

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Amusements, Public Meetings and Public Performances****§13-101. Permit Required.**

It shall be unlawful for any person, or persons, association, firm, or corporation to conduct or hold any circus, or carnival, public dance, entertainment, performance, or show of any kind, or public meeting at any place, outdoors or indoors, in the Borough of Carnegie, without first having obtained a permit from the Borough Secretary, as hereinafter provided, and, thereafter, adhering to all conditions imposed in the granting of such permit. Provided: nothing herein shall apply to any permanent organization or group within the Borough and its meetings held regularly at places constructed and designed for the purpose, including, but not limited to church groups, school assemblies and entertainments conducted in and under the auspices of churches and schools, or to meetings of fraternal and social groups regularly held in the Borough, or to any entertainment conducted in a place designed and constructed for the purpose, throughout the year, or the major part thereof, according to a daily or weekly schedule. The intent of this Part is to protect and insure the health, safety, morals, comfort, and welfare of the Borough by exercising supervision and control over casual or transient entertainments and gatherings.

(*Ord. 141, 12/30/1904, §1; as amended by Ord. 723, 12/20/1960, §1*)

§13-102. Application for Permit; Fees; Exceptions.

No such permit shall be issued until application has been made to the Borough Secretary therefor, by the person or persons, association, firm or corporation desiring to conduct or sponsor such entertainment, show, dance or other activity. Following such application, there shall be a waiting period of not more than 7 days, during which period investigation of the proposed activity and its sponsors, and inspection of the place where such activity is proposed to be held, may be made by the Mayor, the Borough Secretary, the Fire Chief and/or the Chief of Police of the Borough, as provided in §13-103 of this Part. At his discretion, in an emergency, the Borough Secretary may authorize the issuance of any such permit without such waiting period. No permit shall be issued by the Borough Secretary until the prescribed fee, in an amount as established, from time to time, by resolution of Borough Council, which shall be for the use of the Borough, shall have been paid to the Borough Secretary. Provided: permits shall be issued without payment of a fee for entertainments, dances, shows, meetings, and other activities conducted for charitable, educational or religious purposes.

(*Ord. 141, 12/30/1904, §2; as amended by Ord. 723, 12/20/1960, §2; by Ord. 973, 4/14/1981; and by Ord. 2384, 12/10/2012*)

§13-103. Conditional Grant of Permit.

The prior investigation and inspection provided in §13-102 of this Part shall be made to ascertain the background and criminal record, if any, of the applicant for the permit; whether the premises intended to be used for such entertainment, dance, show, meeting, or other activity are suitable for the purpose, and free from any dangerous or hazardous feature. Based upon recommendations of the officers making such

investigations and inspections, the Secretary may refuse to grant a permit on account of any unsanitary, dangerous, immoral, illegal, or hazardous condition, or because the Chief of Police or the Fire Chief has found the location unsuitable on account of the creation of a traffic hazard, the lack of accommodations for the number of persons and/or vehicles likely to be attracted thereto, or the creation of unnecessary annoyance to residents of the locality. In every case, the Borough Secretary, in such permit, shall specify the type of entertainment or activity authorized and the time for which such permit is to remain in effect. Such permit may be granted conditionally, dependent upon the taking of stipulated action by the holder thereof in order to meet standards of sanitation and safety. Provided: any person, or persons, association, firm, or corporation denied a permit may appeal from such action of the Borough Secretary to the Council, the decision of which shall be final.

(*Ord. 141, 12/30/1904, §3; as amended by Ord. 723, 12/20/1960, §3*)

§13-104. Revocation of Permits.

Any permit granted under this Part may be revoked by the Borough Secretary or by the Borough Council for any of the following causes or reasons:

- A. For failure to observe any of the conditions under which such permit was granted.
- B. For failure to maintain proper standards of safety or sanitation.
- C. For holding any type of entertainment or activity not specifically stated in such permit.
- D. For permitting any gambling, or any indecent, immoral, or lewd act, or performance.
- E. For violation of any of the provisions of this Part.

In case of revocation of any permit, no portion of the permit fee shall be returned to the holder of such permit.

(*Ord. 141, 12/30/1904, §6; as amended by Ord. 723, 12/20/1960, §4*)

§13-105. Penalty for Violation.

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

(*Ord. 141, 12/30/1904, §7; as amended by Ord. 723, 12/20/1960, §5; by Ord. 973, 4/14/1981; by Ord. 1047, --/1989; and by Ord. 2384, 12/10/2012*)

Part 2

[Reserved]

Part 3**Advertising Matter Distribution****§13-301. Restrictions.**

No person, or persons, partnership, firm, or corporation shall distribute any circular, handbill, or other advertising matter whatever in the Borough of Carnegie by casting or scattering the same upon any of the streets, sidewalks, alleys or public places in the Borough. Provided: nothing herein shall prevent any person from handing any literature or other printed matter, noncommercial in nature, upon any of the streets, sidewalks or alleys in the Borough, to any person willing to receive the same.

(*Ord. 743, 12/20/1960, §1*)

§13-302. Penalty for Violation.

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

(*Ord. 743, 12/20/1960, §2; as amended by Ord. 973, 4/14/1981; by Ord. 1047, --/1988; and by Ord. 2384, 12/10/2012*)

Part 4**Peddlers, Canvassers and Transient Merchants****§13-401. License Required.**

It shall be unlawful for any peddler, canvasser or transient merchant, as defined in §13-402 of this Part, to engage in any such business within the Borough of Carnegie without first obtaining a license therefor in compliance with the provisions of this Part.

(*Ord. 1035, 11/10/1987, §1*)

§13-402. Definitions.

When used in this Part, the following terms shall have the following meanings:

Canvasser—shall include any person, whether a resident of the Borough of Carnegie or not, who goes from house to house, from place to place, or from street to street, soliciting or taking or attempting to take orders from individuals for sale of goods, wares or merchandise, including magazines, books, periodicals, or personal property of any nature whatsoever for future delivery or for service to be performed at that time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders.

Peddler and transient merchant—shall include any person, whether a resident of the Borough of Carnegie or not, who goes from house to house, from place to place, or street to street, conveying or transporting goods, wares or merchandise or offering or exposing the same for sale, or making sales and delivering parts to purchasers.

(*Ord. 1035, 11/10/1987, §2*)

§13-403. Exemptions.

1. The terms of the Part shall not be held to include the act of persons selling personal property at wholesale to dealers in such articles; newsboys, nor to the acts of merchants or their employees in delivering goods in the regular course of business; farmers selling their own produce; the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose; any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products; provided, however, that any person in all of the above excepted categories must register with the Borough Secretary and be subject to all other provisions of the Part except those pertaining to the payment of license fees; provided, however further, that the term milk or milk products; should not include or apply to ice cream or other frozen desserts; and provided further, that any peddler dealing in one or more of the excepted categories and selling other goods, wares and merchandise not excepted shall be subject to the license fee fixed by this Part for its activities in connection with the sale of goods, wares and merchandise not in any of the excepted categories.

2. Nothing in this Part shall be held to prohibit any sale required by statute or by order of any court or to prevent any person conducting a bona fide auction sale

pursuant to law.

(*Ord. 1035, 11/10/1987, §3*)

§13-404. Application.

Applicants for a license under this Part must file with the Secretary of the Borough a sworn application in writing on a form to be furnished by the Borough, which will give the following information:

- A. Name and physical description of applicant.
- B. Complete permanent home and local address of the applicant, and in the case of transient merchants, the local address from which the proposed sales will be mailed.
- C. A brief description of the nature of the business and goods to be sold.
- D. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.
- E. The source of supply of the goods or property to be sold or orders taken for the sale thereof, and the proposed method of delivery.
- F. A recent photograph of the applicant which picture shall be approximately 2 inches by 2 inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- G. Submit his or her fingerprints upon a non-criminal file card which can be reclaimed upon the expiration of license.
- H. A statement as to whether or not the applicant has been convicted of any crime, felony, misdemeanor, or any violation of any municipal ordinance, other than traffic violations, and the nature of the offense and punishment or penalty assessed therefor.
- I. A form of identification for approval by the Borough, which must be exhibited upon request by a citizen, pursuant to §13-410.1 hereof.

(*Ord. 1035, 11/10/1987, §4*)

§13-405. Religious and Charitable Organizations Exemption.

Any organization, society, association or corporation desiring to solicit or have solicited in its name, money, donations of money or property, or financial assistance of any kind, or desiring to sell or distribute any item of literature, various types of tokens or merchandise for which a fee is charged or solicited from persons other than members of such organizations, upon the streets, in office buildings, by house to house canvass, or in public places for a charitable, religious, patriotic or philanthropic purpose, shall be exempt from the provisions of §13-407 of this Part, provided there is filed a sworn application in writing on a form furnished by the Borough Secretary which will give the following information:

- A. Name and purpose of the cause for which permit is sought.
- B. Name and address of the officers and directors of the organization.
- C. Period during which solicitation is to be conducted.
- D. Whether or not any commission, fees or wages are to be expended in

connection with such solicitation, and the amount thereof.

Upon being satisfied that such organization, association or corporation is a religious, charitable, patriotic or philanthropic organization, the Borough Secretary shall issue a permit without charge.

(*Ord. 1035, 11/10/1987, §5*)

§13-406. Investigation and Issuance of License.

1. Upon receipt of each application it shall be referred to the Chief of Police or Ordinance Officer, as designated by Council, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public safety.

2. If as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police or Ordinance Officer, as designated by Council, shall endorse on the application his approval and return the application to the Borough Secretary, who shall upon payment of the prescribed license fee, deliver to the applicant his or her license within 7 days after it has been filed by the applicant with the Borough Secretary.

3. Such license shall contain the signature of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the expiration date, as well as the license number and other identifying description of any vehicle used in such licensed business. Each peddler, canvasser or transient merchant must secure an individual license. No license shall be used at any time by any person other than the one to whom it is issued. The Borough Secretary shall keep a permanent record of all licenses issued and those rejected, also issue a monthly report to the Borough Council on said applicants and monies received.

(*Ord. 1035, 11/10/1987, §6*)

§13-407. Fees.

1. No license shall be issued under this Part until the proper fees shall have been paid to the Borough Secretary, as established, from time to time by resolution of Borough Council. [*Ord. 2384*]

2. The fees specified shall be paid by each and every individual peddler engaged in peddling within the Borough, whether or not hired by another person.

3. None of the license fees provided for by this Part shall be so applied as to occasion an undue burden upon interstate commerce. In any case where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he or she may apply to the Borough Council for an adjustment of the fee, so that it shall not be discriminatory or unreasonable or unfair as to such commerce.

(*Ord. 1035, 11/10/1987, §7; as amended by Ord. 2384, 12/10/2012*)

§13-408. Loud Noise and Speaking Devices.

No licensee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound or amplifying device upon any of the streets, alleys, parks or other public places of the Borough of Carnegie, or upon private premises where sound or

sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenue, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(*Ord. 1035, 11/10/1987, §8*)

§13-409. Use of Streets and Time Restrictions.

1. No licensee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where such operations might impede or inconvenience the public use of such streets or sidewalks.

2. No licensee or permit holder shall be permitted to solicit on Sunday, nor before 9 a.m. or after 9 p.m., prevailing time, on weekdays or Saturday.

(*Ord. 1035, 11/10/1987, §9*)

§13-410. Exhibition of Licenses/Uninvited Soliciting Prohibited.

1. Licensee/permit holders are required to prominently display their license/permit and a form of identification approved by the Borough on their person so that it is readily visible to any citizen or law enforcement officer. No license/permit shall be transferrable. [*Ord. 2161*]

2. It is declared to be the policy of this Borough that the occupants of residences within the Borough shall determine whether peddlers, canvassers, or transient merchants shall or shall not be invited to their respective residence. Notice of the determination not to invite said solicitors may be given by notice posted on the premises. Such written notice shall constitute sufficient notice to any solicitor of the determination of the occupant.

A. Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

B. It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of subsection .2 of this Section.

(*Ord. 1035, 11/10/1987, §10; as amended by Ord. 2161, 10/10/2000, §1*)

§13-411. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute

a separate offense.

(*Ord. 1035*, 11/10/1987, §11; as amended by *Ord. 1047*, --/1988; and by *Ord. 2384*, 12/10/2012)

Part 5**Sexually Oriented Business Operations****§13-501. Purpose and Intent.**

It is the purpose of this Part to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the Borough, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses in the Borough. The provisions of this Part 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 Part 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 or sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Part to condone or legitimize the distribution of obscene material.

(*Ord. 2012, 3/8/1993, §1*)

§13-502. Definitions.

Adult arcade—any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

Adult bookstore or adult video store—a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas.”

B. Instruments, devices or paraphernalia which are designed for use in connection with “specified sexual activities.”

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

Adult cabaret—a nightclub, bar, restaurant or similar commercial establishment which regularly features:

A. Persons who appear in the state of nudity.

B. Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities.”

C. 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 motel—a hotel, motel or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas,” and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction.

B. Offers sleeping rooms for rent four or more times in 1 calendar day during 5 or more calendar days in any continuous 30-day period.

Adult motion picture theater—a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or specified anatomical areas.

Adult theater—a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities.”

Escort—a person who, for 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.

Permittee and/or licensee—a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Municipality—the Borough of Carnegie.

Nude model studio—any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

Nudity or a state of nudity—the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

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

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

Sexual encounter center—a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually oriented business—an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

Specified anatomical areas—the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

Specified sexual activities—includes any of the following:

- A. The fondling or other erotic touching of human genitals, public region, buttocks, anus or female breast.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in paragraphs .A through .C, above.

Substantial enlargement of a sexually oriented business—the increase of floor area occupied by the business by more than 25 percent, as the floor areas exist on date of enactment of this Part.

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

- A. The sale, lease or sublease of the business.
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 2012, 3/8/1993, §2)

§13-503. Classification.

Sexually oriented businesses are classified as follows:

- A. Adult arcades.
- B. Adult bookstores or adult video stores.
- C. Adult cabarets.
- D. Adult motels.
- E. Adult motion picture theaters.
- F. Adult theaters.
- G. Escort agencies.

H. Nude model studios.

I. Sexual encounter centers.

(*Ord. 2012, 3/8/1993, §3*)

§13-504. Permit Required.

1. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of a violation of the Zoning Ordinance of the Borough [Chapter 27].

2. An application for a permit to operate a sexually oriented business must be made on a form provided by the Code Enforcement Officer of the Borough. The application must be accompanied by a sketch or diagram showing the floor plan and plot plan 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 6 inches.

3. The applicant must be qualified according to the provisions of this Part and the premises must be inspected and found to be in compliance with the law by the Code Enforcement Officer and the Fire Marshall.

4. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business each individual having a direct or indirect interest of 10 percent or greater in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of Borough permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.

(*Ord. 2012, 3/8/1993, §4*)

§13-505. Issuance of Permit.

1. The Borough Code Enforcement Officer shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds one or more of the following to be true:

A. An applicant is under 18 years of age.

B. An applicant or an applicant's spouse is overdue in his payment to the Borough of taxes, fees, fines or penalties assessed against him or imposed upon him in relation to a sexually oriented business.

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

D. An applicant is residing with a person who has been denied a permit by the Borough to operate a sexually oriented business within the preceding 12 months, or residing with a person whose license to operate a sexually oriented

business has been revoked within the preceding year.

E. The premises to be used for the sexually oriented business has been reviewed and has been disapproved by either the Code Enforcement Officer or the Fire Marshall as not being in compliance with applicable laws and ordinances.

F. The permit fee required by this Part has not been paid.

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

H. An individual applicant or any individual holding a direct or indirect interest of more than 10 percent of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the manager or other person in charge of the operation of the applicant's business, has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons' conviction or release in connection with the sexual misconduct offense must have occurred within 2 years of the date of application in the event of a misdemeanor and within 5 years of the date of application in the event of a felony.

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

3. The Code Enforcement Officer and Fire Marshall shall complete their certification that the premises is in compliance or not in compliance within 20 days of receipt of the application by the Code Enforcement Officer. The certification shall be promptly presented to the Code Enforcement Officer.

(Ord. 2012, 3/8/1993, §5)

§13-506. Fees.

The annual fee for a sexually oriented business permit shall be in an amount as established, from time to time, by resolution of Borough Council.

(Ord. 2012, 3/8/1993, §6; as amended by Ord. 2307, 2/9/2009, §1; and by Ord. 2384, 12/10/2012)

§13-507. Inspection.

1. An applicant, or permittee, shall permit representatives of the Police Department, Fire Marshall, Code Enforcement Officer or other Borough departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time that the sexually oriented business is occupied or open for business.

2. A person who operates a sexually oriented business or his agent or employee

violates the Zoning Ordinance [Chapter 27] of the Borough if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(*Ord. 2012, 3/8/1993, §7*)

§13-508. Expiration of Permit.

1. Each permit shall expire 1 year from the date of issuance and may be renewed only by making application as provided in §13-505. Application for renewal should be made at least 30 days before the expiration date and, when made less than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

2. If the Borough Code Enforcement Officer denies renewal of a license, the applicant shall not be issued a permit for 1 year from the date of denial, except that after 90 days have elapsed since the date of denial, the applicant may be granted a permit if the Code Enforcement Officer finds that the basis for denial of the renewal permit has been corrected.

(*Ord. 2012, 3/8/1993, §8*)

§13-509. Suspension of Permit.

The Code Enforcement Officer shall suspend a permit for a period not to exceed 30 days if he determines that a permittee or an employee of a permittee has:

- A. Violated or is not in compliance with any Section of this Part.
- B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises.
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this Part.
- D. Knowingly permitted gambling by any person on the sexually oriented business premises.
- E. Failed to man managers' stations and/or maintain viewing rooms as set forth in §13-512.

(*Ord. 2012, 3/8/1993, §9*)

§13-510. Revocation of Permit.

1. The Code Enforcement Officer shall revoke a permit if a cause of suspension set forth in §13-509 occurs and the permit has been suspended within the preceding 12 months.

2. The Code Enforcement Officer shall revoke a permit if he determines that:

A. A permittee or any of the persons specified in §13-505.1.H, is or has been convicted of the offenses specified in §13-505.1.H.

B. A permittee gave false or misleading information in the material submitted to the Borough during the application process.

C. A permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises.

D. A permittee or an employee of a permittee has knowingly allowed

prostitution on the premises.

E. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.

F. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other explicit sexual conduct to occur in or on the permitted premises.

G. A permittee is delinquent in payment to the Borough or Commonwealth of any taxes or fees relating to sexually oriented businesses.

3. When the Code Enforcement Officer revokes a permit, the revocation shall continue for 1 year, and the permittee shall not be issued a sexually oriented business permit for 1 year from the date revocation became effective, except that if the revocation is pursuant to subsection .2.A above, the revocation shall be effective for 2 years in the event of a misdemeanor or 5 years in the case of a felony.

4. After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or licensee or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

(*Ord. 2012, 3/8/1993, §10*)

§13-511. Transfer of Permit.

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designate in the application.

(*Ord. 2012, 3/8/1993, §11*)

§13-512. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

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

A. The application for a permit to operate a sexually oriented business shall be accompanied by a floor plan and plot plan diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all viewing rooms, partitions and doors and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall be attached to the application as Exhibit A and be incorporated by reference thereon. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of

plus or minus 6 inches. The Code Enforcement Officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

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

C. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Code Enforcement Officer or his designee.

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

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

F. It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises, to ensure that the view area specified in paragraph .E remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as a restricted or nonpublic access area on the application filed pursuant to paragraph .A of this Section.

G. No viewing room may be occupied by more than one person at any time. No connections or openings to an adjoining viewing rooms shall be permitted.

H. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than 1 footcandle as measured at the floor level.

I. It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

2. A person having a duty under subsection .1.A through .I is guilty of a violation of the Zoning Ordinance [Chapter 27] if he knowingly fails to fulfill that duty.

(*Ord. 2012, 3/8/1993, §13*)

§13-513. Exemptions.

It is a defense to prosecution under §§13-505 and 13-512 that a person appearing in a state of nudity did so in a modeling class operated:

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

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

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

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

(Ord. 2012, 3/8/1993, §14)

§13-514. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this Part is subject to an action in equity or a suit for injunction as well as citation for violation of the Zoning Ordinance [Chapter 27].

(Ord. 2012, 3/8/1993, §15)

