

*The Town of Chelsea*  
SEXUALLY ORIENTED BUSINESSES ORDINANCE - *Cont.*

the premises -devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's primary purpose is to purvey such material.

- B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," for observation by patrons therein.
- C. "Adult entertainment cabaret means a public or private establishment which: (i) features topless dancers, strippers, male or female impersonators, or erotic dancers; (ii) features entertainers who display "specified anatomical areas"; (iii) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, "specified sexual activities;" or (iv) offers Sadoomasochistic acts or Bondage and discipline to patrons.
- D. "Adult spa," means an establishment or place primarily in the business of providing a steam bath or sauna, bathing or hot tub services, or "rub-down" or other massage services, and at which (1) a person's specified anatomical areas are not touched, rubbed, massaged or manipulated in any manner by another person with or without the aid of any instrument or device, or (2) a person's specified anatomical areas are exposed while that person touches, rubs, massages or manipulates any part of the body of another person, with or without the aid of any instrument or device, or (3) specified sexual activities are permitted to occur.
- E. "Sexually oriented business," means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where specified sexual activities are displayed, depicted, described or simulated as a regular and substantial part of its operation. .
- F. "Erotic dance," means a form of dance, which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.
- G. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.

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- H. "Sadomasochistic acts," or "Bondage and discipline," means respectively, flagellation, torture or punishment by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.
- I. "Sexual device" means a device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.
- J. "Specified criminal activity," means a criminal conviction for any of the following offenses: 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 similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:
- (1) 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 for an offense punishable by a maximum term of imprisonment of less than one year;
  - (2) 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 for an offense punishable by a maximum term of imprisonment of one year or more;
  - (3) 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 for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.
- K. "Specified sexual activities," means:
- (1) Human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse, any sexual act or sexual contact as defined by Maine law, or sodomy;
  - (3) Fondling or other touching of human genitals, pubic region, buttock or female breast.

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- G.** State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.
- H.** Submit evidence of compliance with Section 1-110 of this Article and evidence that there is no basis for denial of a license to applicant under the standards listed in Section 1-106 of this Article.
- 2.** Investigation of applicant, officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:

  - A.** The Town Clerk, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town officials referenced in paragraphs **(B)** through **(E)** below. The Town Clerk shall also immediately consult with the Chairman of the Board of Selectmen and then arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least ten days prior to the public hearing before the Board of Selectmen. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from Town officials, the Town Clerk shall forward the application and other documents to the Board of Selectmen for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Town Clerk and a decision shall be made within three (3) business days thereafter.
  - B.** The Health Officer, within fifteen days of notice, shall inspect the location or proposed location to determine whether the applicable laws relating to health and safety have been satisfied and then report findings in writing to the Town Clerk;
  - C.** The Fire Chief, within fifteen days of notice, shall inspect the location or proposed location of the business to determine if applicable State and fire and safety regulations have been satisfied and then report findings in writing to the Town Clerk;
  - D.** A constable or other law enforcement officer shall investigate the applicant, including the criminal history record information required under Section 105(1)(E), and then report findings in writing to the Town Clerk; and
  - E.** The Code Enforcement Officer, within fifteen days of notice, shall verify that the proposed premises of the establishment will comply with Section 1-110 and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Town Clerk.

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**3. Issuance of license.** The Board of Selectmen, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Article. The license shall be issued upon determination by the Board of Selectmen, based upon the record, including evidence and testimony at the public hearing, that the application meets the requirements of this Article. The license may not be transferred or assigned.

**Sec, 1-106. Standards for denial.**

An application for a sexually oriented business license shall be denied by the Board of Selectmen in the following circumstances:

- A. the applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
- B. the applicant is an individual who is less than 18 years of age;
- C. the applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Town Clerk or Board of Selectmen that is reasonably necessary to determine whether the license is issuable;
- D. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- E. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Article or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- F. the applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
- G. the site on which the sexually oriented business is proposed is a prohibited site under Section 1-110 or
- H. the application in any other way fails to meet the requirements of this Ordinance.

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**Sec. 1-107. Standards for suspension: Revocation.**

A sexually oriented business license may be suspended or revoked by the Board of Selectmen after notice and hearing upon a finding that the licensee has violated any provision of this Article.

**Sec. 1-108. Age restriction**

No sexually oriented business may permit any person under the age of 18 years on the premises in which the sexually oriented business is located.

**Sec. 1-109. Display of License:**

Prices charged and names of owners or officers to be-prominently displayed.

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licensees must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the, names of owners and officers of the sexually oriented business and a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the business.

**Sec. 1-110. Prohibited sites. Site Requirements.**

1. A sexually oriented business may not be sited within **1,000 feet** of the lot lines of any of the following:
  - A. a church, synagogue or other house of religious worship;
  - B. a public or private elementary or secondary school;
  - C. a residence;
  - D. a day care facility;
  - E. a public park or public recreational facility;
  - F. another sexually oriented business.

The distance cited in this section shall be measured between any structure used as a sexually oriented business and the lot line of the site of the use listed in (A) through (F) above at their closest points

2. A sexually oriented business must have a separate driveway entrance, parking area and signage at least **100 feet** from any driveway entrance or signage of any of the following:

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- A. a church, synagogue or other house of religious worship;
- B. a public or private elementary or secondary school;
- C. a residence;
- D. a day care facility;
- E. a public park or public recreational facility;
- F. another sexually oriented business.

3. A sexually oriented business and associated parking area established in compliance with Section 1-110, paragraph (1), must be enclosed by a continuous 6 foot high solid fence:

- A. a church, synagogue or other house of religious worship;
- B. a public or private elementary or secondary school;
- C. a residence;
- D. a day care facility;
- E. a public park or public recreational facility;
- F. another sexually oriented business.

4. A lawful existing sexually oriented business, at the time of renewal of a not yet expired valid license, shall not be in violation of the site requirements of Section 1-110 by the subsequent location of a residence, day care center, school, house of worship, or public park or recreational area, at a site that would otherwise conflict with the site requirements of this Section.

#### **Sec. 1-111. Interior Layout of Sexually Oriented Business.**

1. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the following requirements:

- A. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business, and shall be unobstructed by any door, lock or other control-type device.
- B. Construction. Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall.
  - (2) Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.