

## Chapter 640

### SEXUALLY-ORIENTED BUSINESSES

**Section 640.010. Definitions.** [R.O. 2012 §645.010; Ord. No. 6758 §645.000, 11-23-1998]

The following definitions shall have the ascribed meanings as set out herein:

**ADULT ARCADE** — 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 (5) 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".

**ADULT BOOKSTORE OR ADULT VIDEO STORE** — A commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one (1) or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "*principal business activity*" exists where the commercial establishment:

1. Has a substantial portion of its displayed merchandise which consists of such items; or
2. Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or
3. Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or
4. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or
5. Maintains a substantial section of its interior business space for the sale or rental of such items; or
6. Maintains an adult arcade as defined above.

**ADULT CABARET** — A nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

**ADULT MOTEL** — A hotel, motel or similar commercial establishment that:

1. 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 this adult type of photographic reproductions;
2. Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
3. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

**ADULT MOTION PICTURE THEATER** — A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five (5) persons for any form of consideration.

**ADULT THEATER** — A theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified sexual activities" or by "specified anatomical areas".

**EMPLOY, EMPLOYEE OR EMPLOYMENT** — Describe and pertain to any person who performs any service on the premises of a sexually-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. Employee does not include a person exclusively on the premises for repair or maintenance of 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 (1) 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 sexually-oriented business as a new business;
2. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
3. The additions of any sexually-oriented business to any other existing sexually-oriented business; or
4. The relocation of any sexually-oriented business.

**LICENSED DAYCARE FACILITY** — A facility licensed by the State of Missouri, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children less than fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for 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.

**LICENSEE** — A person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

**NUDITY OR STATE OF NUDITY** — The appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

**PERSON** — An individual, proprietorship, corporation, association, or other legal entity.

**PREMISES** — The real property upon which the sexually-oriented business is located and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually-oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section 640.030 of this Chapter.

**SEMI-NUDE OR SEMI-NUDITY** — The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

**SEMI-NUDE MODEL STUDIO** — A place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

1. By a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
3. In a structure:
  - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
  - b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

**SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between two (2) or more persons when one (1) or more of the persons is semi-nude.

**SEXUALLY-ORIENTED BUSINESS** — An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, nude model studio, or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS** — Means:

1. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;
2. Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

**SPECIFIED CRIMINAL ACT** — Any of the following specified offenses for which less than eight (8) years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:

1. Rape and sexual assault offenses;
2. Sexual offenses involving minors;
3. Offenses involving prostitution;
4. Obscenity offenses;
5. Offenses involving money laundering;
6. Offenses involving tax evasion;
7. Any attempt, solicitation, or conspiracy to commit one (1) of the offenses listed in paragraphs (1) to (6) of this definition; or
8. Any offense committed in another jurisdiction which if committed in this State would have constituted an offense listed in paragraphs (1) to (7) of this definition.

**SPECIFIED SEXUAL ACTIVITIES** — Any of the following:

1. Intercourse, oral copulation, masturbation, or sodomy; or
2. Excretory functions as a part of or in connection with any of the activities described in paragraph (1) of this definition.

**SUBSTANTIAL** — At least thirty percent (30%) of the item or items so modified.

**TRANSFER OF OWNERSHIP OR CONTROL** — "*Transfer of ownership or control*" of a sexually-oriented business means and includes any of the following:

1. The sale, lease, or sublease of the business;
2. The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

3. 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 death of the person possessing the ownership or control.

**Section 640.020. Classification.** [R.O. 2012 §645.020; Ord. No. 6758 §645.010, 11-23-1998]

A. Sexually-oriented businesses are classified as follows:

1. Adult arcades;
2. Adult bookstores or adult video stores;
3. Adult cabarets;
4. Adult models;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and
9. Sexual encounter centers.

**Section 640.030. License Required.** [R.O. 2012 §645.030; Ord. No. 6758 §645.020, 11-23-1998]

A. It shall be unlawful:

1. For any person to operate a sexually-oriented business without a valid sexually-oriented business license issued by the City Clerk pursuant to this Chapter.
2. For any person who operates a sexually-oriented business to employ a person to work and/or perform services on the premises of the sexually-oriented business, if such employee is not in possession of a valid sexually-oriented business employee license issued by the City Clerk pursuant to this Chapter.
3. For any person to obtain employment with a sexually-oriented business if such person is not in possession of a valid sexually-oriented business employee license issued to such person by the City Clerk pursuant to this Chapter.
4. It shall be a defense to Subsections (2) and (3) of this Section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

B. An application for a sexually-oriented business license 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 (6) inches. Prior to issuance of a license, the premises must be inspected by the Code Enforcement Officer and the Fire Department.

- C. An application for a sexually-oriented business employee license must be made on a form provided by the City.
- D. All applicants for a license must be qualified according to the provisions of this Chapter. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established under this Chapter. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.
- E. If a person who wishes to own/operate a sexually-oriented business is an individual, he/she must sign the application for a business license 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 business license 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 business license as applicant.
- F. Applications for a business license, whether original or renewal, must be made to the City Clerk by the intended operator of the enterprise. Applications must be submitted to the office of the City Clerk or the City Clerk's designee during regular working hours. Application forms shall be supplied by the City Clerk. The following information shall be provided on the application form:
  - 1. The name, street address (and mailing address if different) of the applicant(s);
  - 2. A recent photograph of the applicant(s);
  - 3. The applicant's driver's license number, Social Security number, and/or his/her State or Federally issued tax identification number;
  - 4. The name under which the establishment is to operated and a general description of the services to be provided;
    - a. If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant, he/she must state:
      - (1) The sexually-oriented business' fictitious name, and
      - (2) Submit the required registration documents.
  - 5. Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in Section 640.010, and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each;

6. Whether the applicant, or a person residing with the applicant, has had a previous license under this Chapter or other similar sexually-oriented business ordinance from another City or County denied, suspended or revoked; including the name and location of the sexually-oriented business for which the business 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 is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually-oriented business ordinance whose business license has previously been denied, suspended or revoked; including the name and location of the sexually-oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
7. Whether the applicant, or a person residing with the applicant holds any other licenses under this Chapter or other similar sexually-oriented business ordinance from another City or County and, if so, the names and locations of such other licensed businesses;
8. The single classification of license, as found in Section 640.020, for which the applicant is filing;
9. The telephone number of the establishment;
10. The address and legal description of the tract of land on which the establishment is to be located;
11. If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually-oriented business at the location for which the business license is sought;
12. 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 business license). If the expected start up date is to be more than ten (10) days following the date of the issuance of the business license, 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;
13. If an applicant wishes to operate a sexually-oriented business, other than an adult motel, which shall exhibit on the premises — in a viewing room or booth of less than one hundred fifty (150) square feet of floor space — films, video cassettes, other video reproductions, or live entertainment which depict "specified sexual activities" or "specified anatomical areas", then the applicant shall comply with the application requirements set for in Section 640.180 hereunder.

G. Each application for a business license shall be accompanied by the following:

1. Payment of the application fee in full;
  2. If the establishment is a corporation, a certificate of good standing from the State of incorporation (dated within thirty (30) days of application for license), a certified copy of the articles of incorporation, together with all amendments thereto;
  3. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this State, together with all amendments thereto;
  4. If the establishment is a limited partnership, a certified copy of the certificate of limited partnership, together with all amendments thereto;
  5. If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;
  6. 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;
  7. If the persons identified as the fee owner(s) of the tract of land in item (6) are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other documents 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;
  8. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any sexually-oriented businesses within one thousand (1,000) feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area, or family-oriented entertainment business within one thousand five hundred (1,500) feet of the property to be certified. For the purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted;
  9. Any items (2) through (8) above shall not be required for a renewal application if the applicant states that the documents previously furnished the City Clerk with the original application or previous renewals thereof remain correct and current.
- H. Applications for an employee license to work and/or perform services in a sexually-oriented business, whether original or renewal, must be made to the Director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the City Clerk. Applications must be submitted to the office of the City Clerk or the City Clerk's designee during regular working hours.

Each applicant shall be required to give the following information on the application form:

1. The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;
2. Age, and date and place of birth;
3. Height, weight, hair color, and eye color;
4. Present residence address and telephone number;
5. Present business address and telephone number;
6. Date, issuing State, and number of photo driver's license, or other State issued identification card information;
7. Social Security number; and
8. Proof that the individual is at least eighteen (18) years of age.

I. Attached to the application form for a license shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.
2. A statement detailing history of the applicant for the five (5) years immediately preceding the date of the filing of this application, including whether such applicant, in this or any other City, County, State, or country, has ever had any 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 name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
3. A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "*specified criminal activity*" as defined in Section 640.010, and, if so, the "*specified criminal activity*" involved, the date, place and jurisdiction of each.

J. Every application for a license shall contain a statement under oath that:

1. The applicant has personal knowledge of the information contained in the application, and that the information contained therein furnished therewith is true and correct; and
2. The applicant has read the provisions of this Chapter.

K. A separate application and business license shall be required for each sexually-oriented business classification as set forth in Section 640.020.

- L. The fact that a person possesses other types of State or City permits and/or licenses does not exempt him/her from the requirement of obtaining a sexually-oriented businesses or employee license.

**Section 640.040. Issuance of License.** [R.O. 2012 §645.040; Ord. No. 6758 §645.030, 11-23-1998]

- A. Upon the filing of an application for a sexually-oriented business employee license, the City Clerk shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for investigation to be made on the information contained in the application. The application process shall be completed within thirty (30) days from the date of the completed application. After the investigation, the City Clerk shall issue an employee license, unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:
  - 1. The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  - 2. The applicant is under the age of eighteen (18) years;
  - 3. The applicant has been convicted of a "*specified criminal activity*" as defined in Section 640.010 of this Chapter;
  - 4. The sexually-oriented business employee license is to be used for employment in a business prohibited by local or State law, Statute, rule, or regulation, or prohibited by a particular provision of this Chapter; or
  - 5. The applicant has had a sexually-oriented business employee license revoked by the City within two (2) years of the date of the current application.

If the sexually-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 Subsection (I) of this Section.

- B. A license issued pursuant to Subsection (A) of this Section, 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 employee shall keep the license on his/her person at all times while engaged in employment or performing services on the sexually-oriented business premises so that said license may be available for inspection upon lawful request.
- C. A license issued pursuant to Subsection (A) of this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the City Clerk that the applicant has not been convicted of any "*specified criminal activity*" as defined in this Chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the

completed application. The renewal of a license shall be subject to the fee as set forth in Section 640.050.

- D. If application is made for a sexually-oriented business license, the City Clerk shall approve or deny issuance of the license to an applicant unless it is determined by a preponderance of the evidence that one (1) or more of the following findings is true:
1. An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
  2. An applicant is under the age of eighteen (18) years;
  3. An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually-oriented business within the preceding twelve (12) months, or whose license to operate a sexually-oriented business has been revoked within the preceding twelve (12) months;
  4. An applicant or a person with whom the applicant is residing is overdue in payment to City taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business;
  5. An applicant or a person with whom the applicant is residing has been convicted of a "*specified criminal activity*" as defined in Section 640.010;
  6. The premises to be used for the sexually-oriented business have not been approved by the Code Enforcement Officer and the Fire Department as being in compliance with applicable laws and ordinances;
  7. The license fee required under this Chapter has not been paid;
  8. An applicant of the proposed establishment is in violation of or is not in compliance with one (1) or more of the provisions of this Chapter.
- E. A license issued pursuant to Subsection (D) of this Section, 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 sexually-oriented business, and the Section 640.020 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.
- F. The Code Enforcement Officer and the Fire Department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the City Clerk. The certification shall be promptly presented to the City Clerk.
- G. A sexually-oriented business license shall issue for only one (1) classification, as set forth in Section 640.020.
- H. In the event that the City Clerk determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days of the receipt of the completed application by the City

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

- I. An applicant may appeal the decision of the City Clerk regarding a denial to the City Council by filing a written notice of appeal with the City Clerk within fifteen (15) days after service of notice upon the applicant of the City Clerk'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 City Clerk may, within fifteen (15) days of service upon him/her of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the City Council. After reviewing such memoranda, as well as the City Clerk's written decision, if any, and exhibits submitted to the City Clerk, the City Council shall vote to either uphold or overrule the City Clerk's decision. Such vote shall be taken within twenty-one (21) calendar days after the date in which the City Clerk receives the notice of appeal. However, all parties shall be required to comply with the City Clerk's decision during the pendency of the appeal. Judicial review of a denial by the City Clerk and City Council may be made pursuant to Section 640.100 of this Chapter.
- J. A license issued pursuant to Subsection (D) of this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the City Clerk that the applicant has not been convicted of any "*specified criminal activity*" as defined in this Chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in Section 640.050.

**Section 640.050. Fees.** [R.O. 2012 §645.050; Ord. No. 6758 §645.040, 11-23-1998]

The annual fee for a sexually-oriented business license, whether new or renewal, is five hundred dollars (\$500.00). The annual fee for a sexually-oriented business employee license, whether new or renewal, is fifty dollars (\$50.00). These fees are to be used to pay for the cost of the administration and enforcement of this Chapter.

**Section 640.060. Inspection.** [R.O. 2012 §645.060; Ord. No. 6758 §645.050, 11-23-1998]

- A. An applicant or licensee shall permit representatives of the Police Department, Code Enforcement Officer, Fire Department, or other City or State departments 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 open for business.
- B. A person who operates a sexually-oriented business or his/her agent or employee commits an ordinance violation if he/she refuses to promptly permit such lawful inspection of the premises.

**Section 640.070. Expiration of License.** [R.O. 2012 §645.070; Ord. No. 6758 §645.060, 11-23-1998]

- A. Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 640.030. Application for renewal should be made at least thirty (30) days before the expiration date; when made less than forty-five (45) days before the expiration date, the expiration of the license will not be affected.
- B. When the City Clerk denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial.

**Section 640.080. Suspension.** [R.O. 2012 §645.080; Ord. No. 6758 §645.070, 11-23-1998]

- A. The City Clerk shall suspend a license for a period not to exceed thirty (30) days if he/she determines that licensee or an employee of licensee has:
  - 1. Violated or is not in compliance with any Section of this Chapter;
  - 2. Operated or performed services in a sexually-oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
  - 3. Refused to allow prompt inspection of the sexually-oriented business premises as authorized by this Chapter;
  - 4. With knowledge, permitted gambling by any person on the sexually-oriented business premises.

**Section 640.090. Revocation.** [R.O. 2012 §645.090; Ord. No. 6758 §645.080, 11-23-1998]

- A. The City Clerk shall revoke a license if a cause of suspension in Section 640.080 occurs and the license has been suspended within the preceding twelve (12) months.
- B. The City Clerk shall revoke a license if he/she determines that:
  - 1. A licensee gave false or misleading information in the material submitted during the application process;
  - 2. A licensee, or a person with whom the licensee is residing, was convicted of a "*specified criminal activity*" on a charge that was pending prior to the issuance of the license;
  - 3. A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
  - 4. A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;
  - 5. A licensee has, with knowledge, permitted prostitution on the premises;
  - 6. A licensee has, with knowledge, operated the sexually-oriented business during a period of time when the licensee's license was suspended;

7. A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
  8. A licensee is delinquent in payment to the City or State for any taxes or fees;
  9. A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or
  10. A licensee has attempted to sell his/her business license, or has sold, assigned, or transferred ownership or control of the sexually-oriented business to a non-licensee.
- C. When the City Clerk revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually-oriented business license for one (1) year from the date revocation became effective.

**Section 640.100. Judicial Review.** [R.O. 2012 §645.100; Ord. No. 6758 §645.090, 11-23-1998]

After denial of an initial or renewal application by the City Clerk and the City Council, or suspension or revocation of a license by the City Clerk, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

**Section 640.110. No Transfer of License.** [R.O. 2012 §645.110; Ord. No. 6758 §645.100, 11-23-1998]

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

**Section 640.120. Location Restrictions.** [R.O. 2012 §645.120; Ord. No. 6758 §645.110, 11-23-1998]

- A. Sexually-oriented businesses shall be permitted in any industrial district provided that:
1. The sexually-oriented business may not be operated within:
    - a. One thousand (1,000) feet of any pre-existing primary or secondary school, house of worship, State-licensed day care facility, public library, public park, residence, or other sexually-oriented business.
    - b. One thousand five hundred (1,500) feet of a public or private elementary or secondary school;
    - c. One thousand five hundred (1,500) feet of a boundary of any residential district;
    - d. One thousand five hundred (1,500) feet of a public park;
    - e. One thousand five hundred (1,500) feet of a licensed day care center;

- f. One thousand five hundred (1,500) feet of an entertainment business that is oriented primarily towards children or family entertainment; or
  - g. One thousand (1,000) feet of 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 classified pursuant to Section 640.020
  3. For the purpose of this Chapter, 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, or child or family entertainment business.
  4. For purposes of Subsection (3) of this Section, the distance between any two (2) sexually-oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closet exterior wall of the structure in which each business is located.

**Section 640.130. Non-Conforming Uses.** [R.O. 2012 §645.130; Ord. No. 6758 §645.120, 11-23-1998]

Any business lawfully operating on the effective date of this Chapter that is in violation of the location or structural configuration requirements of this Chapter shall be deemed a non-conforming use. The non-conforming use will be permitted to continue unless terminated for any reason voluntarily or discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sexually-oriented businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the sexually-oriented business that was first (1st) established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.

**Section 640.140. Additional Regulations For Adult Motels.** [R.O. 2012 §645.140; Ord. No. 6758 §645.140, 11-23-1998]

- A. Evidence that a sleeping room in a hotel, motel, or similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this Chapter.
- B. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually-oriented business license, rents or subrents a sleeping room to a person and, within ten (10)

hours from the time the room is rented, he/she rents or subrents the same sleeping room again.

- C. For purposes of Subsection (B) of this Section, the terms "*rent*" or "*subrent*" mean the act of permitting a room to be occupied for any form of consideration.
- D. Violation of Subsection (B) of this Section shall constitute an ordinance violation.

**Section 640.150. Additional Regulations For Escort Agencies.** [R.O. 2012 §645.150; Ord. No. 6758 §645.150, 11-23-1998]

- A. An escort agency shall not employ any person under the age of eighteen (18) years.
- B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.
- C. Violation of this Section shall constitute an ordinance violation.

**Section 640.160. Additional Regulations For Nude Model Studios.** [R.O. 2012 §645.160; Ord. No. 6758 §645.160, 11-23-1998]

- A. A nude model studio shall not employ any person under the age of eighteen (18) years.
- B. A person under the age of eighteen (18) years commits an ordinance violation 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 eighteen (18) years of age was in a restroom not open to the public view or visible by any other person.
- C. A person commits an ordinance violation if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- D. 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.

**Section 640.170. Additional Regulations Concerning Public Nudity.** [R.O. 2012 §645.170; Ord. No. 6758 §645.170, 11-23-1998]

- A. It shall be an ordinance violation for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually-oriented business, or depicts specified sexual activities in a sexually-oriented business.
- B. No employee shall knowingly or intentionally, in a sexually-oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six (6) feet from all patrons and at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- C. It shall be an ordinance violation for an employee, while semi-nude in a sexually-oriented business, to solicit any pay or gratuity from any patron or customer, or for

any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in the sexually-oriented business.

- D. It shall be an ordinance violation for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee.

**Section 640.180. Regulations Pertaining To Exhibition of Sexually Explicit Films, Videos and Live Performances.** [R.O. 2012 §645.180; Ord. No. 6758 §645.180, 11-23-1998]

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

1. Upon application for a sexually-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the business license 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 City Clerk 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 City Clerk or his/her designee.
4. It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. A sexually-oriented business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:
  - a. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of

the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;

- b. An operator's station shall not exceed thirty-two (32) square feet of floor area;
  - c. If the premises has two (2) or more operator's stations designated, 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 (1) of the operator's stations;
  - d. The view required under this Subsection shall be by direct line of sight from the operator's station;
  - e. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and
  - f. It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this Subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.
6. It shall be the duty of the 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 (A)(5) of this Section 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, as designated in the application filed pursuant to Subsection (A)(1) of this Section.
  7. No viewing room may be occupied by more than one (1) 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 at an illumination of not less than five (5) foot-candle as measured at the floor level.
  9. It shall be the duty of the 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.
  10. No licensee shall allow an opening of any kind to exist between viewing rooms or booths.
  11. No person shall make any attempt to make an opening of any kind between the viewing booths or rooms.

12. The operator of the sexually-oriented business shall, during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.
  13. The operator of the sexually-oriented business shall cause all floor coverings in viewing booths to be non-porous, easily cleanable surfaces, with no rugs or carpeting.
  14. The operator of the sexually-oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, non-porous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.
- B. A person having a duty under Subsection (A)(1 — 14) of this Section commits an ordinance violation if he/she, with knowledge, fails to fulfill that duty.

**Section 640.190. Exterior Portions of Sexually-Oriented Businesses.** [R.O. 2012 §645.190; Ord. No. 6758 §645.190, 11-23-1998]

- A. It shall be 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.
- B. It shall be 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.
- C. It shall be 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. The provision shall not apply to a sexually-oriented business if the following conditions are met:
  1. The establishment is a part of a commercial multi-unit center; and
  2. 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.
- D. Nothing in this Section shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually-oriented business.
- E. A violation of any provision of this Section shall constitute an ordinance violation.

**Section 640.200. Signage.** [R.O. 2012 §645.200; Ord. No. 6758 §645.200, 11-23-1998]

- A. Notwithstanding any other City ordinance, Code, or regulation to the contrary, it shall be unlawful for the 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 (1) primary sign and one (1) secondary sign, as provided herein.

- B. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
  - 1. Not contain any flashing lights.
  - 2. Be a flat plane, rectangular in shape.
  - 3. Not exceed seventy-five (75) square feet in area; and
  - 4. Not exceed ten (10) feet in height or ten (10) feet in length.
- C. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
- D. 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.
- E. Secondary signs shall have only one (1) display surface. Such display surface shall:
  - 1. Be a flat plane, rectangular in shape.
  - 2. Not exceed twenty (20) square feet in area;
  - 3. Not exceed five (5) feet in height and four (4) feet in width; and
  - 4. Be affixed or attached to any wall or door of the enterprise.
- F. The provisions of Subsections (B)(1), (C) and (D) shall also apply to secondary signs.
- G. Violation of any provision of this Section shall constitute an ordinance violation.

**Section 640.210. Persons Younger Than Eighteen Years of Age Prohibited From Entry — Attendant Required.** [R.O. 2012 §645.210; Ord. No. 6758 §645.220, 11-23-1998]

- A. No person less than nineteen (19) years of age shall dance in an adult cabaret as defined in Section 573.500, RSMo., nor shall any proprietor of such establishment permit any person less than nineteen (19) years of age to dance in an adult cabaret.
- B. 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 each sexually-oriented businesses' 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 eighteen (18) unless such attendant asked for and was furnished a valid operator's, commercial operator's, or chauffeur's driver's license or State-issued identification card.
- C. Violation of this Section shall constitute an ordinance violation.

**Section 640.220. Massages or Baths Administered By Person of Opposite Sex.** [R.O. 2012 §645.220; Ord. No. 6758 §645.230, 11-23-1998]

It shall be unlawful for any sexually-oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex, except this Section shall not be applicable to services provided by a medical practitioner, a professional physical therapist or a massage therapist certified or licensed by the State. Violation of this Section shall constitute an ordinance violation.

**Section 640.230. Hours of Operation.**

No operator shall allow or permit a sexually-oriented business to be or remain open between the hours of 12:00 Midnight and 6:00 A.M. on any day.

**Section 640.240. Exemptions.** [R.O. 2012 §645.240; Ord. No. 6758 §645.250, 11-23-1998]

- A. 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:
  - 1. By a proprietary school, licensed by the State of Missouri, a college, junior college, or university supported entirely or partly by taxation;
  - 2. By 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.

**Section 640.250. Notices.** [R.O. 2012 §645.250; Ord. No. 6758 §645.260, 11-23-1998]

- A. Any notice required or permitted to be given by the City Clerk or any other City office, division, department or other agency under this Chapter to any applicant, operator or owner of a sexually-oriented business 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 license, or any notice of address change that has been received by the City Clerk. 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 City Clerk or his/her designee shall cause it to be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the City Clerk by any person under this Chapter shall not be deemed given until and unless it is received in the office of the City Clerk.
- C. It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the City Clerk in writing of any change of residence or mailing address.

**Section 640.260. Injunction.** [R.O. 2012 §645.260; Ord. No. 6758 §645.270, 11-23-1998]

A person who operates or causes to be operated a sexually-oriented business without a valid business license or in violation of Section 640.030 of this Chapter is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually-oriented business so operates is a separate offense or violation.

**Section 640.270. Separability.** [R.O. 2012 §645.270; Ord. No. 6758 §645.280, 11-23-1998]

If any Section, Subsection, or clause of this Chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections, and clauses shall not be affected thereby.

**Section 640.280. Penalty For Violation.** [R.O. 2012 §645.280; Ord. No. 6758 §645.290, 11-23-1998]

Violation of any provision of this Chapter shall constitute an ordinance violation, and is punishable pursuant to Section 100.080 of the City Code.