

CHAPTER 13

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Part 1

[Reserved]



## Part 2

## Licensing Various Businesses

§201. License Required for Certain Business Operations. No person or persons, firm, corporation or party shall, at any time, have in his, her, its or their possession within the Borough of Hollidaysburg any mechanical, electrical or electronic devices, machines or apparatus whatsoever for the playing of games, sports, amusement or the playing of recorded music by the insertion therein of a coin or any other metal disc, slug or token whatsoever, without having first procured a license at an annual charge of fifty dollars (\$50.00). (Ord. 609, 1/3/1984, §1)

§202. Pool Rooms. All persons, firms, corporations or parties engaged in conducting a pool room shall pay an annual license fee of two hundred dollars (\$200.00). "Pool room" is defined as follows: Any establishment with two (2) or more pool tables where people pay to play. (Ord. 609, 1/3/1984, §2)

§203. Theaters. All persons, firms, corporations or parties engaged in operating or conducting theatrical exhibitions or motion picture theaters at which an admission fee or other fee is charged within the Borough of Hollidaysburg shall pay an annual license fee to said Borough in the sum of two hundred dollars (\$200.00), provided, however, that this section shall not be applicable to any theatrical exhibition or motion picture showing by the public or parochial schools of said Borough as a part of their educational program or by any non-profit corporation or sponsored by a community non-profit corporation. (Ord. 609, 1/3/1984, §3)

§204. Issuance of Annual License; Date Payment Due. All licenses as hereinabove provided shall be issued by the Mayor. All annual licenses shall be due and payable on or before the first day of March of each year. (Ord. 609, 1/3/1984, §5)

§205. Penalties. Any person, partnership, association, corporation, organization, party or other entity, or any executive officer of any association, corporation, organization, party or other entity, who or which shall violate the provisions of this Part is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than twenty-five dollars (\$25.00) and not more than six hundred dollars (\$600.00), payable to the Borough of Hollidaysburg, or to imprisonment for not more than thirty (30) days, or both. Prosecution for every such violation shall be according to the practice in the case of summary convictions, including default proceedings under Criminal Procedure Rule 65 or its equivalent. Each series of occurrences shall be considered a separate offense. The foregoing fine is in addition to the license fees which the violator shall be required to pay. (Ord. 609, 1/3/1984; as amended by Ord. 626, 4/13/1987; and by Ord. 640, 4/10/1989, §22)



Part 3

Transient Retail Businesses

§301. Definitions. As used in this Part 3, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LEGAL HOLIDAY - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

SPECIAL EVENT - any and all activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays, and shall include, but not be limited to, parades and festivals. [Ord. 646]

PERSON - any natural person, partnership, association, corporation, or other legal entity.

TRANSIENT RETAIL BUSINESS -

1. Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough of Hollidaysburg; or

2. Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough of Hollidaysburg, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of specific yearly holidays.

The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 626, 4/13/1987; as amended by Ord. 646, 9/11/1989, §1)

§302. License Required; Conditions of Issuance; Fee. No person shall engage in any transient retail business within the Borough without first having obtained from the Mayor a license, for which a fee, which shall be for the use of the Borough, shall be charged:

Fifty dollars (\$50) for - one day

One hundred fifty dollars (\$150) for - 30 consecutive days

Five hundred dollars (\$500) - one year

(Ord. 626, 4/13/1987; as amended by Ord. 722, 12/15/1994, §1)

§303. Exceptions. No license fee shall be charged:

1. To farmers selling their own produce;

2. For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose;

3. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products;

4. To children under the age of eighteen (18) years who take orders for and deliver newspapers, greeting cards, candy, bakery products, and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations;

5. To any honorable discharged member of any of the armed services who complies with the Act of 1867, April 8, P.L. 50, 60 P.S. §61 (1982), hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, and who procures from the Prothonotary a certificate in pursuance of the Act of 1867;

6. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania;

7. To any person who has complied with the provisions of the Solicitation of Charitable Funds Act, August 9, 1963, P.L. 628, 10 P.S. §§160-1 et seq. (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania; or

8. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

But all persons exempted hereby from the payment of the license fee shall be required to register with the Mayor and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided further, the Mayor may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of any nonprofit corporation. Provided further: every license issued under the provisions of this Part 3 shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants therein. Provided further: the Mayor may similarly exempt from payment of the license fee, but not from registering with him, persons engaged in a transient retail business as part of an organized festival or fund raising activity sponsored by a civic association, nonprofit organization or religious organization that has been issued a permit by the Borough to hold such festival.

(Ord. 626, 4/13/1987; as amended by Ord. 646, 9/11/1989, §2)

§303A. Special Events License Exception; License Required; Conditions of Issuance; Fee. No person shall engage in any transient retail business within the Borough during a special event without first having obtained from the Mayor a license, for which a fee, which shall be for the use of the Borough, shall be charged:

Ten Dollars (\$10.00) - Each Special Event

Provided that any person licensed under §302 of this Part 3 may also engage in transient retail business within the Borough during a special event without being issued a special events license. Provided further that a separate special events license issued under this Section shall be required for each day of special event and shall only be valid at the location of the special event for three (3) hours prior to the start of the special event and three (3) hours following the special event.

(Ord. 626, 4/13/1987; as added by Ord. 646, 9/11/1989, §3)

§304. License Application. Every person desiring a license under this Part 3 shall first make application to the Mayor for such license. He shall, when making such application, exhibit a valid license from any state or county officer, if such license is also required. The applicant shall state:

1. His criminal record, if any;
2. name and address of the person by whom he is employed;
3. type of goods, wares, and merchandise he wishes to deal with in such transient retail business;
4. length of time for which license is to be issued; and
5. type and license number of the vehicle to be used, if any.

(Ord. 626, 4/13/1987)

§305. Issuance of License; Custody; Display and Exhibit. Upon receipt of such application and the prescribed fee, the Mayor, if he shall find such application in order, shall issue the license required under this Part 3. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal officials, and citizens or residents of the Borough. (Ord. 626, 4/13/1987)

§306. Prohibited Acts. No person in any transient retail business shall:

1. Sell any product or type of product not mentioned in his license;
2. Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough of Hollidaysburg;
3. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity;
4. Park any vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise;

5. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9:00 A.M. or after 8:00 P.M. on any day of the week other than a Sunday or legal holiday.

(Ord. 626, 4/13/1987)

§307. Supervision; Records and Reports. The Mayor shall supervise the activities of all persons holding licenses under this Part 3. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council. (Ord. 626, 4/13/1987)

§308. Suspension and Revocation of License; Appeal. The Mayor is hereby authorized to suspend or revoke any license issued under this Part 3 when he deems such suspension or revocation to be beneficial to the public health, safety, or morals, for violation of any provision of this Part 3, or for giving false information upon any application for a license hereunder. Appeals from any suspension or revocation may be made to the Borough Council at any time within ten (10) days after such suspension or revocation. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked. (Ord. 626, 4/13/1987)

§309. Penalties. Any person, firm or corporation who shall violate any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars (\$600.00), and/or to imprisonment for not more than thirty (30) days. Each day that a violation of this Part 3 continues shall constitute a separate offense. (Ord. 626, 4/13/1987; as amended by Ord. 640, 4/10/1989, §23)

## Part 4

## Sexually Oriented Business

§401. Purpose and Intent. It is the purpose of this Part to regulate sexually oriented businesses, to promote the health, safety and general welfare of the citizens of the Borough, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Borough. The provisions of this Part 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 nor effect of this Part 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 Part to condone or legitimize the distribution of obscene material. (Ord. 746, 6/19/1997, §1)

§402. Definitions.

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 (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE or ADULT VIDEO STORE - a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas."

B. Instruments, devices or paraphernalia which 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 establishment from being categorized as an "adult bookstore" or "adult video store" so long as one (1) 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."

ADULT CABARET - a nightclub, bar, restaurant or similar commercial establishment which regularly features:

A. Persons who appear in the state of nudity.

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

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

ADULT MOTEL - a hotel, motel or similar commercial establishment which:

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

B. Offers sleeping rooms for rent four (4) or more times in one (1) calendar day during five (5) or more calendar days in any continuous thirty (30) day period.

ADULT MOTION PICTURE THEATER - a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

CHILD-ORIENTED BUSINESS - a commercial establishment which, as one of its principal business purposes, serves and/or sells to children and their families food, apparels, goods, services, play and/or entertainment.

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

ESCORT AGENCY - a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

PERMITTEE and/or LICENSEE - a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

NUDE MODEL STUDIO - any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed,

sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDITY or a STATE OF NUDITY - the appearance of a human bare buttock, anus, male genitals, female genitals or female breast.

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

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

SEXUAL ENCOUNTER CENTER - a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

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 semi-nude. This term does not include the following types of commercial enterprises:

(1) An enterprise in which massage therapy that does not involve "specified sexual activities" is provided by a physician, chiropractor, registered nurse or other medical practitioner licensed or certified by the Commonwealth of Pennsylvania.

(2) An enterprise in which massage therapy that does not involve "specified sexual activities" is provided by a professional massage therapist who is licensed or certified by a national massage therapist professional organization that has an explicit and enforced policy statement which fully deals with the concerns raised by this Part and furthers the purposes of this Part.

SEXUALLY ORIENTED BUSINESS - 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.

SPECIFIED ANATOMICAL AREAS - the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

SPECIFIED SEXUAL ACTIVITIES - 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.

D. Excretory functions as part of or in connection with any of the activities set forth in subsections (A) through (C) above.

SUBSTANTIAL ENLARGEMENT - of a sexually oriented business, means the increase in floor areas occupied by the business by more than twenty-five (25) percent, as the floor areas exist on date of enactment of this Part.

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 which constitute a controlling interest in the business, whether by sale, exchange or similar means.
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. 746, 6/19/1997, §2)

§403. Classification. 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.
- I. Sexual encounter centers.

(Ord. 746, 6/19/1997, §3)

§404. Permit Required.

1. Any person who operates a sexually oriented business without a valid permit issued by the Borough is guilty of a violation of this Part.

2. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer.

3. The applicant must be qualified according to the provisions of this Part and the premises must be inspected and found to be in compliance with the law by the Zoning Officer.

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 (10) percent 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 which wishes to operate such a business, each individual having a direct or indirect interest of ten (10) percent or greater in the corporation must sign the application for a permit as applicant.

5. The fact that a person possesses other types of Borough permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.

(Ord. 746, 6/19/1997, §4)

§405. Issuance of Permit.

1. The Zoning Officer shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless he finds one (1) 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 his payment to the Borough of taxes, fees, fines or penalties assessed against him or imposed upon him 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 Borough to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license 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 have been reviewed and have been disapproved as not being in compliance with applicable laws and ordinances.

F. The permit fee required by this Part has not been paid.

G. An applicant of the proposed establishment is in violation of or is not in compliance with a provision of this Part.

H. An individual applicant, individual holding a direct interest of more than ten (10) percent in a corporate applicant, officer or director of a corporate applicant, partner or limited partner if the applicant is a partnership, or manager or other person in charge of the operation of the applicant's business has or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania including, but not limited to, prostitution, obscenity, rape, statutory rape and possession of child pornography, or convicted

of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons' conviction in connection with the sexual misconduct offense must have occurred within two (2) years of the date of application in the event of a misdemeanor and within five (5) years of the date of application in the event of a felony.

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

3. The Zoning Officer shall complete the certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application.

(Ord. 746, 6/19/1997, §5)

§406. Fees. The fee for a sexually oriented business permit shall be determined by the Hollidaysburg Borough Council. (Ord. 746, 6/19/1997, §6)

§407. Inspection.

1. An applicant, or permittee, shall permit the Police Department and the Zoning Officer to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time that the sexually oriented business is occupied or open for business.

2. A person who operates a sexually oriented business, or his agent or employee, violates this Part if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord. 746, 6/19/1997, §7)

§408. Expiration of Permit.

1. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in §404. Application for renewal should be made at least thirty (30) days before the expiration date and, when made fewer than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

2. If the Zoning Officer denies renewal of a license, the applicant shall not be issued a permit for one (1) year from the date of denial, except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Officer finds that the basis for denial of the renewal permit has been corrected or abated.

(Ord. 746, 6/19/1997, §8)

§409. Suspension of Permit. The Zoning Officer shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an employee of a permittee has:

A. Violated or is not in compliance with any Section of this Part.

B. Refused to allow an inspection of the sexually oriented business premises as authorized by this Part.

(Ord. 746, 6/19/1997, §9)

§410. Revocation of Permit.

1. The Zoning Officer shall revoke a permit if a cause of suspension set forth in §409 occurs and the permit has been suspended within the preceding twelve (12) months.

2. The Zoning Officer shall revoke a permit if he determines that:

A. A permittee, or any of the persons specified in subsection (G) of §405, is or has been convicted of the offenses specified in subsection (G) of §405.

B. A permittee gave false or misleading information in the material submitted to the Borough during the application process.

C. A permittee or an employee of a permittee has knowingly allowed possession, use or sale of controlled substances on the premises.

D. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises.

E. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.

F. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other explicit sexual conduct to occur in or on the permitted premises.

G. A permittee is delinquent in payment to the Borough or State of any taxes or fees relating to the involved sexually oriented businesses.

3. When the Zoning Officer revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective, except that if the revocation is pursuant to subsection (A), above, the revocation shall be effective for two (2) years in the event of a misdemeanor or five (5) years in the case of a felony.

4. After denial of an application, denial of a renewal of an application or suspension or revocation of a permit, the applicant, licensee or permittee shall have the right to appeal said action and to seek prompt

judicial review of such administrative action in any court of competent jurisdiction.

(Ord. 746, 6/19/1997, §10)

§411. Transfer of Permit. A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. (Ord. 746, 6/19/1997, §11)

§412. Location of Sexually Oriented Business.

1. A person is guilty of a violation of Hollidaysburg's Zoning Ordinance [Chapter 27] if he operates or causes to be operated a sexually oriented business outside of the zoning district in which a sexually oriented business is allowed by that Ordinance. Sexually oriented businesses as defined herein shall be permitted in the I-2 District as a special exception.

2. A person is guilty of a violation of Hollidaysburg's Zoning Ordinance [Chapter 27] if he operates or causes to be operated a sexually oriented business within one thousand (1,000) feet of:

- A. A church.
- B. A public or private pre-elementary, elementary or secondary school.
- C. A public library.
- D. A child care facility or nursery school.
- E. A public park adjacent to any residential district.
- F. A child-oriented business.

3. A person is guilty of a violation of Hollidaysburg's Zoning Ordinance [Chapter 27] if he causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business.

4. A person is guilty of a violation of this Part if he causes or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof; or the increase of floor areas of any sexually oriented business in any building, structure or portion thereof containing another sexually oriented business.

5. For the purposes of this Part and Hollidaysburg's Zoning Ordinance [Chapter 27], 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, public or private pre-elementary, elementary or secondary school,

public library, child care facility, child-oriented business or nursery school; or to the nearest boundary of an affected public park.

6. For purposes of subsection (3) of this Section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

7. A sexually oriented business that was lawfully operating on the date of the enactment of this Part or the relevant amendments to the Hollidaysburg Zoning Ordinance [Chapter 27] (whichever applies) that is in violation of subsections (1), (2), (3) or (4) of this Section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use.

8. 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, public or private pre-elementary, elementary or secondary school, public library, child care facility, child-oriented business, nursery school or public park within one thousand (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.

(Ord. 746, 6/19/1997, §12)

§413. Exemptions. It is a defense to prosecution under §§405 and 412 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation.

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

C. In a structure:

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

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

(3) Where no more than one (1) nude model is on the premises at any one (1) time.

(Ord. 746, 6/19/1997, §13)

§414. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this

(13, §414, cont'd)

(13, §414, cont'd)

Part is subject to an action in equity or a suit for injunction as well as citations for violations of this Part.

(Ord. 746, 6/19/1997, §14)