

CHAPTER 8 BUSINESS REGULATIONS

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Section 8-1-1 Definitions

In this article, unless the context otherwise requires:

- A. **“Park and swap lot”** means a building, structure, enclosure, lot or other area into which persons are admitted to display, exchange, barter, buy, sell or bargain for new or used merchandise, goods, food, wares or services. A park and swap lot shall be zoned C2 (commercial) or by permission of a conditional use permit as approved by the Town Council.
- B. **“Park and swap meet”** means activity carried on at the park and swap lot and consists of the admitting of any persons into a park and swap lot for the purpose of displaying, exchanging, bartering, buying, selling or bargaining for new and used merchandise, goods, food, wares or services.
- C. **“Park and swap meet owner”** or **“park and swap meet operator”** means the person who controls the admission directly, or through agents, of persons and merchandise into the trading area.
- D. **“Park and swap meet participant”** or **“vendor”** are interchangeable, means any person who is in the business of providing services or who brings goods, wares, food or merchandise, both new and secondhand, to a park and swap meet for the purpose of displaying, exchanging, bartering, buying, selling or bargaining said goods, wares, food, merchandise or services.
- E. **“Discontinued Use/Cessation of Use”** A commercial land use shall be considered to be discontinued, or to have ceased operation, when use is not open to the public for retail or wholesale sales a minimum of (3) three days per week for a minimum of (4) four continuous hours per day.

- A. **“Temporary Vending Structure”** means a constructed or erected structure set up by any person holding a vendor’s license or permit which structure is intended for use for a period not to exceed one hundred eighty (180) days and which is readily movable.

Section 8-1-2 Registration Required

Any person operating as a park and swap meet participant or vendor in the town shall register with the Town and obtain either a vendor sales permit or a Special Event vendor’s sale permit.

- A. A vendor sales permit shall be effective for (180) one hundred eighty days.
- B. A Special Event vendor sales permit shall be valid for a period not to exceed three (3) consecutive days and shall be issued only in connection with a Town approved event.

Section 8-1-3 Vendor Sales and Special Event Vendor Sale Permit (Res 03-13)

- A. A vendor sales permit issued under the provisions of this article shall be displayed in a conspicuous place. This issued permit shall be effective for one hundred eighty (180) days. The person obtaining the permit or license shall designate the 180 days and said term may be extended on written application to the Town for one additional period of up to thirty (30) days for an additional fee. Said request for extension must be submitted within ten (10) days prior to the expiration of the original permit or license. The permit or license holder shall be entitled to place a Temporary Vending Structure on the location given in the vendor’s permit, subject to the restriction that all Temporary Vending Structures shall be subject to applicable zoning regulations and such other regulations as are then in force and effect within the Town.
- B. A Special Event Vendor Sales permit issued under the provision of this article shall be displayed in a conspicuous place. The issued permit shall be effective for three (3) consecutive days for a specific location. There shall be no extension or relocation permitted.
- C. The permit holder shall be entitled to commence business subject to the restriction that the permit holder shall comply with all ordinances, statutes and regulations required by federal authorities, state agencies, La Paz County and the Town.
- D. In the event that a person or organization is doing business under a vendor sales permit and wishes to move to a new location, they shall pay only the original vendor sales permit fee. This one permit fee entitles the holder to move to any park and swap lot within the Town, but requires notification to the Town of the new location.

Section 8-1-4 Non-assignability of Licenses

A vendor sales permit or a Special Event Vendors Sales granted or issued under any of the provisions of this chapter shall not be assignable or transferable to any other business, organization or person.

Section 8-1-5 Information Required (Ord 07-18)

It shall be the duty of the town manager or such representative of the Town as may be designated by the town manager, to require and obtain from every applicant purchasing a vendor sales permit the following information:

- A. Name of business.
- B. Owner's name.
- C. Permanent mailing address.
- D. Vehicle description and license plate number.
- E. Description of business activity and merchandise sold.
- F. Verification of Arizona resale tax number.
- G. Specific location in the town where business is to be conducted.
- H. Valid Driver License or Valid Identification Number.
- I. RV Sale must have MVD Off Site Sales Permit

Section 8-1-6 Fees (Res 99-01)(Res 03-13)(Res 07-20)

- A. A fee of \$50.00 shall be charged for each vendor sales permit. Council may change these fees and adopt regulations affecting this chapter by resolution. Fees collected by the town for vendor sales permit shall be designated a separate fund accounting code.
- B. A fee of \$15.00 shall be charged for thirty (30) day extension period on a vendor sales permit.
- C. A fee of \$15.00 shall be charged for each Special Event Vendor Sales permit.
- D. Council may change these fees and adopt regulations affecting this chapter by resolution. Fees collected by the Town for vendor sales permit extensions and Special Event Vendor Sales permits shall be designated a separate fund accounting code.

If a vendor is found to be doing business without a valid Town permit, it is within the discretion of the Town Code Enforcement Official to offer an alternative to the immediate issuance of a criminal citation as outlined in Section 8-1-9 of the Town Code. The fee schedule shall be the following in these circumstances:

- 1) **FIRST OFFENSE:** Immediate purchase as applicable of a vendor sales permit at the current fee of \$50.00, plus a penalty of \$50.00 for a total amount of \$100.00; purchase of an extension vendor sales permit at the current fee of \$15.00, plus a penalty of \$15.00 for a total amount of \$30.00; purchase of a Special Event permit at the current fee of \$15.00 plus a penalty of \$15.00 for a total amount of \$30.00.
- 2) **SECOND OFFENSE:** Immediate purchase of a vendor sales permit at the escalated permit fee and penalty of \$200.00; purchase of an extension vendor sales permit fee at the escalated permit and penalty of \$60.00; purchase of a special event permit fee at the escalated permit and penalty of \$60.00.
- 3) **FURTHER OFFENSES:** Each additional violation thereafter shall result in a doubling escalation of the permit fee and penalty.
- 4) Each violation shall be cumulative and escalation for additional violations shall follow the vendor license to license. If in a subsequent license additional violations are committed by said vendor, the prior violation from the preceding license shall be used as prior offenses in calculating the amount to be paid for the permit and penalty above and in applying the penalties set forth above.
- 5) At any time such permit and penalty is not immediately paid or at the discretion of the Town Code Enforcement Official, the vendor shall be criminally cited for vending without a license pursuant to Section 8-1-9 (A) of the Town Code.

Section 8-1-7 Permit Required

- A. It shall be unlawful for any vendor to commence, transact or carry on any trade, calling, profession or occupation, as set forth in this article, without first having obtained a valid vendor sales permit or Special Event Vendor Sales permit from the Town. Furthermore, vendor shall comply with any and all licensing and regulation of such trade, business, calling, profession or occupation as may be required by the federal authorities, state agencies, La Paz County and the Town.
- B. The practicing, transaction or carrying on of any trade, business, calling, profession or occupation specified in this article without complying with any and all regulations, statutes or ordinances of the government entities as stated above, shall constitute a violation of this article.
- C. The granting of a vendor sales permit or a Special Event vendor sales permit is not deemed as evidence of proof that the vendor has complied with all provisions of this code nor shall it stop the Town in seeking remedy for any violation of this Code.

- D. The fact that a person or organization is engaged in any business which, pursuant to this article requires a vendor sales permit, or that such person or organization has exhibited a sign indicating such business is being pursued shall be prima facie evidence of the responsibility of such person or organization to pay a vendor sales permit or a Special Event Vendors Sales Permit fee.
- E. In any criminal or action brought for the violation of any of the provisions of this chapter, in the absence of evidence by the defendant otherwise, it shall be presumed that no vendor sales permit or a Special Event Vendor Sales permit has been issued and the burden of proof as to the issuance of the permit shall be upon the defendant.
- F. It shall be unlawful for any park and swap meet owner or park and swap meet operator to permit a park and swap meet participant or vendor to commence, transact or carry on any trade, calling, profession or occupation within their park and swap lot without the appropriate license.

Section 8-1-8 Park and Swap Lot Regulations

- A. Park and swap lots shall be zoned C2 (Commercial) unless approved as outlined in the conditional use permit process in the planning and zoning ordinance.
- B. The park and swap lot owner or park and swap lot operator shall notify the Town of the presence of any vendor on his lot that does not have a current and valid vendor sales permit or Special Event Vendor Sales permit.
- C. The fire department shall have the authority to enforce the International Fire Code as it concerns code violations on any park and swap lot, including vendor's tents, canopies and temporary structures.

Section 8-1-9 Penalty (Ord 07-18)(Ord 07-20)

- A. Any person, or organization vending in the Town without possessing a valid vendor sales permit, Special Event Vendor Sales permit or business license shall immediately cease and desist and be subject to:
 - 1) FIRST OFFENSE: Immediate purchase as possible of a vendor sales permit at the current fee of \$50.00, plus a penalty of \$50.00 for a total amount of \$100.00; purchase of an extension vendor sales permit at the current fee of \$15.00, plus a penalty of \$15.00 for a total amount of \$30.00; purchase of a Special Event permit at the current fee of \$15.00 plus a penalty of \$15.00 for a total amount of \$30.00.

- 2) **SECOND OFFENSE:** Immediate purchase as applicable of a vendor sales permit at the escalated permit and penalty fee of \$200.00; purchase of an extension vendor sales
- 3) Permit at the escalated permit and penalty fee of \$60.00; purchase of a Special Event Vendor Sales permit at the escalated permit and penalty fee of \$60.00.
- 4) **FURTHER OFFENSES:** Each additional violation thereafter shall result in a doubling escalation of the permit and penalty.

B. At the discretion of the Town Code Enforcement Official, a vendor who fails to immediately purchase a Vendor Sales permit and pay the applicable permit fee and penalty as set for in Section 8-1-9 (A):

- 1) The Vendor shall immediately cease and desist all vending and business transactions; and
- 2) A criminal citation shall be issued. Such violation shall be a class 2 misdemeanor punishable by a fine not exceeding \$750 or by imprisonment not to exceed 5 days, or by both such fine and imprisonment in the decision of the court.

C. If a vendor is found to be doing business without a valid Town Vendor Sales permit or a Special Event Vendor Sales permit, the park and swap lot owner or park and swap lot operator is subject to the following:

- 1) **FIRST OFFENSE:** Notice of Violation
- 2) **SECOND OFFENSE:** Immediate penalty of \$50.00.
- 3) **THIRD AND FURTHER OFFENSES:** Immediate penalty of \$100.00

Section 8-1-10 Removal of Temporary Facilities or Structures (Ord. 01-12 Ord. 04-06)

A. Vendor's tents, tent frames, canopies, canopy frames and all temporary structures in any park and swap lot must be removed no later than 10 days after the vendor has closed his or her business or discontinued use (as defined within Section 8-1-1e). It shall be the property owner's responsibility to remove such temporary facility/structure.

Section 8-1-11 Revocability

The Town Clerk shall issue a Notice of Order of Revocation, revoking a Vendor's Sales Permit or Special Event Sales permit issued pursuant to this article if any of the following occur:

A. The permittee is delinquent in payment to the Town, county, or state for any tax or fees;

- B. The vendor or permittee knowingly or intentionally gave false or misleading information in the application materials;
- C. The vendor or permittee knowingly or intentionally permitted the possession, use, or sale of controlled substances on the premises;
- D. The vendor's permit is not operated in full compliance with the conditions of approval; or
- E. Any vendor is found to be out of compliance as stated with State agencies, Federal authorities, La Paz County and the Town.

ARTICLE 8-2 BUSINESS LICENSE CODE (Ord 90-17)(Ord 10-20)(Res 90-29)

- 8-2-1 License Required
- 8-2-2 Separate Licenses Required
- 8-2-3 Issuance of License
- 8-2-4 Payment
- 8-2-5 Posting of License
- 8-2-6 Exhibition of License Required
- 8-2-7 License Not Transferable
- 8-2-8 Exemption
- 8-2-9 Fees
- 8-2-10 Information Required
- 8-2-11 Revocability

Section 8-2-1 License Required

It is unlawful for any person to carry on any trade calling, profession, occupation or business, specified in this article, without first having procured a license from the town to do so either pursuant to Article 8-1 or this article and without complying with any and all regulations of such trade, calling, profession, occupation or business as specified in this article.

Section 8-2-2 Separate Licenses Required

A separate license must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation or business is practiced, transacted or carried on, and for each trade, calling, profession, occupation or business practice, transacted or carried on at the same place. Each license issued shall authorize the person obtaining it to practice, transact, carry on, pursue or conduct only that trade, calling, profession, occupation or business described in such license, and only at the location or place of business therein described.

Section 8-2-3 Issuance of License

- A. It shall be the duty of the Town clerk to prepare and issue a license under this article for every person, firm, company or corporation liable to pay a license fee hereunder, and to state in each license the amount charged, the period of time covered, the name of the person, firm or corporation for whom issued, the trade, calling, profession, occupation or business licensed and the location or place of business where the trade, calling, profession, occupation or business is to be carried on.
- B. In no case shall any mistake of the Town clerk, in stating the amount of a license, Prevent or prejudice the collection by the Town of what shall be actually due from Anyone carrying on a trade, calling, profession, occupation or business, subject To license under this article.
- C. The business license application shall be submitted to the Planning and Zoning Department for a zoning review prior to issuance of any business license.
- D. The license holder shall be entitled to commence business subject to the restrictions that the license holder shall comply with all ordinances, statutes and regulations required by federal authorities, state agencies, La Paz County and the Town.

Section 8-2-4 Payment

- A. All business license fees shall be paid at the office of the town clerk in such Manner as may be specified by the clerk. Such license fees shall be paid in the Amounts and be due on the dates set forth in Section 8-2-9 of this code.
- B. A separate license must be obtained for each branch establishment or separate place of business in which any trade, calling, profession, occupation or business is carried on. Each license shall authorize the person obtaining such license to carry on, pursue or conduct, only that trade, calling, profession, occupation or business described in such license and only at the location or place of business which is indicated.

Section 8-2-5 Posting of License

Every person, firm, company or corporation having a license under the provisions of this article, and carrying on a trade, calling, profession, occupation or business at a fixed place of business shall keep such license posted and exhibited, while in force, in some conspicuous part of the place of business. Every person having such a license, and not having a fixed place of business, shall carry such license with him at all times while carrying on that trade, calling, profession, occupation or business for which the same was granted. Every person, firm, company or corporation having a license under the provisions of this article shall produce and exhibit the same, when applying for a

renewal thereof, and whenever requested to do so by any police officer or by any other authorized to issue, inspect or collect licenses.

Section 8-2-6 Exhibition of License Required

- A. The Police Chief shall have and exercise the power to make arrests and to cause complaints to be filed against all persons violating the provisions of this article.
- B. The Police Chief or any duly authorized official shall have the power to enter free of charge, at any time, any place of business for which a license is required by this article, and to demand the exhibition of such license for the current term, from any person engaged or employed in the transaction of any such business. It is unlawful for such person to fail to exhibit such license when requested to do so.

Section 8-2-7 License Not Transferable

No license granted or issued under the provisions of this article shall be in any manner assignable or transferable to any other person, firm, company or corporation other than is therein mentioned or named without first obtaining permission from the Council.

Section 8-2-8 Exemption

Any person who has obtained a license pursuant to Article 8-1 of this code shall be exempted from having to obtain any license or pay any license tax imposed pursuant to this article. Any person wishing to sell any form of agricultural products produced by himself shall be exempted from any license tax imposed by this article for the privilege of selling such products only. Before receiving the exemption, an affidavit of the facts entitling the seller to an exemption must be filed with the clerk.

Section 8-2-9 Fees (Ord. 00-10)

All businesses, occupations, professions, trades or callings, not having first obtained a license pursuant to Article 8-1 of this code shall pay a license fee in the amount of \$25.00 per year. All permits or licenses unless specifically excepted, shall be issued for a period of one year and shall run for 1-year to month of purchase when the license may be renewed, provided that no license or permit shall be renewed unless the licensee or permittee conforms with the provisions of this code. Licenses or permits issued under this code shall not be transferable. All renewals of licenses shall be subject to zoning review.

Section 8-2-10 Information Required

It shall be the duty of the town manager or such representative of the town as may be designated by the town manager to require and obtain from every applicant for a license or permit under this code the following information:

- A. Name
- B. Permanent and local address
- C. Business address
- D. A brief description of the nature of business conducted and goods being sold
- E. Arizona transaction privileged tax license number, unless exempted by the State of Arizona and the Town of Quartzsite as a service-oriented business.
- F. Proof of compliance with the town tax code
- G. Driver's license number and state where issued
- H. Date of birth
- I. Name of all individuals working with applicant
- J. Signature of applicant

Section 8-2-11 Revocability

The Town Clerk shall issue a Notice of Order of Revocation, revoking a Business License issued pursuant to this Article if any of the following occur:

- A. The permittee is delinquent in payment to the Town, County, or State for any tax or fees;
- B. The permittee knowingly or intentionally gave false or misleading information in the application materials;
- C. The permittee, knowingly or intentionally permitted the possession, use, or sale of controlled substances on the premises;
- D. The Business License is not operated in full compliance with the conditions of approval.
- E. Any business found to be out of compliance as stated in section 8-2-3 C with State agencies, Federal authorities, La Paz County and the Town.

ARTICLE 8-3 SEXUALLY ORIENTED BUSINESSES (Ord. No. 01-01)

- 8-3-1 Purpose
- 8-3-2 Definitions
- 8-3-3 Classification
- 8-3-4 License Required; Non-Transferability; Exceptions
- 8-3-5 License Application
- 8-3-6 Issuance of License; Denial; Annual Renewal Required
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- 8-3-8 Inspection
- 8-3-9 Expiration of License
- 8-3-10 Suspension
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- 8-3-22 Exterior Portions of Sexually Oriented Businesses
- 8-3-23 Signage
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- 8-3-27 Applicability to Existing Businesses
- 8-3-28 Violations & Abatement
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- 8-3-30 Civil Violations
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Section 8-3-1 Purpose

It is the purpose of this article to regulate sexually oriented businesses and related activities, to promote the health, safety, morals, and general welfare of the citizens of the Town of Quartzsite, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town. The provisions of this article 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 article to

restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene materials.

Section 8-3-2 Definitions

- A. **“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, or other image-producing devices are maintained to regularly 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.
- B. **“Adult Bookstore,” “Adult Novelty Store” or “Adult Video Store”** means a commercial establishment that, regardless of any other purposes it may have, and as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representation that depict or describe specified sexual activities or specified anatomical areas; or
 2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- C. **“Adult Cabaret”** means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
1. Persons who appear in a state of nudity or semi-nudity;
 2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
 3. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- D. **“Adult Motel”** means a hotel, motel or similar commercial establishment that 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 characterized by the depiction or description of specified sexual activities or specified anatomical

1. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
 2. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.
- E. **“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 shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. **“Adult Theater”** means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
- G. **“Adult Vending Machine”** means any mechanical device that, regardless of any other purposes it may have, regularly publicly dispenses, for any form or consideration, any books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- H. **“Employee”** means a person who performs any service on the premises of a sexually oriented business 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, commission or other compensation by the operator of said business. 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, as well as a person exclusively on the premises as a patron or customer is not an employee within the meaning of this article.
- I. **“Escort”** means a person who, for pecuniary or other 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.
- J. **“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.

- K. **“Establishment”** means and includes any of the following:
1. The opening or commencement of any sexually oriented business as a new business;
 2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 3. The addition of any sexually oriented business to any other existing sexually oriented business;
 4. The relocation of any sexually oriented business; or
 5. A sexually oriented business or premises on which the sexually oriented business is located.
- L. In assessing whether a particular business is a “family-oriented entertainment business”, the town clerk shall consider the following factors related to the business:
1. Whether a primary business purpose is related to the sale of food or food services;
 2. Whether a primary business purpose relates to the sale or use of entertainment or educational products, services, facilities or activities;
 3. The age of patrons for or by which the services, facilities or activities of the business are primarily appropriate and utilized; and
 4. Whether the business is primarily a retail establishment.
- A business determined to be primarily a retail or a food service establishment is presumed to not qualify as a family-oriented entertainment business unless articulable reasons to the contrary are established by the town clerk.
- M. **“Licensee”** means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.
- N. **“Nude Model Studio”** means any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

- O. **“Nudity” or a “State of Nudity”** means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
- P. **“Person”** means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- Q. **“Premises”** means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to this article.
- R. **“Regularly,” “Regularly Features,” or “Regularly Shown”** shall be construed to apply the provisions of this article only activities that take place outside the context of some larger form of expression.
- S. **“School”** means a child care facility licensed pursuant to the Arizona Revised Statutes, Title 36, Chapter 7.1, or any public or private institution established for the purposes of offering instruction to pupils in programs for preschool children with disabilities, kindergarten programs or any combination of grades on through twelve, including but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools; schools includes the school ground but does not include the facilities used primarily for another purpose and only incidentally as a school.
- T. **“Semi-Nude” or “Semi-Nudity”** means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breasts, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.
- U. **“Sexual Encounter Center”** means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration for:
1. Physical contact in the form of wrestling or tumbling between any two persons of the opposite sex when one (1) or more of the persons is in a state of nudity or semi-nudity; or

2. 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-nudity.
- V. **“Sexually Oriented Business”** means an adult arcade, adult vending machine, adult bookstore, adult novelty store or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, adult novelty store and sexual encounter center.
- W. **“Specified Anatomical Area”** means:
1. The human male genitals in a discernible turgid state, even if fully and opaquely covered; or
 2. 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.
- X. **“Specified Criminal Activity”** means any of the following offenses:
1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any sex-related offenses similar to those described under the criminal code of Arizona, other states, or other countries;
 2. For which:
 - i. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - ii. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - iii. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.
 3. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

- Y. **“Specified Sexual Activities”** means and includes any of the following:
1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
 2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 3. Masturbation, actual or simulated; or
 4. Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.
- Z. **“Substantial Enlargement”** of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25%) percent, as the floor areas exist on April 26, 2001.
- AA. **“Transfer of Ownership or Control”** of a sexually oriented business means and includes any of the following:
1. The sale, lease, or sublease of the business;
 2. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
 3. The establishment of a trust, gift, or other similar legal device that 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.

Section 8-3-3 Classification

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty shops or adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Adult vending machines;
- H. Escort agencies;
- I. Nude model studios; and
- J. Sexual encounter centers.

Section 8-3-4 License Required; Non-Transferability; Exceptions

- A. It shall be unlawful for any person to operate a sexually oriented business without first obtaining and maintaining a valid sexually oriented business license issued pursuant to this article.
- B. It shall be unlawful for any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee pursuant to this article.
- C. It shall be unlawful for any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person pursuant to this article.
- D. It shall be unlawful for any person, association, firm or corporation licensed as provided in this article to operate under any name or conduct business under any designation not specified in such license.
- E. All licenses issued pursuant to this article shall be nontransferable except as provided in this article.
- F. The license required by this section shall be in addition to any other licenses or permits required in order to engage in the business or occupation, as applicable, by either the town, the county or the state, and persons engaging in activities described by this article shall comply with all other ordinances and laws, including the town zoning ordinance, as may be required to engage in a business or profession.
- G. It shall be a defense to subsections (B) and (C) of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

Section 8-3-5 License Application

- A. An application for a sexually oriented business license, including a renewal application, must be made on a form provided by the town. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. The town clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certified that the configuration of the premises has not been altered since it was prepared.

- B. Prior to applying for an original sexually oriented business license, all applicants for such a license must have the premises inspected and approved by the health department, fire department, building department, and zoning department. Written certification of such inspections and approvals by each inspecting agency must be submitted with each sexually oriented business license application. A licensee who has not submitted such certifications within the five previous years or a licensee for an establishment which expanded since the time of the previous license application must also have the respective premises inspected and submit written certification of such inspections and approvals by each inspecting agency with the licensee's next application for the renewal of a sexually oriented business license. Agencies responsible for inspecting the premises of an existing or anticipated sexually oriented business must complete the requested inspections within thirty (30) days of applicant's request; in the event one or more agencies fails to timely inspect the requested premises, the requirements of this subsection as they relate to that one or more inspection are waived by the town.
- C. The application may request, and the applicant shall provide, such information (including fingerprints) as the town may require to enable the town to determine whether the applicant meets the qualifications established under this article. The applicant has an affirmative duty to supplement a pending application with new information received subsequent to the date the application was deemed completed.
- D. All applications to own or operate a sexually oriented business must be submitted by a natural person who must sign the application. If a legal entity wishes to own or operate a sexually oriented business, each natural person who owns or controls a twenty (20%) percent or greater interest in the business must sign the application for a business license as an applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a twenty (20%) percent or greater interest in the corporation must sign the application for a business license as an applicant. In all cases, any person involved in the day-to-day operation of the business or has the capacity to significantly influence the operation of the business must sign the application as an applicant.
- E. Each application for a sexually oriented business license shall be accompanied by the following:
1. Payment of the application fee in full;
 2. The name of the applicant or organization applying for the license and the name under which the sexually oriented business will operate.
 3. If the establishment is a State of Arizona corporation, a copy of the articles of incorporation, together with all amendments thereto and a signed statement that the corporation is in good standing in the State of Arizona;

4. If the establishment is a foreign corporation, a copy of the certificate of authority to transact business in this State, together with all amendments thereto and a signed statement that the corporation is in good standing in the state of incorporation;
 5. If the establishment is a limited partnership formed under the laws of the State of Arizona, a copy of the certificate of limited partnership, together with all amendments thereto and a signed statement that the corporation is in good standing in the State of Arizona;
 6. If the establishment is a foreign limited partnership, a copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto and a signed statement that the corporation is in good standing in the state of incorporation;
 7. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;
 8. If the persons identified as the fee owner(s) of the tract of land in item (6) are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the applicants to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;
 9. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses with 1,500 feet of the property to be certified; the property lines of any established religious institution/synagogue, public park or recreation area, or family-oriented entertainment business within 1,500 feet of the property to be certified; the property lines of any school established with 1,500 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;
 10. Any of items (2) through (8), above, shall not be required for a renewal application or for an application for a secondary classification of sexually oriented business operated within the same establishment as the primary application or license if the applicant states that the documents previously furnished the town clerk with the original application or previous renewals thereof remain correct and current.
- F. Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the

town clerk by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the town clerk. Applications must be submitted to the office of the town clerk or the town clerk's designee during regular working hours and contain the following information.

1. The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;
2. Age, date and place of birth;
3. Height, weight, hair color, and eye color;
4. Present residence address and telephone number;
5. Present business address and telephone number;
6. Date, issuing state, and number of photo driver's license, or other state issued identification card information;
7. Social Security number; and
8. Proof that the individual is at least eighteen (18) years old.

All information submitted to the Town pursuant to this paragraph is confidential and will not be released except as pursuant to a valid law enforcement investigation, court order or as otherwise may be required by law.

- G. Each person signing an application as an applicant shall attach to the application form the following:
1. Two (2) identical, passport-quality color photographs of the applicant clearly showing the applicant's face and taken within the preceding month, and two (2) sets of the applicant's complete fingerprints on a form provided by the Marshal's office. Any fees for the photographs and fingerprints shall be paid by the applicant.
 2. A statement detailing the sexually oriented business license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other town, city, county, state, or country, has ever had any sexually oriented business license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocation license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was

sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

3. A statement whether the applicant or any person over the age of eighteen (18) years with whom the applicant resides has been convicted, or is awaiting trial on pending charges, of a specified criminal activity and, if so, the nature of the specified criminal activity involved, the date, place and jurisdiction of each.
 4. A statement made under oath that the applicant has personal knowledge of the information contained in the application, that the information contained therein and furnished therewith is true and correct and that the applicant has read the provisions of this article.
- H. A separate application and sexually oriented business license shall be required for each sexually oriented business classification operating within the same establishment.
- I. The fact that a person possesses other types of permits and/or licenses does not exempt such person from the requirement of obtaining a sexually oriented business or employee license.

Section 8-3-6 Issuance of License; Denial; Annual Renewal Required

- A. Upon the filing of an application for a sexually oriented business employee license, the town clerk shall issue a temporary license to said applicant. The application shall then be referred to the appropriate town departments for investigation to be made on the information contained in the application. Any inspection requirement of a particular town agency shall be waived if the respective town agency fails to complete its inspection within twenty (20) days of the date it received an inspection request. The application review process shall be completed with thirty (30) days from the date of the completed application. After the investigation, the town clerk shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:
1. That the applicant has failed to provide the information required by this article for issuance of the license or has falsely answered a question or request for information on the application form.
 2. The applicant is under the age of eighteen (18) years;
 3. The applicant has been convicted of a specified criminal activity;

4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this article; or
 5. The applicant has had a sexually oriented business employee license revoked by any jurisdiction within two (2) years of the date of the current application.
- B. If an application for a sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void.
- C. Denial, suspension, or revocation of a license issued pursuant to this section shall be subject to appeal as set forth in this article.
- D. A license issued pursuant to subsection (A) of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on the employee's person at all time while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.
- E. If application is made for a sexually oriented business license, the town clerk shall approve or deny issuance of the license within forty-five (45) days of receipt of the completed application. The failure of the town or a particular town official or agency to timely act shall result in the waiver by the town of any requirement under this article as applied to that particular town official or agency. The town clerk shall issue a license to an applicant unless it is determined that one or more of the following findings is true:
1. An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 2. An applicant is under the age of eighteen (18) years;
 3. An applicant has been denied a license by the town to operate a sexually oriented business with the preceding twelve (12) months, or applicant's license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;
 4. An applicant is overdue in payment to the town in taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;
 5. An applicant has been convicted of a specified criminal activity;

6. The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building department as being in compliance with applicable laws and ordinances;
 7. The premises to be used for the sexually oriented business is located within 1,500 feet of any residential zone, single- or multiple-family dwelling, family-oriented entertainment business, church, park or school;
 8. The premises to be used for the sexually oriented business is located within 1,500 feet of either any other sexually oriented business licensed under this article or any other sexually oriented business that would be licensed under this article if it were located within the town limits;
 9. The license fee required under this article has not been paid; or
 10. An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this article.
- F. A license issued pursuant to subsection (E) of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the section 8-3-3 classification for which the license is issued. The license 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.
- G. A sexually oriented business license shall issue for only one classification, as set forth in section 8-3-3. Each classification operating with the same establishment and wholly owned by that establishment requires a separate license.
- H. In the event that the town clerk determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days of the receipt of the completed application by the town clerk, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this article.
- I. Each license issued pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the town clerk that the applicant has not been convicted of any specified criminal activity, or committed and act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of receiving the completed application. The renewal of a license shall be subject to the fee as set forth in section 8-3-7. Non-renewal of a license shall be subject to appeal as set forth in this article.

Section 8-3-7 Fees

The annual fee for a new sexually oriented business license is Five Hundred (\$500.00) Dollars, whether new or renewal, except as noted herein. The annual fee of Fifty (\$50.00) Dollars is required for a sexually oriented business employee license, whether new or renewal. The annual fee of Fifty (\$50.00) Dollars is required for a renewal sexually oriented business license or for a license for a second classification of a sexually oriented business operated within the same establishment as the primary application or license where no modifications to the premises or the primary application are required. These fees are to be used to pay for the cost of the administration and enforcement of this article. The fees are nonrefundable and may not be prorated for a license period of less than one year. The fee requirements under this article shall not result in the suspension, non-renewal or revocation of a license pursuant to this article if the applicant or licensee makes full payments within fifteen (15) days of being notified of the fee requirements.

Section 8-3-8 Inspection

- A. An applicant or licensee shall permit representative of the Police Department, Health Department, Fire Department, Building Department, or other Town, State or Federal Departments or agencies to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. Such inspection shall be limited to visual assessment of the activities conducted in areas in accord with the provisions of this article: areas to which patrons have access or are allowed access; to request for inspection of the licenses required under this article; and to request for identification of those individuals who reasonably appear to be under the age of 18.
- B. It shall be unlawful for an applicant, licensee or employee of a sexually oriented business to refuse to permit law enforcement officers or any other agent allowed by this section to inspect the premises at any time the premises is occupied or open for business.
- C. The provisions of this section do not apply to areas of an adult motel that are currently being rented for use as temporary or permanent habitation.

Section 8-3-9 Expiration of License

- A. Each license shall expire one year from the date of issuance and may be renewed only by submitting a renewal application to the town. Application for renewal shall be made at least thirty (30) days before the expiration date.

- B. If the town clerk denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. Notwithstanding the provisions of this section, in the event a licensee appeals the non-renewal of a license, the status quo immediately prior to the non-renewal shall be maintained throughout the pendency of the appeal.

Section 8-3-10 Suspension

- A. The town clerk shall issue a notice and order of suspension, suspending a license for a period not to exceed thirty (30) days, if the town clerk determines that the licensee or an employee of the licensee has:

1. Violated or is not in compliance with any section of this article;
2. Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
3. Refused to allow prompt inspection of the sexually oriented business premises as authorized by this article; or
4. Knowingly or intentionally permitted gambling by any person on the sexually oriented business premises.

- B. The notice and order of suspension shall become effective within ten (10) days after issuance unless the licensee appeals the suspension of a license.

Section 8-3-11 Revocation

- A. The town clerk shall issue a notice and order of revocation, revoking a license issued pursuant to this article if any of the following occur:

1. A cause of license suspension occurs and the license has been suspended within the proceeding twelve (12) months;
2. A licensee knowingly or intentionally gave false or misleading information in the material submitted during the application process;
3. A licensee, or a person with whom the licensee resides, is convicted of a specified criminal activity on a charge that was pending prior to the issuance of the license;
4. A licensee, subsequent to licensing, is convicted of a specified criminal activity;
5. A licensee knowingly or intentionally permitted the possession, use, or sale of controlled substances on the premises;

6. A licensee knowingly or intentionally permitted the sale, use, or consumption of alcoholic beverages on the premises;
 7. A licensee knowingly or intentionally permitted prostitution on the premises;
 8. A licensee knowingly or intentionally operated the sexually oriented business during a period of time when the licensee's license was suspended;
 9. A licensee knowingly or intentionally permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
 10. A licensee knowingly or intentionally is delinquent in payment to the Town, County or State for any taxes or fees;
 11. A licensee knowingly or intentionally permitted a person under eighteen (18) years of age to enter the establishment;
 12. A licensee knowingly or intentionally attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee; or
 13. A licensee knowingly or intentionally permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.
- B. When the town clerk revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date revocation became effective. If, subsequent to revocation, the Town determines that the basis for the revocation has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- C. The notice and order of revocation shall become effective within ten (10) days after issuance unless the licensee appeals the suspension of a license.

Section 8-3-12 Administrative Appeal

An applicant may appeal the decision of the town clerk regarding a denial, revocation or suspension to the town council by filing a written notice of appeal with the town clerk within fifteen (15) days after service of notice upon the applicant of the town clerk's decision. The notice of appeal shall be accompanied by a memorandum or other

writing setting out fully the grounds for such appeal and all arguments in support thereof. The town clerk may, within fifteen (15) days of service upon the town clerk of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the town council. The applicant shall be afforded a hearing before the town council at which the applicant or the applicant's attorney shall be afforded the right to address the council and the town clerk's decision, after which the town may respond to the applicant's presentation; the hearing shall be taken within thirty-one (31) calendar days after the date on which the town clerk receives the notice of appeal. After reviewing submitted memoranda and exhibits as well as the argument orally presented by the applicant and the town, the town council shall vote either to uphold or overrule the town clerk's decision. The town council's decision shall be effective upon its rendering. Judicial review of a denial by the town clerk and town council may then be made pursuant to this article.

Section 8-3-13 Judicial Review

After denial of an initial or renewal application, or suspension or revocation of a license by the town council, the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction. At such time as the town is notified that an applicant has filed for judicial review of the administrative action resulting in the denial of an application, the town shall issue a provisional license to applicant allowing it to carry on its requested activities, subject to the orders of the reviewing court.

Section 8-3-14 Change of Employment

- A. An establishment operator covered by this article shall keep and maintain an up-to-date register of all employees including the following: each employee's name, address, age, sex and duties. The licensee must notify the town clerk in writing within fifteen (15) day of hiring any attendant or employee.
- B. An establishment operator covered by this article must notify the town clerk in writing within fifteen (15) days of any change of licensed employees employed at the establishment.
- C. An employee covered by this article must notify the town clerk in writing within fifteen (15) days of any change in the employee's place of employment from one establishment covered by this article to another.

Section 8-3-15 Sale, Transfer or Expansion

- A. Upon the sale or transfer of a substantial interest in a sexually oriented business, the license therefore shall be null and void, unless the transaction was approved in advance by the town clerk, under the application procedure of this article. An original application shall be made by any person, association, firm or corporation desiring to own or operate the establishment upon its transfer.

- B. An establishment licensee shall submit, upon sale or transfer of any interest in an existing sexually oriented business, or any enlargement or expansion of the place of business of a sexually oriented business, new certifications of inspection as required of original applicants by this article.

Section 8-3-16 Notices

- A. Any notice required or permitted to be given by the town clerk or any other town office, division, department or other agency under this article to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the Town Clerk. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the town clerk or the town clerk's designee shall cause it to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the Town Clerk by any person under this article shall not be deemed given until and unless it is received in the office of the town clerk.
- C. It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the town clerk in writing of any change of residence or mailing address.

Section 8-3-17 [Reserved]

Section 8-3-18 Additional Regulations for Escort Agencies

- A. An escort agency shall not employ any person under the age of 18 years; neither shall any person who is under the age of 18 be employed or act as an escort.
- B. A person shall not act as an escort or agree to act as an escort for any person under the age of 18 years; neither shall an escort agency arrange for an escort for any person under the age of 18 years.

Section 8-3-19 Additional Regulations for Nude Model Studios

- A. A nude model studio shall not employ any person under the age of 18 years.
- B. A person under the age of 18 years shall not appear semi-nude or in a state of nudity in or on the premises of a nude model studio.

- C. A person shall not appear in a state of nudity, or with knowledge, allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.
- D. 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 and containing a partition to prevent visibility into the studio.

Section 8-3-20 Solicitation of Gratuity Prohibited

An employee of a sexually oriented business, while nude or semi-nude, shall not solicit any gratuity from any patron or customer on the sexually oriented business premises, nor shall any patron or customer pay or give any gratuity to any employee who appears in a state of nudity or semi-nudity on the sexually oriented business premises.

Section 8-3-21 Regulations Pertaining to Exhibition of Sexually Explicit Films and Videos

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 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:

- A. Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations 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 thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The town clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certified 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 town clerk or the town clerk's designee.

- D. It is the duty of the owner 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.
- 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 the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may neither contain nor be surveilled by 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.
- F. 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 (E) of this section remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron in permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection (A) of this section.
- G. No viewing room may be occupied by more than one person at any time.
- H. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measured at the floor level.
- I. 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.
- J. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.
- K. No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.
- L. The operator of the sexually oriented business shall, during each business day, inspect the walls between the viewing rooms or booths to determine if any openings or holes exist. No licensee or employee of a sexually oriented business may permit a patron to occupy a viewing room or booth containing any openings or holes allowing viewing between two or more booths.

- M. The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- N. The operator of the sexually oriented business 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 8-3-22 Exterior Portions of Sexually Oriented Businesses

- A. An owner or operator of a sexually oriented business shall not allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. An owner or operator of a sexually oriented business shall abide by the provisions of this article regulating the content of signs.
- C. An owner or operator of a sexually oriented business shall not allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - 1. The establishment is a part of a commercial multi-unit center;
 - 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; but
 - 3. Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

Section 8-3-23 Signage

- A. Notwithstanding any other provision of the code, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein. This section is intended to augment the town sign code, not supplant it.

- 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 (75) square feet in area; and
 - 4. Not exceed ten (10) feet in height or ten (10) feet in length.
- C. Primary and secondary 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 or secondary 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. Not contain any flashing lights;
 - 2. Be a flat plane, rectangular shape;
 - 3. Not exceed twenty (20) square feet in area;
 - 4. Not exceed five (5) feet in height or five (5) feet in width; and
 - 5. Be affixed or attached to a wall or door of the enterprise.

Section 8-3-24 Sale, Use, or Consumption of Alcoholic Beverages Prohibited

The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

Section 8-3-25 Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

- A. An owner or operator of a sexually oriented business shall not 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 the sexually oriented business is open for business.

- B. 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' 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 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 issued by the State of Arizona reflecting that such person is eighteen (18) years of age or older.

Section 8-3-26 Hours of Operation

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one a.m. (1:00) and eight a.m. (8:00) on weekdays and Saturdays, and one a.m. (1:00) and twelve p.m. (12:00) on Sundays.

Section 8-3-27 Applicability to Existing Businesses

The provisions of this Article shall apply to the activities of all persons and sexually oriented businesses described herein, whether such business or activities were established or commenced before, on or after the effective date of this section, except that the requirements that sexually oriented businesses be separated from certain types of land uses shall not apply to businesses existing on the date of passage of this ordinance. For purposes of this section, a use shall be considered existing or established if it is in existence as of April 26, 2001.

Section 8-3-28 Violations & Abatement

- A. It shall be unlawful for a person having a duty under this article to knowingly fail to fulfill that duty.
- B. A person who violates any provision of this article is guilty of a class one misdemeanor.
- C. In addition to prosecution for a criminal violation of this article, the operation of a sexually oriented business without a valid license shall constitute a nuisance and the Town Attorney may file an action in a court of competent jurisdiction against a person or entity operating or causing to be operated such business for injunctive relief or to abate the nuisance arising out of violation of this ordinance.

Section 8-3-29 Penalty

Penalties generally, miscellaneous provisions:

- A. Each day that a violation continues shall be considered a separate offense.
- B. A person may be found guilty of violating any section regardless of the person's knowledge of the violation.

Section 8-3-30 Civil Violation

Except as provided elsewhere in this article, any violation of this chapter shall be a civil infraction and punishable by a fine.

Section 8-3-31 Criminal Violations

- A. The failure of any person, firm, corporation, or other entity to comply with the provisions of any section of this article, and to pay any and all fees when due, shall be a class 1 misdemeanor, which shall be assessed against the owner or operator of a firm or corporation in the event a firm or corporation is in violation of that subsection.
- B. Any person violating a provision of Article 8-3 is guilty of a class 1 misdemeanor.
- C. A person who knowingly conducts, maintains, owns, manages, and/or operates any qualified establishment, as defined in Article 8-3, where any person is in violation of any provision of Article 8-3, is guilty of a class 1 misdemeanor.