

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

Part 1

Transient Retail Business

- \$101. Definitions
- \$102. License Required
- \$103. Exceptions
- \$104. License Application
- \$105. Issuance of Licenses; Custody, Display and Exhibit
- \$106. Prohibited Acts
- \$107. Supervision; Record and Reports
- \$108. Suspension and Revocation of License; Appeal
- \$109. Appeals
- \$110. Expiration of License
- \$111. Penalties

Part 2

Amusement Licenses and Regulations

- \$201. Amusement to be Licensed
- \$202. Amusement License Fee
- \$203. Borough Manager Grant Amusement Licenses
- \$204. Certain Amusements Need Not be Licensed
- \$205. Penalties

Part 3

Coin Operated Amusement Device License

- \$301. General Scope
- \$302. License Required
- \$303. License Application
- \$304. License Fee
- \$305. Restrictions
- \$306. Inspections
- \$307. Violations and Penalties

Part 4

Places of Amusement

- \$401. Definition
- \$402. License Required
- \$403. License Fees

- §404. Prorating of Annual License Fee
- §405. Inspections by Police and Fire Departments
- §406. Penalties

Part 5

Cable Television Franchise

A. General Regulations

- §501. Definitions
- §502. Grant of Franchise
- §503. Borough Manager Approval
- §504. Conditions on Public Way Occupancy
- §505. System Technical Standards
- §506. Subscriber Service Standards
- §507. Basic Cable Television Service Shall be Provided
- §508. Additional Cable Television Services May be Provided
- §509. Cable Television Service Charges
- §510. Insurance
- §511. Indemnity
- §512. Effective Date and Term of Franchise
- §513. Borough Right of Termination on Default
- §514. Conflict of Interest
- §515. Non-Compelling
- §516. Assignment
- §517. Compliance with Law

B. FCC Regulations

- §551. Adoption of FCC Regulations
- §552. Administration of Regulations
- §553. Participation of Interested Parties

Part 6

Overhead Banners

- §601. Issuance of Permits for Overhead Banners

Part 7

Adult Entertainment

- §701. Purpose and Findings
- §702. Definitions
- §703. License Required
- §704. Issuance of License
- §705. Fees
- §706. Inspection

- §707. Expiration of License
- §708. Suspension
- §709. Revocations and Appeals of Denials, Suspensions or Revocations
- §710. Transfer of License
- §711. Regulations Pertaining to Exhibition of Sexually Explicit Films,
Videos or Live Entertainment in Viewing Rooms
- §712. Additional Regulations for Escort Agencies
- §713. Additional Regulations for Nude Model Studios
- §714. Additional Regulations Concerning Public Nudity
- §715. Prohibition Against Children in a Sexually Oriented Business
- §716. Hours of Operation
- §717. Exemptions
- §718. Violations and Penalties

Part 8

Garage Sales and Yard Sales

- §801. Title
- §802. Purpose
- §803. Definitions
- §804. Restrictions
- §805. Exemptions
- §806. Enforcement
- §807. Hours of Sale
- §808. Encroachment on Right-of-Way
- §809. Penalties

Part 1

Transient Retail Business
 [53 P.S. §25271(60): 53 P.S. §47901]

§101. Definitions. As used in this Part, the following terms shall have the following meanings:

CHARITABLE ORGANIZATION - an organization which has been granted an exemption by the United States Internal Revenue Service under Section 501(c) or Section 509(a) of the Internal Revenue Code.

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

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

SOLICITOR - shall include any person:

A. who goes from private house to house, conveying or transporting goods, wares or merchandise, or offering or exposing the same for sale or making sales or delivering articles, goods, wares or merchandise to purchasers;

B. who goes from private house to house, soliciting or attempting to take orders from individuals for sale of goods, wares or merchandise, including magazines, books, periodicals or personal property of any nature, for future delivery, or for service to be performed at that time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such order or whether or not he is collecting advance payments on such orders;

C. who goes from private house to house soliciting donations of money for themselves or for any organization for any purpose, whether or not anything of value is given in return.

TRANSIENT MERCHANT - shall include any person, who temporarily and for a short time hires, rents or obtains a definite place of business, whether a storeroom or a market stand, or a private residence, for the sale of goods, wares, merchandise or to offer or expose the same for sale or for future delivery and sale. (Temporarily and short time shall be construed as three (3) months or less.)

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

(Ord. 947, 4/8/1985)

§102. License Required; Conditions of Issuance; Fee. No person shall engage in any act as a solicitor or transient merchant within the Borough of Scottdale without first having obtained from the Borough Manager a license, for which a fee, which shall be for the use of the Borough, shall be charged as established by resolution of the Borough Council. (Ord. 947, 4/8/1985)

§103. 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 from which 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. §§1601 to 16017(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 own or operate a business in the Borough of Scottdale.

But all persons exempted hereby from the payment of the license fee shall be required to register with the Borough Manager and obtain a license without fee. It shall be unlawful for any solicitor or transient merchant, as defined in §101 of this Part to engage in any such business within the Borough of Scottdale without first obtaining a license therefor in compliance with the provisions of this Part.

(Ord. 947, 4/8/1985)

§104. License Application.

1. Every person desiring a license under this Part shall first make application to the Borough Manager, or his designated agent, 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:
 - A. name and physical description of applicant;
 - B. complete permanent home and local address of the applicant;
 - C. name and address of the person by whom he is employed;
 - D. a brief description of the nature of the business and the goods to be sold or the organization on behalf of which funds are solicited;

- E. length of time for which license is to be issued;
 - F. type and license number of the vehicle to be used, if any;
- and
- G. a statement as to whether or not the applicant has been convicted of any felony or crime involving moral turpitude.

2. This application completed as to all matters required shall be turned over to the Borough Manager, together with the initial fee to cover the expenses of investigation, payable to the Borough of Scottdale; said fee to be established by resolution of the Borough Council.

(Ord. 947, 4/8/1985)

§105. Issuance of License; Custody, Display, or Exhibit. Upon receipt of such application and the prescribed fee, the Borough Manager, if he shall find such application in order, shall issue the license required under this Part. 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 of Scottdale. (Ord. 947, 4/8/1985)

§106. Prohibited Acts. No person in the act as a solicitor or transient merchant 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;
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. solicit at any private residence exhibiting a sign reading "No Solicitors" or words of the same meaning, which are conspicuously displayed near their entrance walk or doorway;
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 5:00 P.M. on any day of the week other than a Sunday or legal holiday.

(Ord. 947, 4/8/1985)

§107. Supervision; Records and Reports. The Borough Manager shall supervise the activities of all persons holding licenses under this ordinance. He shall keep a record of all licenses issued hereunder, and shall make a report thereof each month to the Borough Council. (Ord. 947, 4/8/1985)

§108. Suspension and Revocation of License; Appeal. The Borough Manager is hereby authorized to suspend or revoke any license or application issued under this Part 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, or for giving false information upon any application for a license hereunder. (Ord. 947, 4/8/1985)

§109. Appeals. Any person aggrieved by the action of the Borough Manager or his designee in the denial of an application approval as provided in §105 of this Part, or in the action of the revocation provided in §108 of this Part, shall have the right of appeal to the Borough Council. Such appeal shall be taken by filing with the Borough Council, within ten (10) days after revocation or suspension, a written statement setting forth fully the grounds for the appeal. Hearings shall be governed by the Local Agency Law. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked. (Ord. 947, 4/8/1985)

§110. Expiration of License. All licenses expire on the date specified on the license. (Ord. 947, 4/8/1985)

§111. Penalties. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine not more than three hundred dollars (\$300.00); and/or to imprisonment for not more than ninety (90) days. Each day that a violation of this Part 1 continues shall constitute a separate offense. (Ord. 947, 4/8/1985; as amended by Ord. 957, 10/13/1986)

Part 2

Amusement Licenses and Regulations
[53 P.S. §46202(30)]

§201. Amusements to be Licensed. Except for the exceptions listed in §204 hereof, no person or persons shall, within the Borough, exhibit any theatrical or dramatic entertainment, or shall act, exhibit or perform any opera, painting, sculpture, natural curiosity, tricks of legerdemain, musical party, concert, parade, picnic or public gathering of a similar nature, or any other entertainment, exhibition, show or amusement whatever of any name or nature for which money or any other reward is in any manner demanded or received, without a license or permit for that purpose first obtained from the Borough Manager. Said license shall express for what it is granted and the time it is to continue in effect. (Ord. 151, 6/7/1909; as amended by Ord. 957, 10/13/1986)

§202. Amusement License Fees. The price to be paid for the license or permit for any show, entertainment or exhibition as aforesaid shall be paid to the Borough Manager for the use of the Borough, and shall be according to the fee schedule established from time to time by Borough Council. (Ord. 151, 6/7/1909, §2; as amended by Ord. 957, 10/13/1986)

§203. Borough Manager Grant Amusement Licenses. All licenses or permits granted under the provisions of the foregoing sections shall be signed by the Borough Manager, and a registry of the same as to name, duration, date and place shall be kept by the Borough Manager in a book for that purpose, which shall be open at all times to the inspection of any citizen of the Borough and for the guidance of the police. (Ord. 151, 6/7/1909, §3; as amended by Ord. 957, 10/13/1986)

§204. Certain Amusements Need Not be Licensed. For lectures on scientific or literary subjects, exhibitions at fairs, exhibitions of paintings or statuary given or made by citizens of the Borough, musical parties or concerts for benevolent or charitable purposes, entertainments or athletic performances given by any of the public schools or by any organization sponsored by the public schools, no license or permit shall be required. (Ord. 151, 6/7/1909, §4)

§205. Penalties. Any person, firm or corporation who shall violate any provision of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 2 continues shall constitute a separate offense. (Ord. 151, 6/7/1909, §5; as amended by Ord. 957, 10/13/1986)

Part 3

Coin Operated Amusement Device License
[53 P.S. §46202(30)]§301. General Scope.

1. The subject matter of this Part 3 is regulation, licensing and fines for the operation of machines operated as games of skill for amusement by patrons who pay money to use said machines in the Borough of Scottsdale. These coin-operated machines, include, but are not limited to, pin-ball machines, music devices such as juke boxes, electronically operated shuffleboard, bowling, video games, electronically operated tennis, billiards and other games of amusement.

2. Said coin-operated machines regulated by this Part shall not include vending machines of any kind or type.

(Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§302. License Required.

1. It is the purpose of this law that after the effective date of this Part 3, it shall be unlawful for any person, persons, corporations, companies or firms to have, keep, lease or maintain for purposes of operation any of the aforementioned coin-operated amusement machines without first having obtained the proper license from the Borough Secretary.

2. This license shall be posted at all times by affixing same in a conspicuous place so as to be easily seen and read by all parties who visit the premise wherein the machines are operated.

(Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§303. License Application.

1. The application for the aforementioned license shall be filed in writing by the owner of the machine or machines with the Borough Secretary on a form to be provided by the Borough and shall specify:

A. Name and address of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof and their addresses.

B. Name and address of the owner of the machines or the business one who leases or distributes for the purpose of operation by another if it be different from the applicant.

C. Address of the premises where the licensed devices are to be operated, together with the general nature of the business carried on at such place.

D. Trade name(s), serial numbers, names of the manufacturer, and the number of devices to be licensed along with the general description of the devices to be licensed.

E. Fee that is paid and the effective dates of the application, which shall be from whatever date the applicant starts the business of that year until December 31 of that year.

(Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§304. License Fee.

1. No license shall be issued under this Part 3 for any coin-operated amusement device until the annual fee shall have been paid by the owner of the machine or machines to the Borough Secretary. This annual license fee for each machine be as established from time to time by resolution of the Borough Council. For purposes of yearly renewal, the fee shall be paid according to the following schedule:

A. For calendar year 1989, said fee for each machine shall be paid no later than February 28, 1989.

B. Beginning with calendar year 1990 and every year thereafter, said fee for each machine shall be paid no later than January 31, of each year.

2. However, should any device or machine be installed after July 1 of any year and application is made after that date, then the license fee of that machine(s) shall be one-half (1/2) or fifty (50%) percent of the annual license fee provided for in this Section.

3. In such instances, the owner of said machine shall make payment with the Borough Secretary, no later than thirty (30) days from the date of installation of said machine.

4. This license shall not be transferable from one (1) applicant to another. A new owner, proprietor, or operator shall be required to secure a new license and pay the fees thereof. However, he shall not be required to secure a new, or different license when one (1) machine is replaced by another as long as the total number of machines remains the same.

(Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§305. Restrictions.

1. There shall be no more than ten (10) machines permitted to be operated, maintained, or in use in any one (1) place, location or premises. This restriction, however, shall not include pool tables, bowling machines and juke boxes.

2. It shall be prohibited to license, maintain, place or operate machines as described in this Part 3 at any location within three hundred (300') feet of an entrance to any house of worship, public school or public playground. The three hundred (300') feet shall be measured along the street line.

3. It shall be prohibited to offer any prize or any other award to any person playing a coin-operated amusement device; furthermore, it shall be prohibited to permit any said machine to be used for any gambling purpose.

(Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§306. Inspections. The Borough Police Department shall make periodic inspections of all premises where machines of amusement and games of skill for amusement are operated for the purpose of enforcing this Part. (Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

§307. Violations and Penalties. Any person, firm or corporation who violates any provision of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred (\$300.00) dollars, and/or to undergo imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this Part 3 continues shall constitute a separate offense. (Ord. 957, 10/13/1986; as amended by Ord. 984, 1/9/1989)

Part 4

Places of Amusement
[53 P.S. §46202(30)]

§401. Definition. The word PERSON as used in this Part 4, shall mean and include any natural person, partnership, association, firm or corporation. In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

§402. License Required. No person shall operate or conduct in the Borough of Scottsdale any billiard room, pool room, bowling alley, shooting gallery or theatre without first obtaining and holding a current license therefor from the Manager. All such licenses shall be issued for a period of one (1) year beginning and ending on January 1. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

§403. License Fees. Every person desiring any license as required by the preceding section of this Part 4 shall make application to the Manager therefor, at the same time paying the application fee of as established by resolution of the Borough Council, and, upon issuance of such license, shall pay the appropriate license fee as established by resolution. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

§404. Prorating of Annual License Fee. If any person shall begin to engage in any business or activity for which an annual license is hereby required, on or after the first day of January in any year, and shall promptly make application for such license, a fee equal to onehalf (1/2) of the yearly fee provided in the above schedule for such class of license shall be charged. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

§405. Inspections by Police and Fire Departments. Any business or activity licensed under this Part 4 shall be subject to inspection by the Fire and Police Departments of the Borough. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

§406. Penalties. Any person who shall violate any provision of this Part 4 shall, upon conviction thereof, be sentenced to pay a fine not more than three hundred dollars (\$300.00); and/or to undergo imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 346, 3/17/1921; as revised by Ord. 957, 10/13/1986)

Part 5

Cable Television Franchise
[53 P.S. \$46202(74)]

A. General Regulations

§501. Definitions. For the purposes of this Part the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BASIC CABLE TELEVISION SERVICE - the simultaneous delivery by the company to television receivers (or any other type of audio/video communication receivers) of all subscribers within the Borough limits of all the off-the-air signals of television broadcast stations required to be carried by the Federal Communications Commission, or in the absence of such requirements, the off-the-air signals of television broadcast stations for the Pittsburgh television market in which the Borough is included; and all off-the-air signals of television broadcast stations selected by the company permitted to be carried by the Federal Communications Commission without syndicated program exclusivity or other special restrictions and without the imposition of special copyright payments in place of or related to such restrictions. [Ord. 929]

BOROUGH - the Borough of Scottdale of Westmoreland County, Pennsylvania.

BOROUGH COUNCIL - the governing body of the Borough of Scottdale, Westmoreland County, Pennsylvania.

BOROUGH MANAGER - the Borough Manager of the Borough of Scottdale.

COMPANY - the National Cable Television Corporation, a Pennsylvania corporation, authorized to do business in the state of Pennsylvania.

EXPANDED BASIC CABLE TELEVISION SERVICE - the simultaneous delivery by the company of basic cable television service, to television receivers (or any other type of audio/video communication receivers), of all subscribers, together with other stations, programs and services.

FCC OR FEDERAL COMMUNICATIONS COMMISSION - the present federal agency of that name as constituted by the Communications Act of 1934, as amended or any successor agency created by the United States Congress.

PERSON - includes individual natural persons, firms, partnerships, joint ventures, societies, organizations, clubs, associations, trustees, trusts, corporations, companies or organizations of any kind; or any officers, agents, employees, factors, or any kind of personal representative of the above, in any capacity, acting either for himself, or for any other person, under either personal appointment or pursuant to law.

SUBSCRIBER - a purchaser or other authorized recipient of any service delivered over the system to the residence or other premises of the purchaser or recipient.

SYSTEM - consists of the poles, wires, cables, underground conduits, antennas, equipment, and facilities of every kind for the production, reception, amplification, transmission, other processing and distribution of audio, video and other forms of electronic and electrical signals and impulses to or for subscribers or other users thereof, commonly known as a cable television system.

USER - a purchaser or other authorized recipient of any service or use of the system, other than a subscriber.

(Ord. 925, 5/12/1983, §1; as amended by Ord. 929, 8/8/1983)

§502. Grant of Franchise.

1. There is hereby granted by the Borough to the company the right and privilege to continue to construct, install, maintain, repair, replace, operate and remove in, upon, along, across, above and under the streets, ways, lanes and alleys, bridges and viaducts in the Borough as now laid out or dedicated and all extensions thereof, and additions thereto, a cable television system consisting of poles, wires, cables, underground conduits, antennas, equipment, and facilities of every kind for the production, reception, amplification, transmission, other processing and distribution of audio, video and other forms of electronic and electrical signals and impulses to or for subscribers or other users thereof, and to otherwise construct, operate and maintain a cable television system in the said public ways.

There is hereby granted by the Borough to the company the further right and authority to lease or in any other manner obtain the use of towers, poles, lines, underground conduits, equipment and facilities of every kind from any and all public utilities and holders of public licenses and franchises within the limits of the Borough, to construct, operate and maintain the system or parts thereof, or otherwise use the said poles and facilities for the company's system.

2. The right and privilege as herein granted for the purpose herein set forth is not exclusive, and the Borough reserves the right to grant a similar right and privilege to any person, firm or corporation at any time during the term of this grant or any renewal thereof.

3. The company shall at all times during the continuance of the right and privilege herein granted, be subject to all lawful exercise of the police power by the Borough and to such legal and reasonable regulation as the Borough shall hereafter by ordinance or resolution provide.

4. The company shall pay to the Borough for the nonexclusive franchise granted herein a sum equal to five (5) percent of the annual gross revenues received for cable television operations in the Borough. The franchise fee shall be payable quarterly to the Borough Secretary, with payment to be made to and received by the Borough Secretary on or before April 30, July 31, October 31, and January 31 of each year, beginning with April 30, 1993. The Company shall file a complete and accurate verified statement of all gross revenue within the Borough during the period for which said quarterly payment is made. A duly authorized agent of the Borough shall have the right to examine the appropriate records of the Company in the Borough to determine and verify the gross income from permitted operations in the Borough. In the event that any franchise payment is not made on or before the applicable dates heretofore specified,

a penalty of six (6) percent simple interest per annum shall be charged.
[Ord. 1025]

(Ord. 925, 5/12/1983, §2; as amended by Ord. 1020, 2/8/1993; and by Ord. 1025, 8/9/1993)

§503. Borough Manager Approval.

1. All attachments, installation, construction, maintenance, repair, replacement, operation or removal of the system or parts thereof in the public ways shall be made subject to the approval of the Borough Manager.

[Text continues on following page.]

2. In cases where existing poles or other structures, conduits or other facilities owned or leased by public utilities having the right to permit attachment thereto or location therein or thereon of the system by the company, are not available or are impractical for the purpose, then the proposed means of attachment, construction or conduit shall be submitted to the Borough Manager by drawings, plans or explanatory addendas including agreements, leases or other papers granting the right of attachments, construction or conduit as in the case of original attachments, installations, or construction at least twenty (20) days before such proposed attachment, installation or construction and shall be subject to approval in writing by the Borough Manager before commencement of such attachment, installation or construction.

(Ord. 925, 5/12/1983, §3)

§504. Conditions on Public Way Occupancy.

1. Manner of Use - The attachment, construction, installation, maintenance, repair, replacement, operation and removal of the system and all parts thereof by the company on public ways in the Borough shall be in such manner as to cause minimum interference with the proper use of streets, lanes, alleys, bridges and viaducts and other public places, and to cause minimum interference with the rights of reasonable convenience of the property owners, tenants, or occupants who adjoin any of said streets, lanes, alleys, bridges, viaducts and other public places.

2. Restoration - In the event of any disturbance to the pavement, sidewalk, driveway or other surfacing, the company at its own cost and expense and in a manner approved by the Borough Manager, shall replace and restore all pavement, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced.

3. Relocation - In the event that at any time during the existence of this right and privilege in the company, the Borough elects to alter or change the grade, alignment or paved width of any street, lane, alley, bridge or viaduct or other public way, the company upon notice by the Borough and at its own expense shall remove, relay and relocate that part of the system within thirty (30) days of the date of notice or such reasonable extension thereof as may be granted by the Borough Manager considering the circumstances of the case.

4. Placement of Fixtures - The company shall not place the system or any part thereof where the same will interfere with any gas, electric, telephone or telegraph line or fixture, water hydrant or main, nor in such manner as would interfere with the usual travel on the streets, lanes, alleys, bridges, and viaducts and other public places of the Borough.

5. Temporary Removal for Moving - The company shall, on the request of any person, firm or corporation holding a moving permit issued by the Borough or other governmental regulatory agency having jurisdiction of the matter, by which permit building or buildings, large pieces of equipment or structural materials or the like are to be moved from place to place, temporarily raise or lower the part of its system necessary for so doing to

permit the moving of such buildings, equipment, structural materials and the like. The expense of such temporary raising or lowering of the system or any part thereof shall be paid by the person, firm or corporation requesting the same. The company shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary changes.

6. Inspection - The Borough shall have the right to inspect all work of attachment, installation, construction, maintenance, repair, replacement, operation or removal of the system or any part thereof in the public ways to insure compliance with this Part or other ordinances of the Borough and all governmental regulations.

7. Obstruction Guards - Any opening or obstruction in the streets or other public ways made by company in the course of the installation, operation, maintenance or removal of structures, equipment, facilities, apparatus and appurtenances shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Whenever it is deemed necessary by the Borough, company shall install steel plates to allow a public way to remain usable while openings or obstructions exist.

8. Tree Trimming - The company shall have the authority to trim trees which are located on or which overhang streets, alleys, sidewalks, public places of the Borough in such manner and to such extent as may be necessary to prevent the branches of such trees from coming in contact with wires or cables installed by the company. All such trimming is to be done under the supervision and direction of the Borough at the expense of the company, and in accordance with the ordinances or any amendments thereto of the Borough of Scottsdale now in effect or enacted at anytime hereafter.

(Ord. 925, 5/12/1983, §4)

§505. System Technical Standards. In the construction, operation and maintenance of the system, the company shall at a minimum, at all times, fully comply with technical standards which have been adopted by the Federal Communications Commission, and are applicable from time to time, including, without limitation and if applicable, requirements relating to channel capacity, bandwidth, and periodic testing. Further, should any governmental unit with jurisdiction - whether federal, state or local - establish standards that exceed those of the FCC, the company will comply therewith, unless to so require should be held invalid by the FCC, a competent court of review, or other higher governmental authority. The technical quality of cable television service provided by the company shall be sufficient to provide subscribers with uniformly high quality television reception. The company shall maintain its system in good repair and working order at all times. (Ord. 925, 5/12/1983, §5)

§506. Subscriber Service Standards. The company shall investigate and resolve all subscriber complaints regarding the quality of service, equipment malfunctions and similar matters expeditiously and in accordance with the following procedure:

1. The company shall have qualified personnel available during normal working hours to investigate and resolve subscriber complaints.

2. Upon notification of service complaint, the company shall dispatch a qualified employee to investigate the complaint and adjust, repair or replace company equipment as necessary to resolve the complaint. The company shall not be responsible for malfunctions of any television receivers owned or operated by subscriber.

3. All complaints shall be investigated and resolved within twenty-four (24) hours after initial notification to the company (absent unusual circumstances).

4. The company shall maintain a service log in which an entry shall be made of each complaint, the date of notification thereof, the nature of the complaint and the means by which it was resolved.

(Ord. 925, 5/12/1983, §6)

§507. Basic Cable Television Service Shall be Provided.

1. The company at all times shall provide basic cable television service, consisting of the delivery by the company to television receivers (or any other type of audio/video communication receivers), of all subscribers within the Borough limits, of all of the off-the-air signals of television broadcast stations required to be carried by the Federal Communications Commission, or in the absence of such requirement, the off-the-air signals of the television broadcast stations for the Pittsburgh market in which the Borough is included and various other off-the-air signals of television broadcast stations selected by the company permitted to be carried by the FCC without syndicated program exclusivity or other special restrictions and without the imposition of special copyright payments in place of or related to such restrictions. [Ord. 929]

2. Subject to the said requirement to provide basic service, the company may in its sole discretion deliver to the said receivers of all subscribers other stations, programs and services (and from time to time, add, remove or replace the same), including, but not limited to, satellite delivered superstation signals, satellite delivered cable network and other programs, microwave delivered cable network and other programs, and locally originated programs; such added programs delivered to receivers of all subscribers together with basic service, being commonly known as expanded basic service.

(Ord. 925, 5/12/1983, §7; as amended by Ord. 929, 8/8/1983)

§508. Additional Cable Television Services May be Provided.
Additional cable television services, including but not limited to, expanded basic service; packages or tiers of television programs or service for a separate charge; FM reception or other audio programs for a separate charge; pay cable service for a separate charge, whether on a per program per channel, per service or other subscription basis; auxiliary services,

such as personal and property security services, data or other electronic intelligence transmission, facsimile reproduction and related telecommunications services for respective established charges, may be provided from time to time within the sole discretion of the company, subject only to the following conditions:

1. Any such service shall be in compliance with the rules and regulations of the Federal Communications Commission and the applicable regulations and laws of any federal, state, or local governmental unit with jurisdiction;
2. Any such service shall be offered and provided on a fair and nondiscriminatory basis to subscribers or other users within the Borough; and
3. The offering or provision of such service shall not interfere with or adversely affect the provision of basic cable television service required under §507.

(Ord. 925, 5/12/1983, §8)

§509. Cable Television Service Charges.

1. Monthly Service Charge for Basic or Expanded Basic Service - Effective as of the first day of the month following the start of service of the expanded basic service described in the attached schedule, the monthly service charge for the first outlet for basic or expanded basic service shall be eight dollars and ninety-five cents (\$8.95). The said charge of \$8.95 being subject to revision by the company in its sole discretion and without approval by the Borough Council within the following limits:

A. Beginning the first day of the month following the start of service of the expanded basic service described in the attached schedule, the company may increase the monthly service charge once in any twelve month period a maximum of ten percent (10%) of the charge in effect for basic or expanded basic service as of the beginning day of the specific twelve month period. The company specifically agrees that in the initial twelve month period beginning the first day of the month following the start of service of the expanded basic service described in the attached schedule, that no increase will be made prior to December 1, 1983.

B. If the company does not increase the charge a full ten percent (10%) in any twelve month period, the difference between any increase and the permitted ten percent (10%) increase shall be expressed in a monetary amount to the Borough in writing and shall be designated as the "unused portion of the permitted increase" for the stated twelve month period and accumulated for use in future twelve month periods. The total of the unused portion of the permitted increase at a given time can be drawn against by the company for an increase in the monthly service charge in a subsequent twelve month period, provided that the increase in the monthly service charge shall not exceed fifteen percent (15%) of the current charge in effect on the first day of the month in the subject twelve month period, subject to the following stated conditions:

(1) In addition to the foregoing, the monthly service charge shall be subject to increase or a separately stated monthly charge may be made for any fees, assessments, taxes and charges of any kind on the services or charges, directly or indirectly, under any law, regulation, finding, decision or other action of any federal, state, local or other governmental body or unit with jurisdiction. However, this charge will not be included in the base service charge which the above referred to ten percent (10%) increases will be determined.

(2) Any increase in the monthly service charge other than as above provided, shall be subject to the prior approval of the Borough Council.

2. All Other Service Charges - The charges by the company for any and all of its services, excepting only the monthly service charge for the first outlet for basic and expanded basic service, and including the installation, equipment and monthly or other charges for tier service, FM or audio service, pay cable service, auxiliary services and any other services, shall be established in the sole discretion of the company from time to time, subject only to the hereinafter stated general conditions on charges.

3. General Conditions on Charges -

A. The company shall not make or grant preference or advantage to any person, nor subject any person to prejudice or disadvantage with the same classification of service as to rates, charges, services, facilities, rules, regulations or in any other respect;

B. The subscribers or other users of any service shall receive at least two (2) months prior notice of any increase in charge for such service; and

C. The company shall file with the Borough Manager from time to time at the request of the Borough Council or the Borough Manager a complete statement of its current services and charges.

4. The company shall provide one service outlet for television reception service free of charge to each school building, public or parochial, to each municipal building and to the fire and police departments in the area serviced by the system.

(Ord. 925, 5/12/1983, §9)

§510. Insurance.

1. The company shall obtain at its expense the following insurance:

A. General Comprehensive Public Liability Insurance indemnifying, defending and saving harmless the Borough, its officers, boards, commissions, agents and employees from any and all claims by any person whatsoever for injury to or death of a person or persons occasioned or alleged to have been occasioned by the operations of the company under the franchise granted herein, in the amount of at least

one million dollars (\$1,000,000.00) per personal injury or death of any one person, and one million dollars (\$1,000,000.00) for personal injury or death of any two or more persons in any one occurrence; and in the amount of at least one million dollars (\$1,000,000.00) for property damage of any one person and one million dollars (\$1,000,000.00) for property damage of two or more persons in any one occurrence.

B. Worker's Compensation Insurance covering the claims of all employees under any workers' compensation law applicable to the company in the construction, operation and maintenance of the system within the Borough.

2. All of the foregoing insurance contracts shall be in a form satisfactory to the Borough, shall be issued and maintained by companies authorized to do business in the state of Pennsylvania and acceptable to the Borough and shall be kept in full force and effect by the company during the term of this franchise and until completion of all obligations of this franchise, including any required removal of equipment, structures, facilities and appurtenances. The contracts shall contain provisions requiring that thirty (30) days written notice of any cancellation be given to both the Borough and the company. A copy of each policy shall be filed with the Borough by the company. Such policy or policies shall name the Borough as a co-insured if the carrier will include Borough as a co-insured at no increase in premium to the company.

(Ord. 925, 5/12/1983, §10)

§511. Indemnity. The company shall fully indemnify, defend and save harmless the Borough, its officers, boards, commissions, agents and employees against any and all claims, suits, actions, liability and judgments for damage to persons or property including, without limitation, damages arising out of copyright infringement and out of a cable television system whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. The company shall pay all expenses including attorney fees incurred by the Borough in defending itself with regard to all such claims, suits, actions, liability and judgments. (Ord. 925, 5/12/1983, §11)

§512. Effective Date and Term of Franchise.

1. The right and privilege herein granted shall take effect and be in force from and after the final passage of this Part, which shall become effective immediately after final passage, and shall continue in force and effect for a period of fifteen (15) years from the effective date of this Part. Upon the expiration of the said period, and provided that the company has complied with the terms and conditions hereof, the grant and provisions hereof shall be renewed and extended for an additional period of ten (10) years, without further action by the Borough or the company. In the event that the Borough Council considers that there has been non-compliance by the company with any of the terms and conditions hereof, the Borough shall provide three months written notice thereof to the company prior to the end of the fifteen year period in which event the company shall be accorded a hearing and an opportunity to be heard by the Borough Council on the issue of non-compliance.

2. This grant is made upon the express condition that the company, within thirty (30) days after this Part takes effect and becomes operative, shall file with the Borough Manager a written acceptance of the same, and when this Part shall have been accepted by the company, such ordinance and acceptance shall constitute a contract between the Borough and the company for all the uses, services and purposes set forth in this Part, and the company by its acceptance of the provisions of this Part binds itself to provide the necessary cable television system and to establish, operate and maintain the local cable television system contemplated in this Part, continuing without substantial interruption except for causes beyond its control until the expiration of the term of this grant. In the event that said company fails to file said written acceptance within the time hereinbefore specified, this grant, together with any rights or liabilities arising out of the proposal heretofore made for the furnishings of an adequate cable television system for the benefit of the inhabitants of said Borough, and the acceptance of such proposal by the Borough, shall be of no effect and void.

(Ord. 925, 5/12/1983, §12)

§513. Borough Right of Termination on Default.

1. In the event that the company violates or defaults on any of the material terms or provisions of this Part, such shall be cause for the forfeiture and termination of the rights and privileges granted to the company by this Part and all rights of the company hereunder shall, at the option of the Borough, be subject to termination after written notice by the Borough to the company of the violation or default taking into consideration all of the facts and circumstances and additional time requested by the company and the continuation of the violation or default for a period of thirty (30) days from the receipt of said notice by company, or such additional time as the Borough determines is reasonably necessary to correct the violation or default. The company shall have the opportunity to be heard and shall otherwise be accorded due process before the exercise by the Borough of the forfeiture and termination.

2. Due process shall mean that the Borough Council may make a written demand that the company comply with any such provision, rule, order, or determination under or pursuant to this franchise. If the violation by the company continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Borough may place the issue of termination of the franchise before the Borough Council. The Borough Council shall cause to be served upon company, at least twenty (20) days prior to the date of such a Borough Council meeting, a written notice of intent to request such termination and the time and place of the meeting. Public notice shall be given of the meeting and issue which the Borough Council is to consider.

3. The Borough Council shall hear and consider the issue and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by the company has occurred.

4. If the Borough Council shall determine the violation by the company was the fault of the company and within its control, the Borough Council may, by resolution, declare that the franchise of the company shall be forfeited and terminated unless there is compliance with such period as the Borough Council may fix, such period not to be less than sixty (60) days, provided no opportunity for compliance need be granted for fraud or misrepresentation.

5. The issue of forfeiture and termination shall automatically be placed on the Borough Council agenda at the expiration of the time set by it for compliance. The Borough then may terminate the franchise forthwith upon finding that the company has failed to achieve compliance or may further extend the period, in its discretion.

6. The company shall not be in violation and no forfeiture or termination shall result if the company is prevented from performing the terms and provisions of this Part by an act of God, labor disputes, governmental ruling or action, and other causes beyond its control.

(Ord. 925, 5/12/1983, §13)

§514. Conflict of Interest. The company shall not engage in the business of selling, leasing, renting or servicing conventional television or radio receivers or their parts in connection with the operation of its cable television system, nor shall the company and its employees require or attempt to direct its subscribers to deal with any particular firm or person in such business. (Ord. 925, 5/12/1983, §14)

§515. Non-Compelling. Nothing herein shall be construed to compel any individual, firm or corporation to subscribe to the company's services. (Ord. 925, 5/12/1983, §15)

§516. Assignment. The right given hereby shall be assignable by the company to any successor, assignee, or designee, following submission to the Council of the Borough of satisfactory evidence of the general responsibility of the assignee, designee, or successor. (Ord. 925, 5/12/1983, §16)

§517. Compliance with Law. The company shall at all times comply with all applicable federal, state and local laws and regulations. (Ord. 925, 5/12/1983, §17)

B. FCC Regulations

§551. Adoption of FCC Regulations. In compliance with the certification of the Borough by the Federal Communications Commission to regulate the basic service tier and associated equipment of the cable system within the jurisdiction of the Borough, the Borough hereby adopts the Rules and Regulations of the Federal Communications Commission, as amended from time to time, which rules and regulations shall be applied by the Borough in regulating the cable system within its jurisdiction. A copy of said Rules and Regulations are attached hereto, made a part hereof and incorporated herein as Exhibit "1". (Ord. 1028, 12/16/1993)

§552. Administration of Regulations. All rules and regulations as adopted by the Borough for the purpose of regulating the cable system within its jurisdiction shall be administered by the Borough Manager. (Ord. 1028, 12/16/1993)

§553. Participation of Interested Parties.

1. Before acting upon any matters regarding the regulation of basic tier rates or associated equipment cost, the Borough shall hold a public hearing thereon, pursuant to public notice, therein allowing a reasonable opportunity for consideration of the views of interested parties including, but not limited to, the cable operator, subscribers, the franchising authority and other municipalities/franchising authorities served by the same cable system.

2. If, after any public hearing, the proposed change to basic tier rates or associated equipment cost is changed substantially, or is revised to include matters not previously addressed, the Borough shall hold another public hearing, pursuant to public notice, before proceeding to act on the matter.

(Ord. 1029, 12/13/1993)

* Editor's Note: The FCC Rules and Regulations are on file in the Borough office.

Part 6

Overhead Banners

§601. Issuance of Permits for Overhead Banners.

1. Each banner shall have a minimum vertical clearance of seventeen (17) feet six (6) inches.

2. Each application must set forth:

A. The size of the banner.

B. The message of the proposed banner.

C. The sponsoring organization and event for which the banner is being erected.

D. The dates of installation and removal.

3. The Borough of Scottdale will assume full responsibility and accept full liability for erecting, maintaining and removing all overhead banners.

4. No more than twenty (20) percent of the message of an overhead banner will relate to naming or advertising a commercial product, enterprise, business or company.

5. Traffic control will be performed in accordance with the most current Publication 203.

6. Each application shall be submitted to the Borough Secretary, with a copy of this resolution, no later than fourteen (14) days prior to the proposed installation.

(Res. 98-07, 7/27/1998)

C

C

C

Part 7

Adult Entertainment

§701. Purpose and Findings.1. Purpose.

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

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

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

2. Legislative Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community as set forth in reports made available to the Borough and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991; and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Biloxi, Mississippi; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota) the Borough finds:

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

B. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Borough. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

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

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

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

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

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

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

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

J. Limitation of operating hours of sexually oriented business to 10:00 a.m. to 10:00 p.m. Mondays through Saturdays and closure of such businesses on Sundays and holidays reduces the adverse secondary effects of such businesses, including particularly, but not limited to, late night noise levels, crime and sexually offensive materials and activities in public areas and promotes the public health, safety and welfare.

(Ord. 1100, 11/13/2000, §1)

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

ADULT ARCADE - any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players or other image-producing devices are maintained, not located within viewing booths, to show images to five (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, ADULT NOVELTY STORE or ADULT VIDEO STORE - a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, CD ROM discs, or other computer software or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

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

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

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions or visual presentations of any other kind which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

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

BOROUGH - the Borough of Scottdale.

BOROUGH COUNCIL or COUNCIL - the Borough Council of the Borough of Scottdale.

EMPLOYEE - a 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 and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

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

ESCORT AGENCY - a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one (1) of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT - 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 addition of any sexually oriented business to any other existing sexually oriented business or to a non-sexually oriented business.

(4) The relocation of any sexually oriented business.

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

MESSAGE ESTABLISHMENT - any establishment or business which provides the service of massage and/or body manipulations, including exercise, heat light treatment, water treatment of the body and all forms and methods of physical therapy, excluding establishments operated or supervised by a medical practitioner, including a medical doctor, doctor of osteopathy, chiropractor or physical therapist licensed by the Commonwealth of Pennsylvania. The services provided at a massage establishment shall not include any specified sexual or adult entertainment activities of the type regulated by this Part.

NUDE MODEL STUDIO - any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and

is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure, provided all of the following are met:

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

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

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

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

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

SEMI-NUDE or IN A SEMI-NUDE CONDITION - the state of dress in which clothing partially or non-opaquely covers specified anatomical areas.

SEXUAL ENCOUNTER CENTER - a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

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

(2) Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nudity.

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

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

SPECIFIED CRIMINAL ACTIVITY - any of the following offenses:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries.

(2) For which:

(a) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.

(b) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(c) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

(3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES - any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts.

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy.

(3) Excretory functions as part of or in connection with any of the activities set forth in subsections (2)(a) and (b) above (definition of "specified criminal activity.")

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS - includes any of the following:

(1) The sale, lease or sublease of the business.

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means.

(3) The establishment of a trust, gift or other similar legal device which transfer 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.

VIEWING BOOTHS - booths, stalls, partitioned portions of a room, rooms or other enclosures which are available for viewing:

(1) Films, movies, videos or visual reproductions of any kind depicting or describing "specified sexual activities" or "specified anatomical areas."

(2) Persons who appear in a state of nudity or semi-nudity or who offer performances or presentations characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

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

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

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

(Ord. 1100, 11/13/2000, §2)

§703. License Required.

1. It is unlawful:

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

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

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

D. Beginning on the sixtieth (60th) day after enactment of this Part for any person to continue to operate any sexually oriented business in operation at the time of enactment of this Part without a valid sexually oriented business license pursuant to this Part.

E. Beginning on the sixtieth (60th) day after enactment of this Part for any person to continue to operate any sexually oriented business in operation at the time of enactment of this Part without a valid sexually oriented business license pursuant to this Part.

F. Beginning on the sixtieth (60th) day after enactment of this Part for any person who operates a sexually oriented business in operation at the time of enactment of this Part to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this Part.

G. Beginning on the sixtieth (60th) day after enactment of this Part for any person to obtain employment with a sexually oriented business in operation at the time of enactment of this Part without having secured a sexually oriented business employee license pursuant to this Part.

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

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

4. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a twenty (20%) percent or greater interest in the business must sign the application or a license as applicant. Each applicant must be qualified under the following §704 of this Part, and each applicant shall be considered a licensee is a license is granted.

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

A. If the applicant is:

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

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

(3) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal

stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

B. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state:

- (1) The sexually oriented business' fictitious name.
- (2) Submit the required registration documents.

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

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

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

F. The specific classification of sexually oriented use for which the applicant is filing along with a detailed description of each and every activity encompassed by the proposed sexually oriented business, which description shall thoroughly demonstrate compliance and/or intended compliance with all provisions of this Part.

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

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

I. A recent photograph of the applicant(s).

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

K. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professional prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

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

M. If an applicant wishes to operate a sexually oriented business, which includes viewing booths, then the application shall also comply with the application requirements set forth in §711 of this Part and shall separately apply for and obtain a building and occupancy permit for the installation of the viewing booths.

N. The application form shall inform the applicant that:

(1) Separate applications are required for any necessary zoning permits, subdivision and land development approvals or building and occupancy permits and that the applicant may apply for such permits by contacting the Borough Code Enforcement Officer.

(2) Department of Labor and Industry approval is required.

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

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

B. Age, date and place of birth.

C. Height, weight, hair and eye color.

D. Present residence address and telephone number.

E. Present business address and telephone number.

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

G. Social Security number.

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

I. The applicant, under the requirements of the Scottsdale Zoning Ordinance [Chapter 27] has received a special exception approval for the establishment and operation of a sexually oriented business as defined herein at a specific location and site and has met all the applicable requirements of the Zoning Ordinance [Chapter 27] (or in lieu thereof, the applicant can satisfy the requirements of being a nonconforming use as defined in the Zoning Ordinance [Chapter 27]).

7. Attached to the application form for a sexually oriented business employee licenses as provided above shall be the following:

A. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by any police department. any fees for the photographs and fingerprints shall be paid by the applicant.

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

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

(Ord. 1100, 11/13/2000, §3)

§704. Issuance of License.

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

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

B. The applicant is under the age of eighteen (18) years.

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

D. 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 provisions of this Part.

E. The applicant has had a sexually oriented business employee license revoked by the Borough 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 §709 of this Part.

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

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

H. The proposed sexually oriented business is in violation of or is not in compliance with any of the provisions of this Part.

2. A license granted pursuant to this Section shall be subject to annual renewal upon the written application of the applicant and a finding by the Borough that the applicant has not been convicted of any specified criminal activity as defined this Part or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in §705 of this Part.

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

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

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

6. A license denial shall conform to the provisions of §709(4).

7. Any person aggrieved by the grant of a license may appeal, in writing, within ten (10) days from the date of issuance of the license, to the Borough Council. The Borough Council shall then hold a local agency law hearing within twenty (20) days of the date of filing of the appeal and render a decision within ten (10) days from the end of the hearing. Appeals from a decision of the Borough Council may be taken to Court subject to §709(5) of this Part.

(Ord. 1100, 11/13/2000, §4)

§705. Fees.

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

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

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

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

(Ord. 1100, 11/13/2000, §5)

§706. Inspection.

1. An applicant or licensee shall permit authorized Borough officials and their agents or consultants 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.

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

(Ord. 1100, 11/13/2000, §6)

§707. Expiration of License.

1. Each license shall expire one (1) year from the due date of issuance and may be renewed only by making application as provided in §703 of this Part. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the date of expiration of the license will not be extended.

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

(Ord. 1100, 11/30/2000, §7)

§708. Suspension. The Borough Code Enforcement Officer shall suspend a license for a period not to exceed thirty (30) days if he determines that a licensee or an employee of a licensee has:

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

(Ord. 1100, 11/13/2000, §8)

§709. Revocations and Appeals of Denials, Suspensions or Revocations.

1. The Borough Code Enforcement Officer shall revoke a license if a cause of suspension in §708 occurs and the license has been previously suspended within the preceding twelve (12) months.

2. The Borough Code Enforcement Officer shall revoke a license if he determines that:

- A. A licensee gave false or misleading information in the material submitted during the application process.
- B. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises.
- C. A licensee has knowingly allowed prostitution on the premises.
- D. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.
- E. A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises.
- F. A licensee is delinquent in payment to the Borough for any licensing fees past due.
- G. A licensee has in any way violated this Part.

3. When the Borough 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 the revocation became effective. If, subsequent to revocation, the Borough finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

4. All license application, renewal, suspension or revocation decisions shall be sent in writing to the applicant or licensee. All such decisions which deny, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any license, the applicant or licensee may appeal pursuant to the Local Agency Law to the Borough Council. The Borough Council will then hold a Local Agency Law hearing within twenty (20) days from the date the appeal is filed and will render a written decision within ten (10) days from the date such hearing concludes. Any such appeal must be filed, in writing, with the Borough Manager/Secretary within then (10) days from the date of mailing of the decision appealed from. Failure to file said appeal with the Borough Manager/Secretary within ten (10) days from the date of the mailing of the decision appealed from shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. In the case of a denial of a license renewal, or in the case of a license suspension or revocation, the licensee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of:

A. The expiration of the ten (10) day appeal period without filing of an appeal.

B. The date of a decision dismissing any appeal.

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

(Ord. 1100, 11/13/2000, §9)

§710. Transfer of License. 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. (Ord. 1100, 11/13/2000, §10)

§711. Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms.

1. A person who operates viewing booths or causes them to be operated shall comply with the following requirements:

A. Upon application for a sexually oriented 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 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 acres of interior of the premises to an accuracy of plus or minus six (6) inches. The Borough may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

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

C. It is the duty of the licensee of the premises to ensure that at least one (1) licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

D. The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) 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 (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. In addition, all viewing booths shall have at least one (1) side fully open so that all of the area inside the booth is open to the view of persons in the public area of the establishment.

E. It shall be the duty of the licensees to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which persons will not be permitted in the application filed pursuant to subsection (1)(A) of this Section.

F. No viewing room may be occupied by more than one (1) person at any time.

G. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5) foot candle as measured at the floor level.

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

I. No license shall allow openings of any kind to exist between viewing rooms or booths.

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

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

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

M. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight (48) inches of the floor.

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

(Ord. 1100, 11/13/2000, §11)

§712. Additional Regulations for Escort Agencies.

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

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

(Ord. 1100, 11/13/2000, §12)

§713. Additional Regulations for Nude Model Studios.

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

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

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

4. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. 1100, 11/30/2000, §13)

§714. Additional Regulations Concerning Public Nudity.

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

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

B. Appear in a state of nudity.

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

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

A. Any child under ten (10) years of age.

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

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

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

4. It shall be a violation of this Part 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 a sexually oriented business.

(Ord. 1100, 11/13/2000, §14)

§715. Prohibition Against Children in a Sexually Oriented Business. A person commits a violation of this part if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually oriented business. (Ord. 1100, 11/13/2000, §15)

§716. Hours of Operation. No sexually oriented business shall be open for business before ten (10:00) o'clock a.m., Monday through Saturday or after ten (10:00) o'clock p.m., Monday through Saturday. Sexually oriented businesses shall be closed at all times on Sundays and legal holidays. (Ord. 1100, 11/13/2000, §16)

§717. Exemptions.

1. It is a defense to prosecution under §714 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, 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. 1100, 11/13/2000, §17)

§718. Violations and Penalties.

1. Any person, firm or corporation who violates or permits the violation of any provisions of this Part or the rules and regulations approved and hereinafter adopted shall pay a fine not exceeding one thousand (\$1,000.00) dollars for each violation. Whenever such person shall have been officially notified by the Borough that he is committing a violation of this Part or the rules and regulations approved and hereinafter adopted, each day that he shall continue such violation after such notification shall constitute a separate violation punishable by a like fine. Any person who violates or permits the violation of this Part shall pay, in addition to the fine set forth above, all court costs and reasonable attorney's fees incurred by the Borough in connection with any civil enforcement proceedings brought to enforce this Part.

2. The Borough may commence civil enforcement proceedings to assess fines for violations of this Part. In addition to such civil enforcement proceedings, the Borough may commence, at any time, appropriate actions in equity or otherwise to prevent, restrain, correct, enjoin or abate violations of this Part.

(Ord. 1100, 11/13/2000, §18)

C

C

C

Part 8

Garage Sales and Yard Sales

§801. Title. This Part shall be known and cited as "Garage and Yard Sale Regulation Ordinance." (Ord. 1087, 12/13/1999)

§802. Purpose. These rules and regulations are designed to control and restrict garage and yard sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences, only, in keeping with the character of the neighborhood where this activity is carried on in compliance with the Zoning Ordinance [Chapter 27] of the Borough of Scottsdale. The intent of this Part is to eliminate perpetual, prolonged and extended garage and yard sales in residential areas. Such sales if continued indefinitely tend to become retail businesses in residential areas and zones, create a nuisance and often violate the zoning regulations of [Chapter 27] of the Borough of Scottsdale. The provisions of this Part arise from the need to limit, regulate, restrict and control garage and yard sales. It is not the intent of this Part to change or amend the Zoning Ordinance [Chapter 27], Transient Business Ordinance [Chapter 13] and/or any other ordinances of the Borough of Scottsdale. (Ord. 1087, 12/13/1999, §2)

§803. Definitions. As used in this Part, the following terms shall have the meanings indicated:

GARAGE SALES/YARD SALES -

(1) The sale or offering for sale of one (1) or more new, used or secondhand items of personal property at any one (1) residential premises at any one (1) time.

(2) Includes all sales in residential areas entitled "garage sales," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.

GOODS - any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

PERSONS - individuals, partnerships, family groups, voluntary associations and corporations.

RESIDENCE - all residential dwellings located within any type of zone, zoned area, zoning district, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Borough of Scottsdale.

(Ord. 1087, 12/13/1999, §3)

§804. Restrictions.

1. Any person as defined by this Part may conduct up to two (2) yard sales, of up to two (2) days duration per yard sale, in any calendar year. No permit shall be required.

2. No person as defined by this Part may conduct more than two (2) yard sales of up to two (2) days duration each in any calendar year. Any person as defined by this Part who conducts more than two (2) yard sales of up to two (2) days per sale, per calendar year, shall be in violation of this Part and shall be subject to enforcement as set forth in §806 of this Part and shall be subject to penalties as set forth in §809 of this Part. Every day in excess of two (2) days, two (2) times per year, in which a person as defined by this Part conducts a yard sale, shall be a separate violation of this Part, enforceable and punishable as hereinafter set forth.

(Ord. 1087, 12/13/1999, §4)

§805. Exemptions. This Part shall not be applicable to:

A. Persons selling goods pursuant to an order of process of a court of competent jurisdiction.

B. Persons acting in accordance with their powers and duties as public officials.

C. Any publisher of a newspaper, magazine, or other publication or other communications media who publishes or broadcasts anything in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this Part have not been met.

D. Any sale conducted by any legitimate business, or commercial or industrial establishment on property zoned under the zoning regulations [Chapter 27] of the Borough of Scottdale with or without the protection of the nonconforming use section of the zoning laws [Chapter 27], or any sale conducted by any other vendor or dealer when the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the Commonwealth of Pennsylvania and ordinances of the Borough of Scottdale including this Part.

E. Sales by a bona fide charitable, educational, cultural or governmental institution, civic group, service club, religious, or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.

F. Any public auction having a duration of no more than two (2) days and conducted by an auctioneer licensed by the Commonwealth of Pennsylvania.

(Ord. 1087, 12/13/1999, §5)

§806. Enforcement.

1. This Part shall be enforced by the Borough Secretary, and it shall be his duty to investigate and prosecute any violation of this Part.

2. If, after an investigation, a violation is found to exist, the Borough Secretary shall prosecute a complaint before a district justice pursuant to the provisions of this Part.

3. The person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.

A. No such person shall permit any loud or boisterous conduct on such premises or permit vehicles to impede the passage of the traffic on any roads, streets, alleys or sidewalks in the are of the premises where the sale is being conducted.

B. In the event of any emergency, all such persons shall obey reasonable orders from any member of the police department or the fire department in order to maintain the public health, safety and convenience.

(Ord. 1087, 12/13/1999, §6)

§807. Hours of Sale. Any sale regulated by this Part shall be held only between the hours of 7:00 A.M. and 9:00 P.M., prevailing time. (Ord. 1087, 12/13/1999, §7)

§808. Encroachment on Right-of-Way. Any sale regulated by this Chapter shall be held on private property and shall not be held within a Borough road, street, alley or sidewalk. (Ord. 1087, 12/13/1999, §8)

§809. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred (\$500.00) dollars, and shall also pay the court costs and filing fees, and a reasonable attorney's fee, involved in prosecuting such violation.

2. Each day that a violation of this Part continues shall constitute a separate violation.

(Ord. 1087, 12/13/1999, §9)

