit required by this Chapter, within one hundred twenty (120) days from its effective date.

**13.36. Severability.**

Each Section and each provision or requirement of any Section of this Chapter shall be deemed severable and the invalidity of any portion of this Chapter shall not affect the validity or enforceability of any other portion.

**ARTICLE II**

This Ordinance shall become immediately effective upon its second reading and adoption by the Town Council.

**ARTICLE III**

The Preamble of this Ordinance shall be construed to be, and is hereby incorporated by reference as is fully set out herein.

**ARTICLE IV**

This Ordinance shall be codified within the Code of Ordinances of the Town of Sharpsburg, Georgia at Chapter 13 in a manner consistent with the laws of the State of Georgia and of the Town of Sharpsburg.

**ARTICLE V**

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, sentence, paragraph, or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such an illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**ARTICLE VI**

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Date of first reading at a regular/open meeting of Council: 8-6-01

Date of Public Hearing before Council at regular/open meeting: 8-6-01 & 8-20-01

**APPROVED BY THE MAYOR AND COUNCIL OF THE TOWN OF SHARPSBURG** at a regular meeting of the Mayor and Council on the 20 day of August, 2001, by the following voting for adoption:

\_\_\_\_\_  
Clay Cole, Council Member

\_\_\_\_\_  
Larry Hyde, Council Member

\_\_\_\_\_  
David Mullins, Council Member

Attest:

\_\_\_\_\_  
Alvin G. Arrowood, Mayor

\_\_\_\_\_  
David P. Winkle, Interim Clerk