

ADULT ENTERTAINMENT ESTABLISHMENT ORDINANCE

Preamble:

Whereas, adult entertainment establishments require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the citizens of the communities where they locate, and

Whereas, the Town of Edgecomb finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

Whereas, the concern over sexually transmitted diseases is a legitimate health concern of the municipality that demands reasonable regulation of adult entertainment establishments in order to protect the health and well-being of the citizens; and

Whereas, there is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the reduction of property values; and

Whereas, it is recognized that adult entertainment establishments, due to their nature, have serious objectionable operational characteristics, particularly when they are located in proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

Whereas, the Town of Edgecomb wants to prevent these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

Whereas, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance that addresses the secondary effects of adult entertainment establishments as well as the health problems associated with such businesses; and

Now, therefore, be it ordained by the Inhabitants of the Town of Edgecomb, as follows:

SECTION I. Purpose and Findings.

A. Purpose. It is the purpose of this ordinance to regulate adult entertainment establishments and related activities to promote the health, safety, and general welfare of the citizens of the municipality, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment establishments within the *Town of Edgecomb*. 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 this ordinance to condone or legitimize the distribution of obscene materials.

- B. Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Select Board, and on findings incorporated in the cases of *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Papâ€™s A.M.*, 529 U.S. 277 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *Iacobucci v. City of Newport, Ky*, 479 U.S. 92 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *California v. LaRue*, 409 U.S. 109 (1972); *United States v. Oâ€™Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir.1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir.1986); *Hang On, Inc. v. City of Arlington,*, 65 F.3d 1248 (5th Cir.1995); *South Florida Free Beaches, Inc. v. City of Miami*, 734 F.2d 608 (11th Cir.1984); and *N.W. Enterprises v. City of Houston*, 27 F.Supp. 2d 754 (S.D. Tex.1998)), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney Generalâ€™s Commission on Pornography (1986), the Report of the Attorney Generalâ€™s Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the Select Board finds that:
1. Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
 2. Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where adult entertainment establishments are located. *See, e.g.*, Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.
 3. Sexual acts, including masturbation, and oral and anal sex, occur at adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. *See, e.g.*, *California v. LaRue*, 409 U.S. 109, 111 (1972); *See also* Final Report of the Attorney Generalâ€™s Commission on Pornography (1986) at 377.
 4. Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. *See, e.g.*, Final Report of the Attorney Generalâ€™s Commission on Pornography (1986) at 376-77.

5. Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments, for the purpose of engaging in sex within the premises of such adult entertainment establishments. *See, e.g., Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); *see also* Final Report of the Attorney General's Commission on Pornography (1986) at 376-77.
6. At least 50 communicable diseases may be spread by activities occurring in adult entertainment establishments including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. *See, e.g.,* Study of Fort Meyers, Florida.
7. As of June, 2001, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 793,025. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
8. The total number of cases of genital chlamydia trachomatis infections in the United States reported in 2000 was 702,093, a 6% increase over the year 1999. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
9. The total number of cases of early (less than one year) syphilis in the United States reported during the twelve-year period 1996-2000 was 212,672. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
10. The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,730,911 cases reported during the period 1996-2000. *See, e.g.,* Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
11. The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
12. According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. *See, e.g.* Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention at www.cdc.gov.
13. Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of adult entertainment establishments where persons view "adult" oriented films. *See, e.g.,* Final Report of the Attorney General's Commission on Pornography (1986) at 377.

14. Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. *See, e.g., Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).
15. Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. *See, e.g., Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9th Cir.1986).
16. Alcohol consumption in adult establishments increases the likelihood of crime, illegal drug use, and illegal sexual activity, and encourages undesirable behavior that is not in the interest of the public health, safety, and welfare. *See, e.g., Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306, 1309 (11th Cir.2000); *Sammy's Ltd. v. City of Mobile*, 140 F.3d 993, 996 (11th Cir.1998), *cert. denied*, 529 U.S. 1052, 146 L. Ed. 2d 459, 120 S. Ct. 1553 (2000).
17. The findings noted in paragraphs numbered (1) through (16) raise substantial governmental concerns.
18. Adult entertainment establishments have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
19. Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.
20. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the adult entertainment establishment, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.
21. The general welfare, health, and safety of the citizens of this Town will be promoted by enactment of this ordinance.
22. When more than one adult entertainment establishment use occupies the same location or business address, the secondary effects caused by such businesses are increased. Secondary effects are eliminated or controlled to a greater degree when only a single adult entertainment establishment use is allowed to occupy the same location.

SECTION II. Definitions.

1. ADULT AMUSEMENT STORE means the same as ADULT BOOKSTORE.
2. ADULT ARCADE means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, videos, 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."

3. **ADULT BOOKSTORE** means a commercial establishment that, 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 picture, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas;" or
 - b. instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A principal business purpose exists if materials offered for sale or rental depicting or describing "specified sexual activities" or "specified anatomical areas" occupy 20% or more of total floor space. 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 ADULT BOOKSTORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas."

4. **ADULT CABARET** means a nightclub, bar, restaurant, café, or similar commercial establishment that regularly, commonly, habitually, or consistently features:
 - a. persons who appear in a state of semi-nudity; or
 - b. live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
 - d. persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
5. **ADULT ENTERTAINMENT ESTABLISHMENT** means the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses.
6. **ADULT ENTERTAINMENT NIGHTCLUB OR BAR** means the same as ADULT CABARET.
7. **ADULT MOTEL** means a hotel, motel or similar commercial establishment that:

- a. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or 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 that advertises the availability of this adult type of photographic reproductions; or
 - b. offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
 - c. allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.
8. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
9. ADULT NOVELTY STORE means the same as ADULT BOOKSTORE.
10. ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
11. ADULT VIDEO STORE means the same as ADULT BOOKSTORE.
12. EMPLOYEE means a person who performs any service on the premises of an adult entertainment establishment on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.
13. ESCORT means 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.
14. ESCORT AGENCY means 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.
15. ESTABLISHMENT means and includes any of the following:

- a. the opening or commencement of any adult entertainment establishment as a new business;
 - b. the conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
 - c. the additions of any adult entertainment establishment to any other existing adult entertainment establishment; or
 - d. the relocation of any adult entertainment establishment; or
 - e. an adult entertainment establishment or premises on which the adult entertainment establishment is located.
16. ESTABLISHMENTS FEATURING STRIPPERS OR EROTIC DANCERS means the same as ADULT CABARET.
17. LIVE THEATRICAL PERFORMANCE means a play, skit, opera, ballet, concert, comedy, or musical drama.
18. NUDE MODEL STUDIO means 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 for consideration.
19. NUDITY or a STATE OF NUDITY means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
20. ON-SITE VIDEO SCREENING ESTABLISHMENT means the same as ADULT ARCADE.
21. PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.
22. PREMISES means the real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the adult entertainment establishment.
23. SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

- b. activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A principal business purpose exists if the services offered are intended to generate business income.
24. SEXUALY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
25. SPECIFIED ANATOMICAL AREAS means:
- a. the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
 - b. less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
26. SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:
- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
 - b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - c. masturbation, actual or simulated; or
 - d. excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.
27. SUBSTANTIAL ENLARGEMENT of an adult entertainment establishment means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on May 18, 2012.

SECTION III. Location Restrictions.

Adult entertainment establishments shall be permitted only in the Commercial Growth District, provided that no nudity of live persons shall be displayed and no live persons in a state of nudity, as defined, shall appear in such establishment, and provided that no alcoholic beverages are allowed on the premises in such establishment, and also provided that:

- A. The adult entertainment establishment may not be operated within:
- 1. 1,500 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - 2. 1,500 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior

colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;

3. 1,500 feet of a public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities;
 4. 1,500 feet of the property line of a lot zoned for residential use and devoted to a residential use as defined in the Land Use Ordinance; or
 5. 1,500 feet of another adult entertainment establishment.
- B. An adult entertainment establishment may not be operated in the same building, structure, or portion thereof, containing another adult entertainment establishment.
- C. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment establishment is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, lot containing a residence, district not listed at the beginning of this section, or licensed child care facility.
- D. For purposes of subsection (C) of this section, the distance between any two adult entertainment establishment uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

SECTION IV. Non-Conforming Uses; Amortization.

- A. Any business lawfully operating on the effective date of this ordinance that is in violation of the locational or structural configuration requirements of this ordinance shall be deemed a nonconforming use. The non-conforming use will be permitted to continue for a period not to exceed five years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more adult entertainment establishments are within 2,500 feet of one another and otherwise in a permissible location, the adult entertainment establishment that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.
- B. An adult entertainment establishment lawfully operating as a conforming use is not rendered a non-conforming use by the location of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed child care facility, public park, or residential use within 2,500 feet of the adult entertainment establishment, provided

the rights of the adult entertainment establishment have vested prior to the location of one of the uses or structures listed in this subsection. Vesting shall have occurred if the owner/applicant for the adult entertainment establishment:

1. exercised due diligence in attempting to comply with the law;
2. demonstrated good faith throughout the proceedings;
3. expended substantial unrecoverable funds in reliance on the Planning Board's approval;
4. The period during which an appeal could have been taken from the approval of the application has expired; and
5. There is insufficient evidence to prove that individual property rights or the public health, safety or welfare would be adversely affected by the project as approved.

SECTION V. Additional Regulations for Adult Motels.

- A. Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this ordinance.
- B. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise, that is not validly permitted as an adult entertainment establishment, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he/she rents or subrents the same sleeping room again.
- C. For purposes of subsection (B) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

SECTION VI. Additional Regulations For Escort Agencies.

- A. An escort agency shall not employ any person under the age of 18 years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

SECTION VII. Additional Regulations For Nude Model Studios

- A. A nude model studio shall not employ any person under the age of 18 years.
- B. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

SECTION VIII. Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos.

- A. A person who operates or causes to be operated an adult entertainment establishment, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:
1. A manager's station may not exceed thirty-two (48) square feet of floor area.
 2. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 3. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, including video viewing booths, and excluding only 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 the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 4. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (3) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access.
 5. 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 five (5.0) foot-candle as measured at the floor level.
 6. It shall be the duty of the operator, 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.
 7. No viewing room or booth may be occupied by more than one person at any time.
 8. No opening of any kind shall exist between viewing rooms or booths.
 9. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.
 10. The operator of the adult entertainment establishment shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

11. The operator of the adult entertainment establishment shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting
12. The operator of the adult entertainment establishment shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48 •) inches of the floor.

SECTION IX. Exterior Portions of Adult Entertainment Establishments.

- A. It shall be unlawful for an owner or operator of an adult entertainment establishment to allow the merchandise or activities of the establishment to be visible from a point outside the establishment. A barrier must be placed around the sides of the establishment.
- B. It shall be unlawful for the owner or operator of an adult entertainment establishment to allow the exterior portion of the adult entertainment establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.
- C. It shall be unlawful for the owner or operator of an adult entertainment establishment to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to an adult entertainment establishment if the following conditions are met:
 1. The establishment is a part of a commercial multi-unit center; and
 2. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.
 3. Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of an adult entertainment establishment.

SECTION X. Signage.

- A. Notwithstanding any other town ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any adult entertainment establishment or any other person to erect, construct, or maintain any sign for the adult entertainment establishment other than the one (1) primary sign and one (1) secondary sign, as provided herein.
- B. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 1. not contain any flashing lights;
 2. be a flat plane, rectangular in shape;

3. not exceed seventy-five (40) square feet in area; and
 4. not exceed ten (10) feet in height or ten (10) feet in length.
- C. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
- D. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- E. Secondary signs shall have only one (1) display surface. Such display surface shall:
1. be a flat plane, rectangular in shape;
 2. not exceed twenty (20) square feet in area;
 3. not exceed five (5) feet in height and four (4) feet in width; and
 4. be affixed or attached to any wall or door of the enterprise.
- F. The provisions of item (1) of subsection (B) and subsection (C) and (D) shall also apply to secondary signs.

SECTION XI. Persons Younger Than Eighteen 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 an adult entertainment establishment at any time the adult entertainment establishment is open for business.
- B. It shall be the duty of the operator of each adult entertainment establishment to ensure that an attendant is stationed at each public entrance to the adult entertainment establishment at all times during such adult entertainment establishment's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of Eighteen (18) years from entering the adult entertainment establishment. 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 Maine reflecting that such person is Eighteen (18) years of age or older.

SECTION XII. Hours of Operation

No adult entertainment establishment, except for an adult motel, may remain open at any time between the hours of 12:00 A.M. and 10:00 A.M.

SECTION XIII. Exemptions.

- A. It is a defense to prosecution under this ordinance that a person appearing in a state of nudity did so in a modeling class operated:
1. by a public school, licensed by the State of Maine, a college, junior college, or university supported entirely or partly by taxation;
 2. by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- B. Notwithstanding any other provision in this ordinance, movies rated G, PG, PG-13, or R, by the Motion Picture Association of America (MPAA), or live theatrical performances with serious artistic, social, or political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this ordinance.

SECTION XIV. Separability.

If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION XV. Conflicting Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION XVI. Effective Date.

This ordinance shall be enforced from and after May 19, 2012.