

Sec. 24-78. - Sexually oriented business.

- (a) *Purpose.* The purpose of these requirements is to promote the health, safety, morals, and general welfare of the citizens of the County and establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the County. The provision of this section has 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 neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor the effect of this Chapter to condone or legitimize the distribution of obscene material.

Owing to the nature and potential impact of this type of development, the Planning Commission and County Council shall both call for and conduct a public hearing on any application to establish a sexually oriented business in Edgefield County, having given due notice to the parties in interest, including adjoining property owners. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the public hearing. Notice shall also be posted on or adjacent to the affected property, with at least one such notice visible from each public thoroughfare that abuts the property. The Planning Commission shall review and evaluate each application with respect to all applicable development standards contained herein and elsewhere in this Chapter. At the conclusion of the public hearing, the Planning Commission may recommend the approval of the proposal as presented, approve it with specified modifications, or disapprove it. Within thirty (30) days of making its decision, the Planning Commission shall submit its report and recommendation to County Council for final action. County Council shall consider the recommendation of the Planning Commission and vote to approve, deny, or modify the proposal, refer it back to the Planning Commission for further study, or take other action as the Council may deem necessary.

- (b) (1) Location. No such use shall be located within 3,000 feet (measured in a straight line and documented on a map drawn to scale) of:
- a. A residential property line or boundary line of an RD Zone;
 - b. A church or religious institution;
 - c. Public or private schools and educational facilities;
 - d. Public parks and recreational facilities;
 - e. Public library, governmental or historical building or marker;
 - f. County airport or County-owned or sponsored industrial park;
 - g. Another sexually oriented business;
 - h. Daycare facilities; or
 - i. Continuous care retirement center or nursing home.
- (2) *License required.* It shall be a misdemeanor for a person to operate a sexually oriented business without a valid permit and/or license issued by the responsible governing authority for the particular type of business.
- a. An application for a permit and/or license must be made on forms provided by the zoning administrator.
 - b. The premises must be inspected and found to follow the law by health, fire, and building officials.
- (3) *Expiration of license.* Each permit and/or license shall expire at the end of each calendar year and may be renewed only by making an application as provided herein.

- (4) *Fees.* The annual fee for a sexually oriented business license shall be \$500.00 and must accompany each application.
- (5) *Inspection.*
- a. An applicant or permittee and/or licensee shall permit representatives of the county zoning, police, health or fire departments or other government departments or agencies involved in code enforcement 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.
 - b. A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.
- (6) *Suspension.* The planning administrator shall suspend a permit and/or license for a period not to exceed 30 days if he determines that a permittee and/or licensee has:
- a. Violated or is not in compliance with any section of this Chapter; or
 - b. Refused to allow an inspection of the sexually oriented business premises as authorized by this section.
- (7) *Revocation.* The building official shall revoke a permit and/or license if he determines that:
- a. A permittee and/or licensee gave false or misleading information in the material submitted to the building department during the application process.
 - b. A permittee and/or licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - c. A permittee and/or licensee or an employee has knowingly allowed prostitution on the premises.
 - d. A permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended.
 - e. A permittee and/or licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises.
 - f. A permittee and/or licensee is delinquent in payment to the County for any taxes or fees past due.

(8) Adult motels – additional regulations

Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a reasonable presumption that the establishment is an adult motel as that term is defined by this Chapter. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit, rents or sub rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, rents or sub rents the same sleeping room again.

(9) Exhibition of Sexually-explicit Films or 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 which depicts specific sexual activities or specified anatomical areas, shall comply with the following requirements:

a. The application for a Sexually-oriented Business Permit 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 permit 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 shall be oriented to the north or some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches per dimension. The Planning Director may waive the foregoing diagram for renewal applications if the applicant adopts and submits a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

b. The application shall be sworn to be accurate 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 Planning Director.

d. It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

e. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction or viewing equipment. Suppose that the premises have two (2) or more manager's stations designated. In that case, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding restrooms, from at least one (1) 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 owners and operator, and it shall be the duty of any agents and employees present on the premises to ensure that the view area specified in Subsection e. above remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (A) of this Section.

g. No viewing room may be occupied by more than one (1) 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 one (1.0) foot-candle as measured at the floor level.

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

(10) Exemptions

Exempt from these requirements is any person appearing in a state of nudity who does so in a modeling class operated:

a. by a proprietary school licensed by the State of South Carolina; a college, junior college, or university supported entirely or partly by taxation;

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

c. in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and where to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises at any one (1) time.