

CHAPTER 17
PORNOGRAPHY

PART I
OBSCENITY

§ 17-101. Definitions.....	17-2	
§ 17-102. Lewd Films and Theaters Declared A Nuisance.....	17-4	
§ 17-103. Lewd Publications Declared a Nuisance.....	17-4	
§ 17-104. Massage Parlors and Model Studios Declared A Nuisance.....		17-5
§ 17-104a. Offenses Defined.....	17-5	
§ 17-105. Head Shops Declared a Nuisance.....	17-6	
§ 17-106. Liability; Abatement.....	17-6	
§ 17-107. Action by Police Department.....	17-7	
§ 17-108. Forfeiture of Revenues from Public Nuisances; Cost of Abatement; Recovery of Costs.....	17-9	
§ 17-109. Permit and/or License Required.....	17-9	
§ 17-110. Issuance of Permit and/or License.....	17-10	
§ 17-111. Fees.....	17-11	
§ 17-112. Inspection.....	17-11	
§ 17-113. Expiration of Permit and/or License.....	17-11	
§ 17-114. Suspension.....	17-12	
§ 17-115. Revocation.....	17-12	
§ 17-116. Transfer of Permit and/or License.....	17-13	
§ 17-117. Additional Regulations for Adult Motels.....	17-13	
§ 17-118. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.....	17-14	
§ 17-119. Injunction.....	17-15	
§ 17-120. Action By Municipal Attorney.....	17-15	
§ 17-121. Severability.....	17-15	
§ 17-122. Repealer.....	17-16	

PART 1**OBSENIITY****SECTION 17-101. Definitions.**

As used in this Chapter and Part, the following terms shall have the meaning indicated:

A. Controlled Substance is a drug, substance, or immediate precursor as defined in Schedule 1 through 5 of the Pennsylvania Controlled Substance, Drug Devises, and Cosmetic Act, 35 P.S. § 780.104, or any amendments thereto.

B. Drug Paraphernalia are any objects, devices, instruments, apparatus, or contrivances, whose primary and traditionally exclusive use is involved with the illegal use of any and all controlled substances under the laws of Pennsylvania.

C. Head Shop is any business, the operation of which involves the sale, lease, trade, gift, or display for sale, of any and all types of drug paraphernalia.

D. Immediate Precursor is a substance which under the regulations of the Pennsylvania Department of Health is a principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used, in the manufacture of a controlled substance.

E. Knowledge or Knowledge of Such Nuisance is defined as having knowledge of the contents and character of the patently offensive sexual conduct or demonstration which appears in the film or publication or having knowledge of the acts of lewdness, assignation, or prostitution which occur on the premises.

F. Lewd Matter is any matter which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or masturbation, excretory functions, or exhibition of the genitals or genital area. Nothing herein contained is intended to include or prescribed any matter which, when considered as a whole and in the context in which it is used, possesses serious literary, artistic, political, educational, or scientific value.

G. Massage is any method of treating the superficial soft parts of the human body for remedial, hygienic, or other purposes, consisting of rubbing, stroking, kneading, or any similar treatment accomplished by hand or by the use of any instrument.

H. Massage Parlor is any building or structure or portion thereof, located within Harmony Borough which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.

- I. Matter is a motion-picture film or publication, or both.
- J. Model Studio is:
1. Any premises on which there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted for persons who pay a fee or other consideration, compensation, or gratuity for the right or opportunity so to depict the figure model or for admission to or for permission to remain upon or as a condition for remaining upon the premises; or
 2. Any premises where there is conducted the business of furnishing or providing or procuring, for a fee or other consideration, compensation, or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed, or otherwise similarly depicted.
 3. Exception. The term “model studio” does not include:
 - (a) Any studio which is operated by any state university or college or junior college, public school, or any governmental agency wherein the person, firm, association, partnership, or corporation operating it has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and, is in fact authorized thereunder to issue and confer, a diploma or honorary diploma.
 - (b) Any premises where there is conducted the business of furnishing, providing, or procuring figure models solely for any studio described in Subsection C (1.) of this definition.
 - (c) Any studio operated by a tax exempt, nonprofit corporation devoted to the development of art and its appreciation.
- K. Motion-Picture Film includes any film or plate negative; film or plate positive; film designated to be projected on a screen or other surface for exhibition; films, glass slides, or transparencies, either in negative or positive form, designed or exhibitions by projection on a screen or other surface, and video tape or any other medium used to electronically reproduce images on a screen or other surfaces.
- L. Nude means completely without clothing, or showing the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or showing the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or showing the covered male genitals in a discernibly turgid state.
- M. Person is any individual, partnership, firm, association, corporation, or other legal entity.

N. Place includes but is not limited to any building, structure, or space or any separate part or portion thereof, whether permanent or not, or the ground itself.

O. Publication includes any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or motion-picture film which is displayed or contained in an area open to the public or is offered for sale or exhibition in a coin-operated machine.

P. Sale is a passing of title or right of possession from a seller to a buyer for valuable consideration and includes but it is not limited to any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of or transfer of possession of lewd matter.

Q. Traditionally Exclusive Use is a use which is primary and inherent as opposed to secondary and incidental, and is associated with certain knowledge or beliefs derived from statements of contemporary persons and handed down through a considerable period of time.

(*Ord. 314, 11/6/1990, §1*)

SECTION 17-102. Lewd Films and Theaters Declared a Nuisance.

A. Any and every place in Harmony Borough where lewd films are publicly exhibited or possessed for the purpose of such exhibition, and any and every place in Harmony Borough where a lewd film is repeatedly publicly exhibited or possessed for the purpose of such exhibitions or where lewd films are publicly disseminated or sold, or possessed for such dissemination, is a public nuisance.

B. Any and every lewd film which is publicly exhibited or possessed for such purpose at a place which is a public nuisance under Subsection A, above, is a public nuisance per se.

C. From and after service on the place, or its manager or acting manager, or person then in charge of such place of a true and correct copy of this Chapter and Order of Summary Abatement provided for in Section 17-107, hereof, all moneys paid thereafter as an admission price to such exhibitions are also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance.

(*Ord. 314, 11/6/1990, §2, Ord. 372, 6/6/2006*)

SECTION 17-103. Lewd Publications Declared a Nuisance.

A. Any and every place in Harmony Borough in which lewd publications constitute a part of the stock in trade is a public nuisance.

B. Any and every lewd publication possessed at a place which is a public nuisance under Subsection A, above, is a public nuisance per se.

C. From and after service on the place, or its manager or acting manager or person then in charge of such place, of a true and correct copy of this Chapter and Order of Summary Abatement provided for in Section 7, hereof, all valuable consideration received for the sale of such lewd publications is also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 314, 11/6/1990, §3, Ord. 372, 6/6/2006)

SECTION 17-104. Massage Parlors and Model Studios Declared a Nuisance.

A. Every massage parlor or model studio which, as a regular course of business, is used for the purpose of lewdness, assignation, or prostitution, and every such massage parlor or model studio in or upon which acts of lewdness, assignation, or prostitution are held or occur is a public nuisance which shall be enjoined, abated, and prevented.

B. From and after service on the place, or its manager or acting manager or person then in charge of such place, of a true and correct copy of this Ordinance and an Order of Summary Abatement provided for in Section 17-107 hereof, all moneys or other valuable consideration paid for services rendered are also declared to be a public nuisance personal property used in conducting and maintaining a declared nuisance.

(Ord. 314, 11/6/1990, §4, Ord. 372, 6/6/2006)

SECTION 17-104a. Offenses Defined.

No person, knowing the obscene character of the materials or performance involved, shall:

A. Sell, lend, distribute, exhibit, give away or show any obscene materials to any person 17 years of age or older or offer to sell, lend, distribute, exhibit or give away or show, or have in his possession with intent to sell, lend, distribute, exhibit or give away or show any obscene materials to any person 17 years of age or older, or knowingly advertise any obscene materials in any manner;

B. Design, copy, draw, photograph, print, utter, publish or in any manner manufacture or prepare any obscene materials;

C. Write, print, publish, utter or cause to be written, printed published or uttered any advertisement or notice of any kind giving information, directly or indirectly, stating or

purporting to state where, how, from whom, or by what means any obscene materials can be purchased, obtained or had.

D. Hire, employ, use or permit any minor child to do or assist in doing any act or thing mentioned in this section.

(Ord. 314, 11/6/1990, §4a, Ord. 372, 6/6/2006)

SECTION 17-105. Head Shops Declared a Nuisance.

A. Any and every place in Harmony Borough in which drug paraphernalia constitutes a part of the stock in trade is a public nuisance.

B. Any and every item of drug paraphernalia possessed at a place which is a public nuisance under Subsection A is a public nuisance per se.

C. From and after service on the place, or its manager or acting manager or person then in charge of such place, of a true and correct copy of this Ordinance and an Order of Summary Abatement provided for in Section 17-107, hereof, all valuable consideration received for the sale of such drug paraphernalia is also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 314, 11/6/1990, §5, Ord. 372, 6/6/2006)

SECTION 17-106. Liability; Abatement.

A. Upon and after receiving notice through service of a true and correct copy of this Ordinance and an Order of Abatement provided for in Section 17-107, hereof, any and every person who shall own, legally or equitably, lease, maintain, manage, conduct, or operate a place in Harmony Borough which is declared to be a public nuisance, as set forth and stated in Sections 17-102, 17-103, 17-104, and 17-105 of this Chapter, is deemed to be a person who has knowledge of such nuisance for the purpose of this Chapter, and is thereafter responsible for its maintenance and shall be liable therefor.

B. The places and subject matter declared to be public nuisance under Section 17-102, 17-103, 17-104, and 17-105 shall be abated as provided for herein.

(Ord. 314, 11/6/1990, §6, Ord. 372, 6/6/2006)

SECTION 17-107. Action By Police Department.

Upon specific finding that a public nuisance, as defined in Sections 17-102, 17-103, 17-104, and 17-105 of this Chapter, exists in Harmony Borough, the Police Department in applying the provisions of this Chapter to such nuisance, shall:

- A. Declare the fact that such nuisance exists.
- B. Set forth the description or legal description and street address of the place which constitutes the nuisance.
- C. Set forth the evidentiary facts considered by the Police Department in arriving at its factual determination.
 1. In the case of a motion-picture film or films, such facts shall include a recitation of the particular sexual conduct and acts which the Police Department finds are patently offensive; the basis for the finding by the Police Department that such film or films are displayed, sold, or held for sale at any place found by the Police Department to be a public nuisance; and the basis of the finding by the Police Department that such film or films constitutes a part of the stock in trade of such place of business or other place.
 2. In the case of a publication or publications, such facts shall include a recitation of the particular publications or types of publications considered by the Police Department and those which the Police Department finds to be patently offensive; the basis for the finding by the Police Department that such publications are displayed, sold, or held for sale at any place found by the Police Department to be a public nuisance; and the basis of the finding by the Police Department that such publications constitute a part of the stock in trade of such place of business of other place.
 3. In the case of a massage parlor or model studio, such facts shall include a recitation of the particular acts of lewdness, assignation, or prostitution which have occurred and the basis for the fining by the Police Department that such acts occurred in the course of business.
 4. In the case of drug paraphernalia, such facts shall include a recitation of the particular drug paraphernalia or types of drug paraphernalia considered by the Police Department and those which the Police Department finds to be patently offensive; the basis for the finding by the Police Department that such drug paraphernalia is displayed, sold, or held for sale at any place found by the Police Department to be a public nuisance; and the basis of the finding by the Police Department that such drug paraphernalia constitute a part of the stock in trade of such place of business of other place.
- D. Order all persons described in Subsection 17-106(A), hereof, to summarily abate such public nuisance within twenty-four (24) hours of service of such Order on any such subject matter or to cease to use the place where the public nuisance is declared to exist or to terminate

the use of said premises for the purpose of lewdness, assignation, or prostitution, or to cause the same to be terminated.

E. Order the Solicitor to proceed to do all things necessary to abate such public nuisance through judicial proceedings and to conclude such proceedings as expeditiously as it is permissible under the law, including requesting the Court to advance such proceedings on the calendar of the Court.

F. Inform and give notice to persons designated in Section 17-106(A) that:

1. The Police Department has determined that a public nuisance presently exists at such place and address and that, under Section 17-106(A) of said Ordinance, they are deemed to have knowledge thereof and are responsible therefor.

2. In the event that the Order of Harmony Borough has not been complied with within twenty-four (24) hours, the Police Department has ordered the Solicitor as provided for under Section 17-109, hereof, to commence necessary legal proceedings naming such persons as defendants in a civil action to abate the same judicially under Section 17-107 of this Ordinance, and, under Sections 17-106(A) and (B) of this Chapter, the costs of abatement of such civil abatement action filed, including investigative costs, Court costs, attorney's fees, and other expenses, are made a special assessment against the parcel of land upon which a nuisance is being maintained, and upon their determination in such Court action, will be a separate legal procedure and will be made a lien against such property and personal obligation against any person, persons, firm, association, partnership, corporation, or other entity deemed to be in violation of this Chapter.

3. All lewd motion-picture films or lewd publications or drug paraphernalia being used in conducting and maintaining such public nuisance are contraband, and the subject of forfeiture.

4. From and after service on the place or its manager or acting manager or person then in charge of such place, of a true and correct copy of this Ordinance, any and all moneys paid as an admission price to or for the exhibition of such lewd motion-picture films and valuable consideration received for the sale of such lewd publications and drug paraphernalia and all moneys or other valuable consideration received for services in such massage parlors or model studios are a public nuisance as personal property used in conducting and maintaining such nuisance, and, as such, are the subject of forfeiture.

G. Order that a true and correct copy of this Chapter be delivered forthwith in any manner normally used to effectuate personal service of process to all persons of record having any legal or equitable interest in the real property and to the regular or acting manager or persons in charge of the place therein declared a public nuisance.

(*Ord. 314, 11/6/1990, §7, Ord. 372, 6/6/2006*)

SECTION 17-108. Forfeiture of Revenues From Public Nuisances; Cost of Abatement; Recovery of Costs.

A. Upon judgment for Harmony Borough in legal proceedings brought pursuant to this Ordinance, an accounting shall be made by such defendant or defendants of all moneys or valuable consideration received by them which have been declared to be a public nuisance under Sections 17-102, 17-103, 17-104, and 17-105. Such moneys or their equivalent and any valuable consideration received shall be forfeited to the general fund of Harmony Borough as property of Harmony Borough if any valuable consideration received in not money.

B. The cost of abatement shall include the following:

1. Investigative costs.
2. Court costs.
3. Reasonable attorney's fees arising out of the preparation for and trial of the cause and appeals therefrom and other costs allowed on appeal.
4. Printing costs of trial and appellate briefs and of all other papers filed in such proceedings.

C. Such cost of abatement is hereby made a special assessment against the parcel of land upon which such nuisance is maintained. Upon its determination in a civil action, such shall, by separate legal proceeding, be made a lien against such property and a personal obligation against any person, persons, firm, association, partnership, corporation, or other entity and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to such special assessment.

(Ord. 314, 11/6/1990, §8, Ord. 372, 6/6/2006)

SECTION 17-109. Permit and/or License Required.

A. A person commits a misdemeanor if he operates a sexually oriented business without a valid permit and/or license, issued by the Borough for the particular type of business.

B. An application for a permit and/or license must be made on a form provided by the Harmony Borough Zoning Officer. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but 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.

C. 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 health department, fire department, and building official.

D. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit and/or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a permit and/or license 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 10 percent or greater interest in the corporation must sign the application for a permit and/or license as applicant.

E. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.

(Ord. 314, 11/6/1990, §9, Ord. 372, 6/6/2006)

SECTION 17-110. Issuance of Permit and/or License.

The Harmony Borough Zoning Officer shall approve the issuance of a permit and/or license to an applicant within thirty (30) days after receipt of an application unless he finds one or more of the following to be true:

- A. An applicant is under 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 and/or license 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 and/or license 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 12 months.
- E. The premises to be used for the sexually oriented business have not been approved by the Health Department, Fire Department, and the building official as being in compliance with applicable laws and ordinances.
- F. The permit and/or license fee required by this ordinance has not been paid.

G. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Chapter.

H. The permit and/or license, 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 and/or 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.

(Ord. 314, 11/6/1990, §10)

SECTION 17-111. Fees.

A. The annual fee for a sexually oriented business permit and/or license is One Thousand (\$1,000.00) Dollars.

(Ord. 314, 11/6/1990, §11, Ord. 372, 6/6/2006)

SECTION 17-112. Inspection.

A. An applicant, or permittee and/or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Zoning Department, or other Borough 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 occupied or open for business.

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

(Ord. 314, 11/6/1990, §12, Ord. 372, 6/6/2006)

SECTION 17-113. Expiration of Permit and/or License.

A. Each permit and/or license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 17-105. Application for renewal should be made at least thirty (30) days before the expiration date, the expiration of the permit and/or license will not be affected.

B. When the Harmony Borough Zoning Officer denies renewal of a license, the applicant shall not be issued a permit and/or license for one year from the date of denial. If, subsequent to denial, the Harmony Borough Zoning Officer finds that the basis for denial of the renewal permit and/or license has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date denial became final.

(*Ord. 314, 11/6/1990, §13, Ord. 372, 6/6/2006*)

SECTION 17-114. Suspension.

The Harmony Borough Zoning Officer shall suspend a permit and/or license for a period not to exceed thirty (30) days if he determines that a permittee and/or licensee or an employee of a permittee and/or licensee has:

- A. Violated or is not in compliance with any section of this Chapter;
- B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
- C. Refused to allow an inspection of the sexually oriented business premises as authorized by this Chapter;
- D. Knowingly permitted gambling by any person on the sexually oriented business premises.

(*Ord. 314, 11/6/1990, §14, Ord. 372, 6/6/2006*)

SECTION 17-115. Revocation.

A. The Harmony Borough Zoning Officer shall revoke a permit and/or license if a cause of suspension in Section 17-109 occurs and the permit and/or license has been suspended within the preceding twelve (12) months.

B. The Harmony Borough Zoning Officer shall revoke a permit and/or license if he determines that:

1. A permittee and/or licensee gave false or misleading information in the material submitted to the Zoning Department during the application process;
2. A permittee and/or licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
3. A permittee and/or licensee or an employee has knowingly allowed prostitution on the premises;
4. A permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;

5. A permittee and/or licensee 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 permitted and/or licensed premises;

6. A permittee and/or licensee is delinquent in payment to the county or state for any taxes or fees past due.

C. When the Harmony Borough Zoning Officer revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented permit and/or license for one (1) year from the date revocation became effective. If, subsequent to revocation the Harmony Borough Zoning Officer finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date the revocation became effective.

(Ord. 314, 11/6/1990, §9, Ord. 372, 6/6/2006)

SECTION 17-116. Transfer of Permit and/or License.

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

(Ord. 314, 11/6/1990, §16, Ord. 372, 6/6/2006)

SECTION 17-117. Additional Regulations for Adult Motels.

A. 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.

B. A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit and/or license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he 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.

(Ord. 314, 11/6/1990, §17, Ord. 372, 6/6/2006)

SECTION 17-118. Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

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 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented permit and/or license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 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 inches. The Harmony Borough Zoning Officer 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 sheriff or his designee.

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 17-118(a)(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 which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection 17-118(a)(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 at an illumination of not less than one (1.0) footcandle 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.

B. A person having a duty under Subsection 17-118(a)(1) and 17-118(a)(9) of Subsection A. above commits a misdemeanor if he knowingly fails to fulfill that duty.

(Ord. 314, 11/6/1990, §18, Ord. 372, 6/6/2006)

SECTION 17-119. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid permit and/or license or in violation of Section 17-113 of this Chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punished by a fine of \$500.00 or thirty days imprisonment.

(Ord. 314, 11/6/1990, §19, Ord. 372, 6/6/2006)

SECTION 17-120. Action By Municipal Attorney.

Upon a specific finding by the Police Department of the fact that a public nuisance exists at a particular location, the Solicitor, with the approval of the Borough Council is authorized to take whatever action is appropriate.

(Ord. 314, 11/6/1990, §20, Ord. 372, 6/6/2006)

SECTION 17-121. Severability.

If any Court shall determine that any word, clause, phrase, sentence, paragraph, or subsection of this Chapter is unconstitutional as worded, the Court shall first attempt to construe or interpret such unconstitutional provision so as to enable the same to be constitutional as so narrowed or construed. If the Court can not so limit or construe such word or provision narrowly so as to render the same unconstitutional, it shall strike or modify only the minimum number of

words, phrases, clauses, sentences, or paragraphs as will be absolutely necessary to render the remainder unconstitutional. In no case shall a clause or phrase or word or other portion hereof render any other word, clause, phrase, sentence, paragraph, or section unconstitutional, but instead it shall be served therefrom entirely, with the balance of this ordinance in its entirety remaining in full force and effect.

(Ord. 314, 11/6/1990, §21, Ord. 372, 6/6/2006)

SECTION 17-122. Repealer.

Any Ordinance or part of any Ordinance which conflicts with the provisions of this Chapter are hereby repealed to the extent of such conflict.

(Ord. 314, 11/6/1990, §22)