

Chapter 620

ADULT ENTERTAINMENT BUSINESSES

Section 620.010. Definitions.

For the purposes of this Chapter and unless the context plainly requires otherwise, the following words or phrases shall have the meaning set out herein:

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

1. Has a substantial portion of its displayed merchandise which consists of such items; or
2. Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or
3. Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or
4. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or
5. Maintains a substantial section of its interior business space for the sale or rental of such items; or
6. Maintains an adult arcade. "*Adult arcade*" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

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

ADULT MOTION PICTURE THEATER — A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are

regularly shown to more than five (5) persons for any form of consideration.

EMPLOY, EMPLOYEE, or EMPLOYMENT — Describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. — Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

OPERATOR — Any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business.

PREMISES — The real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages or both.

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

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

SEMI-NUDE or STATE OF SEMI-NUDITY — The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

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

SEXUALLY ORIENTED BUSINESS — An adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center.

SPECIFIED ANATOMICAL AREAS

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

SPECIFIED SEXUAL ACTIVITY — Any of the following:

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

VIEWING ROOM — The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

Section 620.020. Establishment of Business, Prohibited Where — Nudity in Establishment Prohibited — Display of Sexual Activities, Requirements — Hours of Operation — Minors and Alcohol Prohibited.

- A. No person shall establish a sexually oriented business within one thousand (1,000) feet of any pre-existing primary or secondary school, house of worship, State-licensed day care facility, public library, public park, residence, or other sexually oriented business. This Subsection shall not apply to any sexually oriented business lawfully established prior to August 28, 2010. For purposes of this Subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest portion of the parcel containing the pre-existing primary or secondary school, house of worship, State-licensed day care facility, public library, public park, residence, or other sexually oriented business.
- B. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of or pled guilty or nolo contendere to a specified criminal act.
- C. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
- D. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six (6) feet from all patrons and at least eighteen (18) inches from the floor in a room of at least six hundred (600) square feet.
- E. No employee, who appears in a semi-nude condition in a sexually oriented business, shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.
- F. A sexually oriented business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or

specified anatomical areas shall comply with the following requirements:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;
 2. An operator's station shall not exceed thirty-two (32) square feet of floor area;
 3. If the premises has two (2) or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the operator's stations;
 4. The view required under this Subsection shall be by direct line of sight from the operator's station;
 5. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and
 6. It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this Subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.
- G. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of Sections 573.525 to 573.537, RSMo., shall be given one hundred eighty (180) days after August 28, 2010, to comply with the stage and building requirements of Sections 573.525 to 573.537, RSMo. During such one hundred eighty (180) day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six (6) feet from all patrons.
- H. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 Midnight and 6:00 A.M. on any day.
- I. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.
- J. No person shall knowingly allow a person under the age of eighteen (18) years on the premises of a sexually oriented business.

Section 620.025. Prohibited Acts, Penalties — Public Policy Interest to Be Protected.

- A. It shall be an ordinance violation for a person, in a sexually oriented business, to:
1. Knowingly and intentionally appear in a state of nudity or depict, simulate, or perform specified sexual activities;
 2. To appear knowingly or intentionally in a sexually oriented business in a seminude condition unless the person is an employee who, while seminude, shall be at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the

- floor and behind a railing no less than twenty-four (24) inches in height;
3. For an employee, while semi-nude, to touch a customer or the clothing of a customer;
 4. If a person knowingly allows on the premises of a sexually oriented business a person under the age of twenty-one (21) years, except for 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.
- B. The provisions of Sections 67.2540 to 67.2552, RSMo., are designed to protect the following public policy interest of this State, including, but not limited to: to mitigate the adverse secondary effects of sexually oriented businesses, to limit harm to minors, and to reduce prostitution, crime, juvenile delinquency, deterioration in property values and lethargy in neighborhood improvement efforts.

Section 620.030. Penalty. [R.O. 2011 §235.030; Ord. No. 04-004, 4-15-2004]

It shall be unlawful for any person to violate any of the provisions of this Chapter. Upon conviction thereof, such person shall be punished by a fine not exceeding five hundred dollars (\$500.00) or be punished by incarceration for a period not to exceed ninety (90) days, or by both such fine and incarceration. Each day's violation of or failure, refusal or neglect to comply with any provision of this Chapter shall constitute a separate and distinct offense.