

ARTICLE III: ADULT-ORIENTED ENTERTAINMENT ESTABLISHMENTS

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§ 2.5-71 PURPOSE AND INTENT.

It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the county, and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the county. 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 or 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 of this article to condone or legitimize the distribution of obscene material.

(1976 Code, § 2.5-71) (Ord. No. 2673, § 1, 2-7-95)

Cross-references:

Amusements, see [Ch. 3](#);
Offenses, see §§ [15-1 et seq.](#);
Public nudity, see § [15-4](#);
Zoning, see App. A

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-72 DEFINITIONS.

As used in this article, the following words, terms and phrases shall have the meanings set forth herein:

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 show images to 5 or fewer persons per machine at any 1 time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

Adult bookstore or adult video store means a commercial establishment that as 1 of its principle business purposes offers for sale or rental of any 1 or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an adult bookstore or adult video store so long as 1 of its principal business purposes is the offering for sale or rental of the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

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

(1) Persons who appear in a state of nudity; or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel means a hotel, motel or similar commercial establishment which:

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

(2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or

(3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.

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 which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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;
- or
- (4) The relocation of any sexually oriented business.

Permittee means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.

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 who pay money or any form of consideration.

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

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

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

Sexual encounter center means a business or commercial enterprise that, as 1 of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between persons of the opposite sex or persons of the same sex or both when 1 or more of the persons is in a state of nudity or semi-nude.

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

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

Specified sexual activities means any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (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 (1) through (3) above.

Substantial enlargement of a sexually oriented business means the increase in floor areas occupied by the business by more than 25%, as the floor areas exist on the effective date of this article.

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

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

(1976 Code, § 2.5-72) (Ord. No. 2673, § 2, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-73 CLASSIFICATION.

The following are classified as sexually oriented businesses:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Nude model studios; and
- (8) Sexual encounter centers.

(1976 Code, § 2.5-73) (Ord. No. 2673, § 3, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-74 PERMIT REQUIRED.

~~—(a)— A person commits a misdemeanor if he operates a sexually oriented business without a valid permit issued by the county for the particular type of business.~~

~~—(b)— An application for a permit must be made on a form provided by the Greenville County zoning department. The application must be accompanied by a sketch or 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 6 inches.~~

~~—(c)— The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the health department, fire department, and building official. The health department, fire department, and building official shall complete their inspections and certify same to the zoning administrator within 21 days of receipt of the application by the zoning administrator.~~

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

~~—(e)— The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit.~~

(1976 Code, § 2.5-74) (Ord. No. 2673, § 4, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-75 ISSUANCE OF PERMIT.

~~—(a)— The Greenville County zoning administrator shall approve the issuance of a permit to an applicant within 30 days after receipt of an application unless he finds 1 or more of the following to be true:~~

~~—(1)— An applicant is under 18 years of age.~~

~~—(2)— An applicant or an applicant's spouse is overdue in his payment to the county of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.~~

~~—(3)— An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the applicant form.~~

~~—(4)— An applicant is residing with a person who has been denied a permit by the county to operate a sexually oriented business within the preceding 12 months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding 12 months.~~

~~—(5)— The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.~~

~~—(6)— The permit fee required by this article has not been paid.~~

~~— (7) — An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this article.~~

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

(1976 Code, § 2.5-75) (Ord. No. 2673, § 5, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-76 FEES.

~~— The annual fee for a sexually oriented business permit is \$500. This fee is in addition to any other fees which may be due in connection with the operation of a business within the unincorporated areas of the county.~~

(1976 Code, § 2.5-76) (Ord. No. 2673, § 6, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-77 INSPECTIONS.

(a) An applicant or ~~permitter~~ shall permit representatives of the sheriff's office, health department, fire department, zoning department, or other county 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.

~~— (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 any time it is occupied or open for business.~~

(1976 Code, § 2.5-77) (Ord. No. 2673, § 7, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-78 EXPIRATION OF PERMIT.

~~— (a) — Each sexually oriented business permit shall expire 1 year from the date of issuance and may be renewed only by making application as provided in § 2.5-74. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the permit will not be affected.~~

~~— (b) — When the zoning administrator denies renewal of a permit, the applicant shall not be issued a permit for 1 year from the date of denial. If, subsequent to denial, the zoning administrator finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date denial became final.~~

(1976 Code, § 2.5-78) (Ord. No. 2673, § 8, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

~~§ 2.5-79 SUSPENSION.~~

~~—The zoning administrator shall suspend a permit for a period not to exceed 30 days if the zoning administrator determines that a permittee or an employee of a permittee has:~~

- ~~—(1) Violated or is not in compliance with any section of this article;~~
- ~~—(2) Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;~~
- ~~—(3) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;~~
- ~~—(4) Knowingly permitted gambling by any person on the sexually oriented business premises.~~

~~—Such determination may be based upon information obtained independently by the zoning department, a conviction under § 2.5-87 of this article, a separate criminal conviction that would constitute a violation of this article, or other information from law enforcement, the health department, the fire department, or other official charged with enforcing the law.~~

(1976 Code, § 2.5-79) (Ord. No. 2673, § 9, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

~~§ 2.5-80 REVOCATION.~~

~~—(a) The Greenville County zoning administrator shall revoke a permit if a cause of suspension in § 2.5-79 occurs and the permit has been suspended within the preceding 12 months.~~

~~—(b) The zoning administrator shall revoke a permit if the zoning administrator determines that:~~

- ~~—(1) A permittee gave false or misleading information in the material submitted to the zoning department during the application process;~~
- ~~—(2) A permittee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;~~
- ~~—(3) A permittee or an employee has knowingly allowed prostitution on the premises;~~
- ~~—(4) A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;~~
- ~~—(5) A permittee 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 premises;~~
- ~~—(6) A permittee is delinquent in payment to the county or state for any taxes or fees past due.~~

~~—Such determination may be based upon information obtained independently by the zoning department, a conviction under § 2.5-87 of this article, a separate criminal conviction that would constitute a violation of this article, or other information from law enforcement, the health department, the fire department, or other official charged with enforcing the law.~~

~~—(c) When the zoning administrator revokes a permit, the revocation shall continue for 1 year, and the permittee shall not be issued a sexually oriented business permit for 1 year from the date revocation~~

~~became effective. If, subsequent to revocation, the zoning administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least 90 days have elapsed since the date the revocation became effective.~~

(1976 Code, § 2.5-80) (Ord. No. 2673, § 10, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

~~§ 2.5-81 TRANSFER OF PERMIT.~~

~~— A permittee shall not transfer his permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.~~

(1976 Code, § 2.5-81) (Ord. No. 2673, § 11, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-82 LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(a) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business outside of a designated S-1 district. All sexually oriented businesses shall be located within a S-1 district.

(b) A person commits a misdemeanor if he operates or causes to be operated a sexually oriented business within 1,500 feet of:

- (1) A church;
- (2) A public or private elementary or secondary school;
- (3) A boundary of a residential district;
- (4) A public park adjacent to any residential district;
- (5) The property line of a lot devoted primarily to residential use;
- (6) A continuous care retirement center or nursing care facility;
- (7) A family oriented recreation facility including but not limited to a roller skating rink, an ice skating rink or a public swimming pool;
- (8) A day nursery or licensed child care facility;
- (9) A public library.

(c) A person commits a misdemeanor if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 1,500 feet of another sexually oriented business.

(d) A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than 1 sexually oriented business in the same building, structure, or portion thereof, or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(e) For the purpose of this article, 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 a sexually oriented business is conducted, to the nearest property line of the premises of any land use listed in subsection (c) above.

(f) For purposes of subsection (d) of this section, the distance between any 2 sexually oriented businesses 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.

(g) Any sexually oriented business lawfully operating on the effective date of this article [Feb. 7, 1995] that is in violation of subsection (a) through (f) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed 1 year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If 2 or more sexually oriented businesses are within 1,500 feet of another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(h) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a land use designated in subsection (c) above within 1,500 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when the application for a permit is submitted after a permit has expired or has been revoked.

(i) With the exception of subsection (a) above, the provisions of this ordinance shall apply to those areas of the county that are not zoned.

(1976 Code, § 2.5-82) (Ord. No. 2673, § 12, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-83 OPERATING HOURS FOR SEXUALLY ORIENTED BUSINESSES.

No sexually oriented business shall open to do business before 10:00 a.m. Monday through Saturday or remain open after 12:00 midnight Monday through Saturday. No sexually oriented business shall be open for business on a Sunday. This subsection shall not apply to an adult motel, nor to a business whose hours of operation are regulated by state law.

(1976 Code, § 2.5-83) (Ord. No. 2673, § 13, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-84 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(a) It may be inferred from evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated 2 or more times in a period of time less than 10 hours that the establishment is an adult motel as that term is defined in this chapter.

(b) 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 business permit, he rents or subrents a sleeping room to a person and, within 10 hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the term "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(1976 Code, § 2.5-84) (Ord. No. 2673, § 14, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-85 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.

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

(1) Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of 1 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 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 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 of all areas of the interior of the premises to an accuracy of plus or minus 6 inches. The zoning administrator may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the zoning administrator or his designee.

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

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has 2 or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least 1 of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operators, and of any agents and employees present in the premises to ensure that the view area specified in subsection (5) 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 (1) of this section.

(7) No viewing room may be occupied by more than 1 person at a time.

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

(9) It shall be the duty of the owners and operators and 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.

(b) A person having a duty under subsection (1) through (9) of subsection (a) above commits a misdemeanor if he knowingly fails to fulfill that duty.

(1976 Code, § 2.5-85) (Ord. No. 2673, § 15, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-86 EXEMPTIONS.

It is a defense to prosecution under § 2.5-74 and § 2.5-82 that a person appearing in a state of nudity did so in a modeling class operated:

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

(2) 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

(3) In a structure:

a. Which has no sign visible from the exterior of the structure and no other advertising that indicated a nude person is available for viewing; and

b. Where, in order to participate in a class a student must enroll at least 3 days in advance of the class; and

c. Where no more than 1 nude model is on the premises at any 1 time.

(1976 Code, § 2.5-86) (Ord. No. 2673, § 16, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.

§ 2.5-87 INJUNCTION AND PENALTY.

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of § 2.5-82 of this article is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days. Each day a violation continues shall constitute a separate offenses.

(1976 Code, § 2.5-87) (Ord. No. 2673, § 17, 2-7-95)

Editorial Note:

Provisions modified by judicial decision.