

## CHAPTER 123

### SEXUALLY ORIENTED BUSINESSES

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**123.01 PURPOSE AND INTENT.** It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter 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 chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

**123.02 DEFINITIONS.** The following terms are defined for use in this chapter.

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

2. “Adult bookstore” or “adult video store” means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. 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

B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal 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 establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. “Adult cabaret” means a commercial establishment that regularly features:

A. Persons who appear in a state of semi-nudity; or

B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

4. “Adult motel” means a hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of these adult types of photographic reproductions; or
  - B. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
  - C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.
5. “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
6. “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.
7. “Director” means the Police Chief and such employees of the police department as the Police Chief may designate to perform the duties of the Director under this chapter.
8. “Escort” means a person whom, 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.
9. “Escort agency” means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
10. “Establishment” means and includes any of the following:
- A. The opening or commencement of any sexually oriented business as a new business;
  - B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - C. The additions of any sexually oriented business to any other existing sexually oriented business; or

D. The relocation of any sexually oriented business.

11. “Licensed day-care center” means a facility licensed by the State, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, of less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

12. “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.

13. “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, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

14. “Nudity” or “state of nudity” means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

15. “Semi-nude” means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

16. “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. 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 is semi-nude.

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

18. “Specified anatomical areas” means the male genitals and/or the vulva or more intimate parts of the female genitals.

19. "Specified sexual activities" means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C above.

20. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) from the original premises.

21. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or
- C. The establishment of a trust, gift or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

### **123.03 CLASSIFICATION AND STANDARDS OF CONDUCT AND OPERATION.**

1. Sexually oriented businesses are classified as follows:

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

2. The following standards of conduct must be adhered to by entertainers and employees of any sexually oriented business while on the premises:

A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area, except when such entertainer or employee is separated from any and all customers by a window or other partition which is maintained free of holes or other structural openings which would permit physical contact between such entertainer and employee and any customer within the viewing area and customers are not permitted within four (4) feet of the window or other partition. However, a single opening in such window or partition, allowing for payment for entertainment, by a customer to the entertainer, shall be permitted and at this point customers are permitted within two (2) feet of the window or other partition to allow customers to reach the opening.

B. No employee or entertainer shall perform:

- (1) Any specified sexual activities; or
- (2) The displaying of any specified anatomical area, except as provided for in paragraph A of this subsection.

C. No employee or entertainer who is either not separated from any and all customers as provided in paragraph A of this subsection, or in an area of the premises not open to customers shall be unclothed or in less than opaque and complete attire, costume or clothing as described in paragraph A of this subsection.

D. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.

E. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is unclothed or in such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment, either while clothed or unclothed.

F. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.

G. No entertainer shall receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer, as described in paragraph A of this subsection.

3. At any sexually oriented business, the following are required:

A. A sign, on which upper-case letters are at least two (2) inches high and lower-case letters are at least one (1) inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS  
IS REGULATED BY THE CITY OF ROBINS, IOWA.  
ENTERTAINERS ARE:*

- 1. Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
- 2. Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals, except when separated from customers by the window or partition between the entertainer and customers.*
- 3. Not permitted to receive any payment or gratuity from any customer, except through an opening in the window or partition separating such entertainer from a customer.*

B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.

C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

**123.04 PERMIT REQUIRED.**

1. It is unlawful for a person to operate a sexually oriented business without a valid permit issued by the Director.

2. An application for a permit must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
3. 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 Linn County Health Department, Fire Department, Building Official and Zoning Official.
4. 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 ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
5. The fact that a person possesses other types of State, County, or City permits and/or licenses does not exempt said person from the requirement of obtaining a sexually oriented business permit.
6. Applications for a permit, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form:
  - A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator;
  - B. The name and street address (and mailing address if different) of the owner;
  - C. The name under which the establishment is to be operated and a general description of the services to be provided;
  - D. The telephone number of the establishment;
  - E. The address and legal description of the tract of land on which the establishment is to be located;

F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as a sexually oriented business at the location for which the permit is sought; and

G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.

H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the Code of Iowa, Federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the Code of Iowa, Federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two (2) years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:
  - A. Payment of the application fee in full.
  - B. If the establishment is an Iowa corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
  - C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.
  - D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.

E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.

F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.

G. If the persons identified as the fee owners of the tract of land in item F are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.

H. Any of items B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.

8. The application shall contain a statement under oath that:

A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and

B. The applicant has read the provisions of this chapter.

9. A separate application and permit shall be required for each sexually oriented business.

## **123.05 ISSUANCE OF PERMIT.**

1. The Director shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless the Director finds one or more of the following to be true:
  - A. An applicant is under eighteen (18) years of age.
  - B. An applicant or an applicant's spouse is overdue in the payment to the City of taxes, fines or penalties assessed against said applicant or spouse or imposed in relation to a sexually oriented business.
  - C. 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 application form.
  - D. An applicant is residing with a person who has been denied a permit by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
  - E. The premises to be used for the sexually oriented business has not been approved by the Linn County Health Department, Fire Department, Building Official and Zoning Official as being in compliance with applicable laws and ordinances.
  - F. The permit fee required by this chapter has not been paid.
  - G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.
2. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business that it may be easily read at any time.
3. The Linn County Health Department, Fire Department, Building Official and Zoning Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Director. The certification shall be promptly presented to the Director.
4. In the event that the Director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days after the receipt of the application by the Director, provided that the applicant may request, in

writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.

5. An applicant may appeal the decision of the Director regarding a denial to the Council by filing a written notice of appeal with the Clerk within fifteen (15) days after the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Council. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Clerk receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal.

6. The Chief of Police shall conduct a background investigation of all applicants including a check of the applicant's criminal history by the Department of Criminal Investigation.

**123.06 FEES.** The annual fee for a sexually oriented business permit is five hundred dollars (\$500.00). This fee is to be used to pay for the cost of the administration and enforcement of this chapter.

**123.07 INSPECTION.** An applicant or permittee shall permit representatives of the Police Department or other City, County, or State department or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

**123.08 EXPIRATION OF PERMIT.**

1. Each permit shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

2. When the Director denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to the denial, the Director 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 ninety (90) days has elapsed since the date the denial became final.

**123.09 SUSPENSION.** The Director shall suspend a permit for a period not to exceed thirty (30) days if it is determined that the permit holder or an employee of a permit holder has:

1. Violated or is not in compliance with any section of this chapter;
2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances 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 illegal gambling by any person on the sexually oriented business premises.

**123.10 REVOCATION.**

1. The Director shall revoke a permit if a cause of suspension in Section 123.09 occurs and the permit has been suspended within the proceeding twelve (12) months.
2. The Director shall also revoke a permit if it is determined that:
  - A. The named permit holder gave false or misleading information in the material submitted during the application process.
  - B. The named permit holder or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.
  - C. A permit holder or an employee has knowingly allowed prostitution on the premises.
  - D. A permit holder or an employee knowingly operated the sexually oriented business during a period of time when the permit holder's permit was suspended.
  - E. A permit holder 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 premises.
  - F. A permit holder is delinquent in the payment to the City, County, or State for any taxes or fees past due.
  - G. The owner or operator of the establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment.
  - H. There was a change of owner or operator for which a transfer application was not filed in a timely manner.

3. When the Director revokes a permit, the revocation shall continue for one year, and the permit holder shall not be issued a sexually oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the revocation became effective.

**123.11 TRANSFER OF PERMIT.** A permit holder shall not transfer the permit to another, nor shall a permit holder operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

**123.12 LOCATION RESTRICTIONS.** Sexually oriented business shall be permitted in any I-1 zoned commercial district, provided that:

1. The sexually oriented business may not be operated within 1,000 feet of:
  - A. A church, synagogue or regular place of religious worship;
  - B. A public or private elementary or secondary school;
  - C. A boundary of any residential zoned district;
  - D. A public park;
  - E. A licensed day-care center; or
  - F. Another sexually oriented business.
2. A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.
3. For the purpose of this section, 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 a church, synagogue, regular place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day-care center.
4. For purposes of subsection 3 of this section, the distance between any two sexually oriented business uses 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.

### **123.13 NONCONFORMING USES.**

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the configuration requirements with regard to structure and location contained in this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (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 two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

2. 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 church, synagogue or regular place of religious worship, public or private elementary school or secondary school, licensed day-care center, public park, or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

### **123.14 ADDITIONAL REGULATIONS FOR ADULT MOTELS.**

1. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

2. It is unlawful if a person, 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, rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, rents or sub-rents the same sleeping room again.

For purposes of subsection 2 of this section, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

**123.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.** A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on

the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that 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 with the following.

- A. A diagram of the premises showing a plan thereof specifying the location of one or more manager’s stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager’s station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer’s or architect’s blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Director 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 Director.

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

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 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.

6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in Subsection 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 that 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 one person at any 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 one foot-candle as measured at the floor level.

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

#### **123.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.**

1. It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

3. It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

A. The establishment is a part of a commercial multi-unit center; and

B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

C. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

**123.17 SIGNAGE.** Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.

1. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
  - A. Not contain any flashing lights;
  - B. Be a flat plane, rectangular in shape;
  - C. Not exceed seventy-five (75) square feet in area; and
  - D. Not exceed ten (10) feet in height or ten (10) feet in length.
2. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
3. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
4. Secondary signs shall have only one display surface. Such display surface shall:
  - A. Be a flat plane, rectangular in shape;
  - B. Not exceed twenty (20) square feet in area;
  - C. Not exceed five (5) feet in height and four (4) feet in width; and
  - D. Be affixed or attached to any wall or door of the enterprise.
5. The provisions of paragraph A of subsection 1 and of subsections 2 and 3 shall also apply to secondary signs.

**123.18 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.**

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

A. A valid operator's commercial operator's or chauffeur's driver's license; or

B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

**123.19 MESSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.** It is unlawful for any establishment, regardless of whether it is a public or private facility, to operate a massage salon, massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless licensed by the State of Iowa.

**123.20 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.** The permit holder of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business.

### **123.21 NOTICES.**

1. Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Director, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director shall cause it to be posted at the principal entrance to the establishment.
2. Any notice required or permitted to be given to the Director by any person under this chapter shall not be deemed given until and unless it is received in the office of the Director.
3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the Director in writing of any change of residence or mailing address.

**123.22 INJUNCTION.** A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

**123.23 EXEMPTIONS.** It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated by:

1. A proprietary school licensed by the State of Iowa or a college, junior college or university supported entirely or partly by taxation; or
2. A private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.