

Chapter 6

Conduct

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Part 1**Disorderly Conduct****§6-101. Disorderly Conduct Prohibited.**

1. Disorderly conduct, as defined in §5503 of the Crimes Code, 18 Pa.C.S.A. §5503, is hereby prohibited within the Borough. A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he:

- A. Engages in fighting or threatening, or in violent or tumultuous behavior.
- B. Makes unreasonable noise.
- C. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

2. Provided, as used in this Part, the word "public" means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood or any premises which are open to the public.

(Ord. 623, 2/14/2006)

§6-102. Penalty for Violation.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

(Ord. 623, 2/14/2006)

Part 2**Anti-Litter Ordinance****§6-201. Short Title.**

This Part shall be known and may be cited as the "West Homestead Anti-Litter Ordinance."

(Ord. 439, 10/12/1975, §8-20)

§6-202. Definitions.

For the purposes of this Part, the following terms, phrases, words and their derivations shall have the meaning given herein:

Litter - the word "litter" includes "garbage," "refuse" and "rubbish" as defined in this chapter and all other waste material which, if thrown or deposited as prohibited in this Part tends to create a danger to public health, safety and welfare.

Park - the word "park" shall include a park, reservation, playground, recreation center or any other public area in the Borough, owned or used by the Borough and devoted to recreation.

Private premises - any yard, grounds, walk, driveway, porch, steps, or mailbox belonging or appurtenant to any dwelling, house, building or other structure.

Public place - any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Vehicle - every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. 439, 10/12/1975, §8-21)

§6-203. Unlawful Use of Public Litter Receptacles.

No person shall deposit household rubbish or garbage in public litter receptacles.

(Ord. 439, 10/12/1975, §8-22)

§6-204. Littering Streets and Other Public Places Generally.

1. No person shall throw or deposit litter in or upon any street, sidewalks or other public place within the Borough.

2. No person shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter from any building or lot or any litter from any public or private sidewalk or driveway.

(Ord. 439, 10/12/1975, §8-23)

§6-205. Littering Parks.

No person shall throw or deposit litter in any park within the Borough. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(*Ord. 439, 10/12/1975, §8-24*)

§6-206. Throwing Litter From Vehicle.

No person, being the driver or a passenger in a vehicle, shall throw or deposit litter upon any street or public place within the Borough, or upon any private property.

(*Ord. 439, 10/12/1975, §8-25*)

§6-207. Unlawful Deposits in Streams, Etc.

It shall be unlawful for any person to throw, place, or dump any garbage, rubbish, or trash, or any other matter upon the shores, margins, or surfaces of any sewer inlet, stream, or other body of water within the Borough.

(*Ord. 439, 10/12/1975, §8-26*)

§6-208. Deposit of Litter on Occupied Private Property.

No person shall throw or deposit litter on any occupied private property within the Borough, in such a manner that it tends to create a danger to the public health, safety and welfare, whether owned by such person or not. Litter will be prevented from being carried or deposited by the elements from any such occupied private property, to the street, sidewalk or other public place or upon any private property.

(*Ord. 439, 10/12/1975, §8-27*)

§6-209. Deposit of Litter on Open or Vacant Private Property.

No person shall throw or deposit litter on any open or vacant private property within the Borough, whether owned by such person or not, so that the same shall create a danger to the public health, safety and welfare.

(*Ord. 439, 10/12/1975, §8-28*)

§6-210. Duty to Maintain Private Property Free of Litter.

The owner or person in control of any private property shall at all times maintain his premises free of litter so that the same does not constitute a danger to the public health, safety and welfare. This Section shall not prohibit the storage of litter in authorized private receptacles for collection.

(*Ord. 439, 10/12/1975, §8-29*)

§6-211. Notice to Remove Litter from Open or Vacant Private Property.

The Mayor is hereby authorized and empowered to request the owner of any open or vacant private property within the Borough, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such request shall be by registered mail, addressed to the owner at his last known address.

(*Ord. 439, 10/12/1975, §8-30*)

§6-212. Duty of Property Owners or Occupants to Keep Sidewalks Free of Litter.

Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(Ord. 439, 10/12/1975, §8-31)

Part 3**Noises****§6-301. Restricted.**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the Borough.

(*Ord. 190, 5/14/23, §I; as amended by Ord. 399, 8/26/1970, §I*)

§6-302. Loud, Disturbing and Unnecessary Noises Enumerated.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Part, but such enumeration shall not be deemed to be exclusive, namely:

A. *Horns, Signaling Devices, Etc.* The sounding of any horn or signaling device on any motor vehicle, motorcycle, locomotive or other means of conveyance within the limits of the Borough, except as a danger warning; the creation by means of such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or by electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any signaling device when traffic is for any reason held up.

B. *Racing Motors.* The unnecessary or unnatural acceleration, deceleration or racing of motors in motor vehicles, whether in motion or at rest, within the limits of the Borough.

C. *Exhausts.* The discharge into the open air of the exhaust of any steam or diesel locomotive, stationary internal combustion engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

D. *Defect in Vehicle or Load.* The use of any motor vehicle, motorcycle or other piece of machinery or equipment so out of repair or so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.

E. *Radios, Phonographs, Etc.* The using, operating or permitting to be played, used or operated any radio receiving sets, musical instruments, sound amplifiers, phonographs, or other machines or devices for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, comfort and repose of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph machine or device between the hours of 11 p.m. and 7 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Part.

F. *Loudspeakers, Amplifiers for Advertising.* The using, operating or

permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets from moveable or stationary vehicles or buildings or other permanent sites for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

G. *Yelling, Shouting, Etc.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11 p.m. and 7 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any school, church or office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

H. *Loading, Unloading, Opening Boxes.* The creating of a loud, excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.

I. *Animals, Birds, Etc.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity.

J. *Construction or Repairing of Buildings.* The erection (including excavation), demolition, alteration or repair of any streets, highways, lands and buildings other than between the hours of 8 a.m. and 6 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the Building Inspector, which permit may be granted for a period not to exceed 3 days or less while the emergency continues and which permit may be renewed for periods of 3 days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alterations or repair of any building or the excavation of streets and highways between the hours of 6 p.m. to 8 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done between the hours of 6 p.m. to 8 a.m. upon application being made at the time the permit for the work is awarded or during the progress of the work.

K. *Hawkers, Peddlers.* The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

L. *Railway, Operation Thereof.* The causing, permitting or continuing any excessive, unnecessary and avoidable noise in the operation of any railway locomotive or railway car or train of cars.

(Ord. 161, 9/9/1918, §I; as amended by Ord. 323, 7/10/1953, §I)

Part 4**Curfew for Minors****§6-401. Definitions and Interpretation.**

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Curfew hours - the hours of 10 p.m. until 5 a.m. the following day, each and every day of the week.

Emergency - unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents or other similar circumstances.

Establishment - refers to any privately-owned place of business within the Borough operated for a profit, to which the public is invited including, but not limited to, any place of amusement or entertainment, movie theater, bowling alley, skating rink or similar amusement establishment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership or corporation (and the members, directors, officers, or partners thereof).

Minor - any person under 17 years of age who has not been emancipated as an adult under Pennsylvania law.

Parent - any person who is:

(1) A minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement).

(2) The biological or adoptive parent with whom a minor regularly resides.

(3) A minor's court appointed guardian.

(4) At least 18 years of age and authorized by a parent or court appointed guardian to have the care and custody of a minor.

Public place - any place to which the public or a substantial group of the public has access including, but not limited to, streets, highways, roads, alleys, sidewalks, avenues, parks and/or common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

Remain - refers to the following actions:

(1) To linger or stay at or upon a place.

(2) To fail to leave a place when requested to do so by a police officer or by the owner, operator or other person in control of that place.

2. In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 616, 3/22/2005, §1)

§6-402. Purpose and Findings.

1. The purpose of this Part is to:

A. Promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Borough.

B. Promote the safety and well being of the Borough's younger children, persons under the age of 17, whose inexperience and immaturity renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime.

C. Prescribe, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in the Borough from each other and from older persons on the streets during nighttime hours.

D. Foster and enforce parental control and responsibility for their children.

E. Further family responsibility.

2. Based upon criminal statistics and information of the Borough and various surrounding communities, the Council finds that curfew regulations for minors under the age of 17 are necessary to promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the Borough; promote the safety and well being of the Borough's younger children, person under the age of 17, whose inexperience and immaturity renders them particularly vulnerable to becoming participants in unlawful activities and to being victimized by older perpetrators of crime; protect younger children in the Borough from each other and from other persons on the streets during nighttime hours, when the incidents of crime are most significant; foster and enforce parental control and responsibility for their children; and further family responsibility.

(Ord. 616, 3/22/2005, §2)

§6-403. Curfew Offenses; Exceptions.

1. It shall be unlawful for any minor, during curfew hours, to remain in or upon any public place within the Borough, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the Borough. Exceptions to the above are the following:

A. Minor is accompanied by a parent.

B. Minor is involved in an emergency.

C. Minor is on an errand at the direction of a parent, and the minor has in his or her possession a written statement dated that day and signed by parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the necessity for the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand.

D. Minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop.

E. Minor is on the sidewalk directly abutting a place where he or she resides

with a parent.

F. Minor is attending an official civic, school or religious activity, or is going to or returning from such an activity without detour or stop.

G. Minor is involved in interstate travel through, or beginning or terminating in the Borough.

H. Minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the rights of assembly.

2. It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate subsection .1 above.

3. It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of subsection .1 above.

4. It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain on the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the Police Department that a minor was present at the establishment after curfew hours and refused to leave.

5. It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any police officer investigating a possible violation of this Part.

(Ord. 616, 3/22/2005, §3)

§6-404. Procedures for Violation.

1. *Minors.* Any minor found in a public place, motor vehicle and/or establishment within the Borough in violation of §6-403 above shall be:

A. Issued a warning, which shall be followed by a written warning mailed by the Police Department to the minor and his or her parent(s).

B. If the minor has previously been issued a warning for any such violation or if the police officer determines that a warning would not prevent further violations of the law, then the minor shall be charged with a violation of this Part and, as soon as practical, the Police Department shall:

(1) Release the minor from custody to his or her parent(s).

(2) Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) may retrieve the minor.

(3) If a minor refuses to give a police officer his or her name and address, refuses to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a juvenile shelter and/or juvenile court facility.

2. *Others.* Any person, other than a minor, that violates §6-403 herein shall be issued a warning, which shall be followed by a written warning mailed by the Police Department to that person and to the owner and operator of an establishment if the

violator is an employee of that establishment. If the person has previously been issued a warning for any such violation, then the person shall be charged with a violation of this Part.

(Ord. 616, 3/22/2005, §4)

§6-405. Procedures in Case of Repeated Violations or Other Factors Interfering With Enforcement.

Any minor who shall violate this Part more than three times may, at the discretion of the proper Borough officials, be reported to a governmental agency and/or private society or organization which takes charges of incorrigibles and delinquents, and proceedings shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provisions of §6-403 of this Part cannot be made effective by the imposition of fines and penalties.

(Ord. 616, 3/22/2005, §5)

§6-406. Police Discretion in Age Determination.

In taking minors into custody, police officers shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

(Ord. 616, 3/22/2005, §6)

§6-407. Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment for a period not to exceed 30 days.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 616, 3/22/2005, §7)

Part 5**Obscenity and Pornography****§6-501. Purpose and Findings.**1. *Purpose.*

A. Pursuant to the authority granted in the Borough Code to prohibit nuisances; to promote the health, welfare, cleanliness, comfort and safety of the citizens of the Borough of West Homestead; and to regulate the time of opening and closing, and the conduct of places of public entertainment, amusement and recreation, the Borough of West Homestead enacts this Part to minimize and control the adverse secondary effects of an adult oriented businesses and thereby protect the health, safety and welfare of its citizens; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of blight.

B. The Borough Council has determined that licensing is a legitimate and reasonable means of accountability to insure that operators of adult oriented businesses comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

C. The Borough Council does not intend this Part to suppress any speech activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of adult oriented businesses.

2. *Legislative Findings.*

The Borough Council finds:

A. Adult oriented businesses have adverse secondary effects which should be regulated to protect the public health, safety and welfare. These secondary effects include, but are not limited to, the spread of communicable diseases, performance of sexual acts in public places, presence of discarded adult oriented materials on public and private property, sexual harassment, obscenity, prostitution and other illegal sexual activities, crime and neighborhood deterioration.

B. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the adult oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the adult oriented business, fully in possession and control of the premises and activities occurring therein.

C. Removal of doors on viewing booths and requiring sufficient lighting on premises with viewing booths advances a substantial governmental interest in discouraging the illegal and unsanitary sexual activity occurring in adult theaters.

D. Requiring licensees of adult oriented businesses to keep information regarding current employees and certain past employees will help reduce the incident of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

E. The disclosure of certain information by those persons ultimately responsible for the day-to-day operations and maintenance of the adult oriented businesses will help limit and control the adverse secondary effects of such businesses.

F. It is desirable in the prevention of the spread of communicable disease to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Part is designed to prevent or who are likely to be witnesses to such activity.

G. The fact that an applicant for a adult oriented business license has been convicted of a adult related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this Part.

H. The barring of such individuals from the management of adult oriented businesses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of adult transmitted diseases.

I. The general welfare, health and safety of the citizens of the Borough will be promoted by the enactment of this Part.

J. Limitation of operating hours of adult oriented businesses to 10 a.m. to 10 p.m., Mondays through Saturdays, and closure of such businesses on Sundays and holidays reduces the adverse secondary effects of such businesses, including particularly but not limited to late night noise levels, crime and adult offensive materials and activities in public areas, and further promotes the public health, safety and welfare.

(Ord. 623, 2/14/2006)

§6-502. Definitions.

As used in this Part the following words and phrases shall have the meanings indicated unless the context clearly indicates a different meaning:

Adult arcade - any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, any electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained, not located within viewing booths, to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specified anatomical areas."

Adult bookstore, adult novelty store or adult video store - a commercial establishment which, 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, CD ROM discs or other computer software, or other visual representations, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

Adult cabaret - a nightclub, bar, restaurant, or other commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nudity.

(2) Live performances which 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 or visual presentations of any other kind which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motion picture theater - a commercial establishment where, for any form of consideration, films, motion pictures, vide cassettes, slides, or similar photographic reproductions or visual presentations of any kind are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult oriented business - an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, tattoo parlor, or body-piercing establishment.

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

Body piercing establishment - a commercial establishment which, as one of its principal business purposes, offers body piercing services. "Body piercing services" shall refer to the process of breaching the skin or mucus membrane of a human for the purpose of inserting an object therein or there through including, but not limited to, jewelry for cosmetic purposes. This definition shall not apply to ear piercing.

Employee - a person who performs any service on the premises of a adult oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

Escort - a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency - 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.

Establishment - means and includes any of the following:

(1) The opening or commencement of any adult oriented business as a new business.

(2) The conversion of an existing business, whether or not a adult

oriented business, to any adult oriented business.

(3) The addition of any adult oriented business to any other existing adult oriented business or to a non-adult oriented business.

(4) The relocation of any adult oriented business.

Knowingly - having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:

(1) The character and content of any material or performance described herein which is reasonably susceptible of examination by a licensee or person.

(2) The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the licensee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

Licensee - a person in whose name a license to operate a adult oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a adult oriented business.

Nude model studio - any place where a person who appears semi-nude, in a state of nudity, or who 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. Nude model studio shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; 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 in a structure:

(1) That no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing.

(2) Where in order to participate in a class a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

Nudity or a state of nudity - the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

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

Semi-nude or in a semi-nude condition - the state of dress in which clothing partially or non-opaquely covers specified anatomical areas.

Sexual encounter center - a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.

(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.

Sexually oriented business - defined the same as “adult oriented business.” See “adult oriented business.”

Specified anatomical areas - human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely covered.

Specified criminal activity - 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; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any offenses similar to those described above under the criminal or penal code of other states or countries.

(2) For which:

(a) Less than 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.

(b) Less than 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.

(c) Less than 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 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.

Specified sexual activities - 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, masturbation, or sodomy.

(3) Excretory functions as part of or in connection with any of the activities set forth in subparagraphs (1) and (2) above.

Tattoo parlor - a commercial establishment which, as one of its principal business purposes, offers tattooing services. "Tattooing services" shall refer to the method of placing designs, letters, scrolls, figures, symbols, graphics or any other marks upon or under the skin of a human with ink or any other substance, resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin. This definition shall not apply to medical doctors or doctors of veterinary medicine in performance of their professional

duties.

Transfer of ownership or control - of a adult oriented business, means and includes 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 similar means.
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfers by bequest or other operation of law upon the death of the person possessing the ownership of control.

Viewing booths - booths, stalls, partitioned portions of a room, rooms or other enclosures which are available for viewing: (1) films, movies, videos, or visual reproductions of any kind depicting or describing "specified sexual activities" or "specified anatomical areas;" or (2) persons who appear in a state of nudity or semi-nudity or who offer performances or presentations characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(Ord. 623, 2/14/2006)

§6-503. License Required.

1. It is unlawful:

A. For any person to operate a adult oriented business without a valid adult oriented business license issued by the Borough pursuant to this Part.

B. For any person who operates a adult oriented business to employ a person to work for the adult oriented business who is not licensed as a adult oriented business employee by the Borough pursuant to this Part.

C. For any person to obtain employment with a adult oriented business without having secured a adult oriented business employee license pursuant to this Part.

D. Beginning on the sixtieth day after enactment of this Part for any person to continue to operate any adult oriented business in operation at the time of enactment of this Part without a valid adult oriented business license pursuant to this Part.

E. Beginning on the sixtieth day after enactment of this Part for any person who operates a adult oriented business in operation at the time of enactment of this Part to employ a person to work for the adult oriented business who is not licensed as a adult oriented business employee by the Borough pursuant to this Part.

F. Beginning on the sixtieth day after enactment of this Part for any person to obtain employment with a adult oriented business in operation at the time of enactment of this Part without having secured a adult oriented business employee license pursuant to this Part.

2. An application for a license must be made on a form provided by the Borough.

3. All applicants must be qualified according to the provisions of this Part. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Borough to determine whether the applicant meets the

qualifications established in this Part.

4. If a person who wishes to operate a adult oriented business is an individual, the person must sign the application for a license as an applicant. If a person who wishes to operate a adult oriented business is other than an individual, each individual who has a 20% or greater interest in the business must sign the application for a license as an applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

5. The completed application for a adult oriented business license shall contain the following information and shall be accompanied by the following documents:

A. If the applicant is:

(1) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.

(2) A partnership, the partnership shall state its complete name, the name of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any.

(3) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

B. If the applicant intends to operate the adult oriented business under a name other than that of the applicant, he or she must state: (1) the adult oriented business' fictitious name; and (2) submit the required registration documents.

C. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Part and, if so, the specified criminal activity involved and the date, place and jurisdiction of each.

D. Whether the applicant, or a person residing with the applicant, has had a previous license under this Part or other similar adult oriented business ordinance from another municipality, state or county denied, suspended or revoked, including the name and location of the adult oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this Part whose license has previously been denied, suspended or revoked, including the name and location of the adult oriented business for which the license was denied, suspended or revoked as well as the date of denial, suspension or revocation.

E. Whether the applicant, or a person residing with the applicant, holds any other licenses under this Part or other similar adult oriented business ordinance from another municipality, state or county and, if so, the names and locations of such other licensed businesses.

F. The specific classification of adult oriented use for which the applicant is filing along with a detailed description of each and every activity encompassed by the proposed adult oriented business, which description shall thoroughly

demonstrate compliance and/or intended compliance with all provisions of this Part.

G. The location of the proposed adult oriented business, including a legal description of the property, street address, and telephone number(s), if any.

H. The applicant's mailing address and residential address.

I. A recent (within 6 months) photograph of the applicant(s).

J. The applicant's driver's permit number, Social Security number, and his/her State or Federally issued tax identification number.

K. 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 it 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.

L. A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines, the survey to be certified.

M. If an applicant wishes to operate a adult oriented business which includes viewing booths, then the applicant shall also comply with the application requirements set forth in §6-511 of this Part and shall separately apply for and obtain a building and occupancy permit for the installation of the viewing booths.

N. The application form shall inform the applicant that: (1) separate applications are required for any necessary zoning permits, subdivision and land development approvals or building and occupancy permits and that the applicant may apply for such permits by contacting the Borough Zoning Officer or Building Official and (2) that Department of Labor and Industry approval is required.

6. Before any applicant may be issued a adult oriented business employee license, the applicant shall submit on a form to be provided by the Borough the following information:

A. The applicant's name and any other names (including "stage" names) or aliases used by the individual.

B. Age, date and place of birth.

C. Height, weight, hair and eye color.

D. Present residence address and telephone number.

E. Present business address and telephone number.

F. Date, issuing state and number of driver's license or other identification card information.

G. Social Security number.

H. Proof that the individual is at least 18 years of age.

7. Attached to the application form for a adult oriented business employee license, as provided above, shall be the following:

A. A recent color photograph (within 6 months) of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by any police department. Any fees for the photographs and fingerprints shall be

paid by the applicant.

B. A statement detailing the business history of the applicant for the 5 years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, municipality, state, or country any business or has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the business, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

C. A statement whether the applicant has been convicted of a specified criminal activity as defined in this Part and, if so, the specified criminal activity involved and the date, place and jurisdiction of each.

(Ord. 623, 2/14/2006)

§6-504. Issuance of License.

1. Upon the filing of said application in a fully completed form for a adult oriented business license or for a adult oriented business employee license, the application shall then be referred to the Borough Zoning Officer for review and investigation. The Borough Zoning Officer shall utilize any available resources through the Pennsylvania State Police, the Commonwealth of Pennsylvania and/or other law enforcement agencies as may be necessary to complete the review and investigation required by this Part. Within 30 days from the date the completed application is filed, the Borough Zoning Officer shall issue a license unless it is determined by the Borough Zoning Officer that one or more of the following findings is true:

A. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

B. The applicant is under the age of 18 years.

C. The applicant has been convicted of a "specified criminal activity" as defined in this Part.

D. The adult oriented business employee license is to be used for employment in a business prohibited by local or State law, statute, rule or regulations, or prohibited by a particular provision of this Part.

E. The applicant has had a adult oriented business employee license revoked by the Borough within 2 years of the date of the current application. If the adult oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in §6-509.

F. The required application, investigation and license fees have not been paid.

G. An applicant's license to operate a adult oriented business, issued by any jurisdiction, has been revoked within the preceding 12 months.

H. The proposed adult oriented business is in violation of or is not in

compliance with any of the provisions of this Part.

2. A license granted pursuant to this Part shall be subject to annual renewal upon the written application of the applicant and a finding by the Borough that the applicant has not been convicted of any specified criminal activity as defined in this Part or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in §6-505 of this Part.

3. The license, 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 adult oriented business and the specific classification of adult oriented use for which the license is issued. Licenses for adult oriented businesses shall state that the adult oriented business shall not commence until all necessary zoning, subdivision and land development, and/or building code approvals and Department of Labor and Industry approvals are obtained. All licenses shall be posted in a conspicuous place at or near the entrance to the adult oriented business so that they may be easily read at any time.

4. Applications for building and occupancy permits shall be processed and either denied or approved within 30 days of a complete application to the Borough.

5. A adult oriented business license shall issue for the specific classification of adult oriented use as permitted by ordinance and applied for.

6. A license denial shall conform to the provisions of §6-509.4 of this Part.

7. Any person aggrieved by the grant of a license may appeal, in writing, within 10 days from the date of issuance of the license, to the Borough Council. The Borough Council shall then hold a local agency law hearing within 20 days of the date of filing of the appeal and render a decision within 10 days from the end of the hearing. Appeals from a decision of the Borough Council may be taken to court subject to §6-509.5 of this Part.

(Ord. 623, 2/14/2006)

§6-505. Fees.

1. Every application for a adult oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee in an amount set by resolution of the Borough Council.

2. In addition to the application and investigation fee required above, every adult oriented business that is granted a license (new or renewal) shall pay to the Borough an annual non-refundable license fee in an amount set by resolution of the Borough Council within 30 days of the license issuance or renewal.

3. Every application for a adult oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual non-refundable application, investigation and license fee in an amount set by resolution of the Borough Council.

4. All license applications and fees shall be submitted to the office of the Borough Secretary, and, thereafter, the applications shall be forwarded to the Borough Zoning Officer for review and investigation and approval or denial.

(Ord. 623, 2/14/2006)

§6-506. Inspection.

1. An applicant or license shall permit authorized Borough officials and their agents or consultants to inspect the premises of a adult oriented business for the purpose of insuring compliance with this Part and all other applicable law at any time it is occupied or open for business.

2. A person who operates a adult oriented business, including his/her agent or employee, commits a violation of this Part if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 623, 2/14/2006)

§6-507. Expiration of License.

1. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in §6-503. Application for renewal shall be made at least 30 days before the expiration date. When application for renewal is made less than 30 days before the expiration date, the date of expiration of the license will not be extended.

2. When the Borough denies renewal of a license, the applicant shall not be issued a license for 1 year from the date of denial. If, subsequent to denial, the Borough finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

(Ord. 623, 2/14/2006)

§6-508. Suspension.

The Borough Zoning Officer shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

- A. Violated or is not in compliance with any provision of this Part.
- B. Refused to allow an inspection of the adult oriented business premises as authorized by this Part.
- C. Knowingly permitted gambling by any person on the adult oriented business premises.

(Ord. 623, 2/14/2006)

§6-509. Revocations and Appeals of Denials, Suspensions or Revocations.

1. The Borough Zoning Officer shall revoke a license if a cause of suspension in §6-508 of this Part occurs and the license has been suspended within the preceding 12 months.

2. The Borough Zoning Officer shall revoke a license if he determines that:
 - A. A licensee gave false or misleading information in the material submitted during the application process.
 - B. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.
 - C. A licensee has knowingly allowed prostitution on the premises.

D. A licensee knowingly operated the adult oriented business during a period of time when the licensee's license was suspended.

E. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the license premises.

F. A licensee is delinquent in payment to the Borough for any licensing fees past due.

3. When the Borough revokes a license, the revocation shall continue for 1 year, and the licensee shall not be issued a adult oriented business license for 1 year from the date the revocation became effective. If, subsequent to revocation, the Borough finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

4. All license application, renewal, suspension or revocation decisions shall be sent in writing to the applicant or licensee. All such decisions which deny, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any license, the applicant or licensee may appeal pursuant to the Local Agency Law to the Borough Council. The Borough Council will then hold a Local Agency Law hearing within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. Any such appeal must be filed, in writing, with the Borough Secretary/Treasurer within 10 days from the date of mailing of the decision appealed from. Failure to file said appeal with the Borough Secretary/Treasurer within 10 days from the date of the mailing of the decision appealed from shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. In the case of a denial of a license renewal, or in the case of a license suspension or revocation, the licensee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of: (1) the expiration of the 10-day appeal period without filing of an appeal; or (2) the date of a decision dismissing any appeal.

5. Any person aggrieved by a decision of the Borough Council may appeal to a court of competent jurisdiction. The Borough shall, upon filing of such appeal, consent to any request by a license applicant or licensee to the court to give expedited review to such appeal. The Borough shall certify any record to the court within 20 days of any request by the court to do so.

(Ord. 623, 2/14/2006)

§6-510. Transfer of License.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a adult oriented business under the authority of a license at any place other than the address designated in the application.

(Ord. 623, 2/14/2006)

§6-511. Regulations Pertaining to Exhibition of Adult Explicit Films, Videos or Live Entertainment in Viewing Rooms.

1. A person who operates viewing booths or causes them to be operated shall

comply with the following requirements:

A. Upon application for a adult oriented 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 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 sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus 6 inches. The Borough 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.

B. The application shall be sworn to be true and correct by the applicant.

C. It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Restrooms may not contain video reproduction or other display 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 each 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. In addition, all viewing booths shall have at least one side fully open so that all of the area inside the booth is open to the view of persons in the public area of the establishment.

E. It shall be the duty of the licensee to ensure that the view area specified in paragraph .D, above, remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, 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 paragraph .A above.

F. No viewing room may be occupied by more than one person at a time.

G. 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 5.0 foot candle as measured at the floor level.

H. It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

I. No licensee shall allow openings of any kind to exist between viewing

rooms or booths.

J. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

K. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

L. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

M. The licensee 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 48 inches of the floor.

2. A person having a duty under subsections .1.A through .1.M above commits a violation of this Part if he knowingly fails to fulfill that duty.

(Ord. 623, 2/14/2006)

§6-512. Additional Regulations for Escort Agencies.

1. An escort agency shall not employ any person under the age of 18 years.

2. A person commits a violation of this Part if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(Ord. 623, 2/14/2006)

§6-513. Additional Regulations for Nude Model Studios.

1. A nude model studio shall not employ any person under the age of eighteen 18 years.

2. A person under the age of 18 years commits a violation of this Part if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

3. A person commits a violation of this Part if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity, in an area of a nude model studio premises which can be viewed from any public right-of-way.

4. 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.

(Ord. 623, 2/14/2006)

§6-514. Additional Regulations Concerning Public Nudity.

1. It shall be a violation of this Part for a person to knowingly and intentionally in a public place:

A. Engage in sexual intercourse or engage in deviate sexual intercourse as defined by the Pennsylvania Crimes Code.

B. Appear in a state of nudity.

C. Fondle the genitals of himself, herself or another person.

2. For purposes of this Part, "public place" includes all outdoor areas owned by or open to the general public and all buildings and enclosed places owned by or open to the general public, including but not limited to places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, and party rooms or halls restricted to adults or to patrons invited to attend, whether or not an admission charge is levied. This Part shall not apply to:

A. Any child under 10 years of age.

B. Any individual exposing a breast in the process of breast feeding an infant under 2 years of age.

C. The exercise of free speech or free expression in the form of artistic and theatrical performances. It is the intention of the Borough that this Part be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights.

3. It shall be a violation of this Part for a person to knowingly or intentionally in a adult oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, is at least 10 feet from any patron or customer and on a stage at least 2 feet from the floor.

4. It shall be a violation of this Part for an employee, while semi-nude in a adult oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or offer gratuity to any employee while said employee is semi-nude in a adult oriented business.

(Ord. 623, 2/14/2006)

§6-515. Regulations for Tattoo Parlors and Body Piercing Establishments.

1. A person who operates a tattoo parlor and/or body piercing establishment or causes them to be operated shall comply with the following requirements:

A. The room in which tattooing services and/or body piercing services are performed shall have a minimum floor area of 100 square feet.

B. The rooms in which tattooing services and/or body piercing services are performed shall comply with the following requirements:

(1) The walls, floors and ceilings shall have an impervious, smooth, washable surface and shall be painted or finished in a light color. Carpeting is prohibited in such a room.

(2) Single-use towels shall be provided in approved dispensers.

(3) Easily cleanable and approved covered waste containers shall be provided in each room.

(4) All tables and equipment shall be:

(a) Constructed of easily-cleanable material.

(b) Sterilized in a medically approved manner.

(c) Painted or finished in a light color, with a smooth, washable finish.

(5) Partitioned from waiting customers and/or observers by a permanent

non-transparent partition at least 5 feet in height.

C. Any operator or employee performing the tattooing services and/or body piercing services shall:

(1) Scrub his/her hands thoroughly with soap and hot water before commencing any tattooing or body piercing service, and dry the hands with individual, single-use towels.

(2) Wear sterile surgical gloves while performing any tattooing or body piercing service. These gloves shall only be used once on a single customer/client and then disposed of in a manner prescribed by the Allegheny County Health Department.

D. While tattooing, a single-service blade razor shall only be used once on a single customer/client and then disposed of in container and manner prescribed by the Allegheny County Health Department.

E. The area to be tattooed or body pierced shall first be thoroughly scrubbed with an antiseptic soap for a minimum of 2 minutes, and an approved sterilizing preparation used.

F. Any and all waste materials shall be deposited in an easily cleanable, covered waste container, and all waste materials shall be disposed of in a manner prescribed by the Allegheny County Health Department.

G. An antibiotic ointment that the customer/client is not allergic to shall be applied to the area to be tattooed and/or body pierced using sterile gauze.

H. The use of styptic pencils, alum blocks and/or other solid styptics to check or stem the flow of blood is prohibited.

I. The operator shall provide literature on Hepatitis B and C, HIV, and other health hazards to all customers and clients. This literature shall be approved by the Allegheny County Health Department. Prior to performing tattooing and/or body piercing services on a customer or client, the operator shall obtain a written and acknowledgment, signed by each such customer or client, which acknowledges that the customer and client has received and read the literature referenced above. The operator shall retain each written acknowledgment as proof of compliance with this subsection.

J. Single-service or individual containers of dye, ink or needles shall be used for each separate customer or client, and shall be discarded immediately after completing work on such customer or client by being placed and disposed of in a container and manner prescribed by the Allegheny County Health Department. Excess dye or ink shall be removed from the skin with an individual, sterile sponge or a disposable paper tissue, which shall be used on one person and then immediately discarded in a container and manner prescribed by the Allegheny County Health Department. After completing work on a customer or client, the tattooed or body pierced area shall be washed with sterile gauze that is saturated with an antiseptic solution approved by the Allegheny County Health Department.

K. No tattoo parlor may attempt to remove a tattoo from any person or allow such a procedure to take place on its premises.

L. No operator or employee shall tattoo or body pierce a person under the age of 18 years, or permit such tattooing or body piercing to occur, without first

obtaining a written parental authorization. All parental authorizations shall be maintained on file at the establishment and be available for inspection for a period of 7 years after the customer or client has reached the age of 18 years. A copy of the written parental authorization shall be provided to the parent of the minor by the operator. Proof of age shall be required of all customers and clients.

M. Animals shall not be permitted in the establishment, except as specifically permitted by State law.

N. All clean and ready-to-use needles and instruments shall be kept in a locked, closed glass or metal case or storage cabinet while not in use. The key to such case or cabinet shall be secured by the operator at all times.

O. No person, customer or client having any skin infection or other disease of the skin or any communicable disease shall be tattooed or body pierced. All infections resulting from the tattooing and/or body piercing services known to the operator and/or an employee shall be immediately reported to the Allegheny County Health Department by the operator.

P. A fully operational restroom with a toilet shall be located in the establishment and shall be accessible at all times that the tattoo parlor and/or body piercing establishment is open for business. The restroom shall also be supplied with hot and cold running water, soap and single-use towels provided in approved dispensers. The walls, floors and ceilings of the restroom shall have an impervious, smooth, washable surface. Carpeting is prohibited in the restroom.

Q. The entire establishment shall be maintained in a clean and sanitary condition and in good repair.

(Ord. 623, 2/14/2006)

§6-516. Prohibition Against Children in an Adult Oriented Business.

A person commits a violation of this Part if the person knowingly allows a person under the age of 18 years to be on the premises of an adult oriented business.

(Ord. 623, 2/14/2006)

§6-517. Hours of Operation.

No adult oriented business shall be open for business before 10 a.m., Monday through Saturday, or after 10 p.m., Monday through Saturday. Adult oriented businesses shall be closed at all times on Sundays and legal State or Federal holidays.

(Ord. 623, 2/14/2006)

§6-518. Exemptions.

It is a defense to prosecution under §6-514 of this Part that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the Commonwealth of Pennsylvania or 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.

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

(2) Where, in order to participate in a class a student must enroll at least 3 days in advance of the class.

(3) Where no more than one nude model is on the premises at any one time.

(Ord. 623, 2/14/2006)

§6-519. Violations and Penalties.

1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$300 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days.

2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.

3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.

(Ord. 623, 2/14/2006)