

**Chapter 5**  
**Part F:**  
**(OR 2-2005)**

***PUBLIC INDECENCY AND SEXUALLY-ORIENTED BUSINESS ORDINANCE***

**100.00 Public Indecency and Sexually-Oriented Businesses:**

**100.10 Definitions:**

100.11 Terms used in this ordinance shall be given their general and customary meaning;

100.12 Where such terms are defined in statutes of the Commonwealth of Pennsylvania or ordinances of the Borough of Saegertown, such definitions shall control.

100.20 When used in this ordinance, the following terms shall be defined as follows:

**101.00 Adult Arcade:**

101.10 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;

101.20 Not located within viewing booths;

101.30 To show images to five (5) or fewer persons per machine at any one time;

101.40 Where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

**102.00 Licensee:**

102.10 A person in whose name a license to operate a sexually-oriented business has been issued;

102.20 As well as the individual listed as an applicant on the application for a license.

**104.00 Massage Parlor:**

104.10 An establishment or business which provides the services of massage and body manipulation;

104.20 Including exercises, heat and light treatments of the body and all forms of physiotherapy;

104.30 Unless operated by a medical practitioner, professional physical therapist or chiropractor licensed by the Commonwealth of Pennsylvania.

104.40 This definition *does not include* an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**105.00 Nude:**

105.10 The showing of human male or female genitals or pubic area with less than a fully opaque covering;

105.11 Or any portion of the anal cleft or cleavage of the male or female buttocks.

105.12 Attire that is insufficient to comply with the requirement to cover all portions of the anal cleft or cleavage of the

male or female buttocks is insufficient.

105.13 Attire that is insufficient to meet this requirement includes, but is not limited to, G-strings, T -backs, thongs and any other clothing or covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks;

105.14 Or the portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed;

105.15 Or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**106.00 Nudity:**

106.10 The state of being nude.

**107.00 Public Indecency:**

107.10 Public Indecency shall be deemed to include all actions declared in this Ordinance to constitute public indecency;

107.11 Including, but not limited to, those actions set forth in Section 114.00 and all subparts.

107.20 The term shall not include and shall not apply to:

107.21 The act of performing or dancing in the nude in a sexually-oriented establishment;

107.22 Or in a play or performance open to the general public where the fact that and the existence of the nude performance is made known to patrons prior to their entry to the premises and this ordinance is not otherwise violated; or

107.23 Or any child under ten (10) years of age;

107.24 Or any individual exposing a breast in the process of breastfeeding an infant under two (2) years of age;

107.25 Or any person being in a state of nudity other than in a public place;

107.26 Or in circumstances of emergency or which are not within the reasonable control of that person.

**108.00 Public Place:**

108.10 All outdoor areas owned by or open to the general public;

108.11 All buildings or enclosed places owned by or open to the general public;

108.12 Except sexually-oriented establishments.

108.20 Public areas shall include, but are not limited to;

108.30 Places of entertainment, bars, taverns, restaurants, clubs, theaters, dance halls, etc.

**109.00 Sexual Entertainment:**

109.10 An exhibition in a sexually-oriented establishment of any sexually- oriented books, motion pictures or other media;

- 109.11 Meaning those distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as these terms are defined at 68 C.S.A. §5502, as may in the future be amended.
- 109.20 A live performance, display or dance of any type in a sexually-oriented establishment which has as a significant or substantial portion of the performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas;
- 109.21 Removal of articles of clothing or appearing unclothed, pantomiming, modeling or any other personal services offered customers.
- 110.00 Sexually-Oriented Bookstore, Novelty Store or Video Store:**
- 110.10 Commercial establishments which, as one of its principal business purposes, offers for sale or rental for any form of consideration anyone (1) or more of the following:
- 110.11 Books, games, magazines, periodicals or other printed matter or photographs;
- 110.12 Films, motion pictures, video cassettes or video reproductions, slides, CD ROM discs or other computer software;
- 110.13 Or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";
- 110.14 Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."
- 111.00 Sexually-Oriented Business:**
- 111.10 Any business activity, club, or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted.
- 111.20 Sexually-oriented businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters and massage parlors as defined by this section.
- 112.00 Sexually-Oriented Establishment:**
- 112.10 The term includes, without limitation, the following establishments when operated for profit:
- 112.11 Sexually-oriented bookstores;
- 112.12 Sexually-oriented motion picture theaters;
- 112.13 Sexually-oriented mini-motion picture theaters;
- 112.14 Massage parlors;
- 112.15 Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing sexually- oriented motion pictures;
- 112.16 Or where an entertainer provides adult entertainment to a member of the public, a patron or a member.
- 112.20 "Motion pictures" shall include films and video tapes, DVD's, streaming video, whether available on site or through cable, satellite, closed-circuit television, or on computers or through chat rooms or any internet connection.

- 112.30 Any sexually-oriented entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as a sexually-oriented entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
- 112.40 The terms "booths, cubicles, rooms, studios, compartments or stalls," for purposes of defining sexually-oriented establishments;
- 112.41 Do not mean enclosures which are private offices used by the owner, manager or persons employed on the premises for attending to the tasks of their employment;
- 112.42 Which are not held out to the public for the purpose of viewing motion pictures or other entertainment for a fee;
- 112.43 Which are not open to any persons other than employees.

**113.00 Specified Criminal Activity:**

- 113.01 Prostitution or promotion of prostitution;
- 113.02 Dissemination of obscene material;
- 113.03 Sexual performances by a child, possession or distribution of child pornography;
- 113.04 Public lewdness, indecent exposure;
- 113.05 Indecency with a child, engaging in organized criminal activity, sexual assault, molestation of a child;
- 113.06 Unlawful distribution of a controlled substance or any similar offenses to those described above under the criminal or penal code of the Commonwealth of Pennsylvania.

**114.00 Public Indecency Prohibited:**

- 114.10 No person shall commit an act of public indecency in the Borough of Saegertown;
- 114.11 Or maintain or allow acts of public indecency when said person is a property owner, lessee, proprietor or manager of a business or other establishment.
- 114.20 It shall be unlawful for any such person to commit, maintain or allow any act(s) of public indecency.
- 114.30 An act of public indecency occurs when a person knowingly, intentionally or recklessly, in a public place:
  - 114.31 Engages in sexual intercourse;
  - 114.32 Engages in deviant sexual intercourse as defined by the Pennsylvania Crimes code, as may in the future be amended.
- 114.40 Engages in any specified sexual activity as defined at 68 Pa C.S.A. § 5502, as may in the future be amended, this including:
  - 114.41 Causing one's own or another person's human genitals to be in a state of sexual stimulation or arousal;
  - 114.42 Acts of human masturbation, sexual intercourse or sodomy;
  - 114.43 Or erotic touching of human genitals, pubic region, buttocks or female breasts of oneself or any other person in a public place not constituting an adult entertainment for which such activity as to oneself may be an element of the performance;

- 114.44 In sexually-oriented entertainment, plays or performances, the fondling or erotic touching of human genitals, pubic region, buttocks or female breasts of another person by a performer, patron or other person, and/or of a performer by any patron or person not involved in the play or performance.
- 114.50 Appears in a state of nudity, other than as a performer in a dance, play or performance for which nudity constitutes an aspect of the performance or in a modeling class as defined in Section 1100.
- 114.60 Brings, allows or condones entry of a minor to a sexually-oriented establishment.
- 114.70 Brings, allows or condones entry of or access by a minor to sexually-oriented entertainment or sexually-oriented materials in any establishment;
- 114.71 Whether or not a sexually- oriented establishment as defined herein or in the Borough of Saegertown Zoning Ordinance.
- 115.00 Regulations on Operation and Conduct of Adult/Sexually-Oriented Establishments:**
- 115.10 Each adult or sexually-oriented business shall be required to prominently post a sign or signs conforming to the Saegertown sign ordinance.
- 115.11 A sign shall be visible from each entrance, informing the public that adult and/or sexually-oriented activities occur within and that minors are prohibited from entering.
- 115.20 No establishment constituting sexually-oriented entertainment or sexually-oriented establishment shall be open for business earlier than 10:00 A.M. on Mondays through Saturdays;
- 115.21 Or 12:00 P.M. on Sundays;
- 115.22 And no such establishment shall be open for business later than 12:00 A.M. on any day of the week.
- 115.30 No establishment constituting sexually-oriented entertainment or sexually-oriented establishment shall be situated or located nearer than one thousand (1,000) feet from the nearest property line of any other sexually-oriented entertainment or sexually-oriented establishment, bottle club, church, school or other institution of learning or education, hospital, library, park or playground.
- 115.40 Furthermore, no establishment constituting sexually-oriented entertainment or a sexually- oriented establishment shall be situated or located nearer than five hundred (500) feet from any land zoned residential;
- 115.41 No establishment constituting sexually-oriented entertainment or sexually-oriented establishment shall be situated or located nearer than five hundred (500) feet from any property line of any single or multi-family dwelling.
- 115.42 The Borough of Saegertown's Mayor and his or her designees are authorized to inspect sexually-oriented establishments at reasonable times for purposes of enforcing the regulations of State law and this ordinance.
- 115.43 Council and the Mayor, through the Solicitor, shall be authorized to commence by the Borough actions at law or in equity to enjoin violations of this ordinance or of 68 Pa C.S.A. §§ 5501, et. seq. any updates to the code.
- 116.00 Declaration of a Public Nuisance:**
- 116.10 In addition to the specific penalties provided in this ordinance for violations, it is hereby declared that any building, structure or portion thereof used for acts of public indecency in violation of this ordinance is a public nuisance,
- 116.11 Subjecting the owner, lessee, proprietor or other operator thereof to any and all actions authorized by the Commonwealth of Pennsylvania or the Borough of Saegertown Nuisance Ordinance for the abatement of public nuisances.

116.20 In the event of any action by the Borough to abate a public nuisance, the owner of the subject property shall further be liable for payment to the Borough of all costs, attorney's fees and other related expenses incurred by the Borough in such action.

**200.00 License Required:**

200.01 It is unlawful for any person to operate a sexually-oriented business without a valid sexually-oriented business license issued by the Borough pursuant to this Ordinance.

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

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

200.20 All applicants must be qualified according to the provisions of this Ordinance.

200.30 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 Ordinance.

200.40 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.

200.41 If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a twenty percent (20%) or greater interest in the business must sign the application for a license as applicant.

200.42 Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

**201.00 License Requirements:**

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

201.11 If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least eighteen (18) years of age;

201.12 If a partnership, the partnership shall state its complete name, and the name of all partners, whether the partnership is general or limited to a copy of the partnership agreement, if any;

201.13 If 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 or incorporation and qualified and authorized to conduct business in Pennsylvania,

201.14 It must include the names and capacity of all officers, directors and principal stockholders, and the names of the registered corporate agent and the address of the registered office for service of process.

201.20 If the applicant intends to operate the sexually-oriented business under a name other than that of the applicant, he, she or it must:

201.21 State the sexually-oriented business' fictitious name;

201.22 Submit the required registration documents.

201.23 Whether the applicant, individuals, owners or officers of the corporation, or a person residing with the applicant has been convicted of a specified criminal activity as defined in this Ordinance,

- 201.24 If so, the specified criminal activity involved, the date, place and jurisdiction of each conviction.
- 201.25 Whether the applicant or a person residing with the applicant has had a previous license under this Ordinance 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 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 Ordinance 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.
- 201.26 Whether the applicant or a person residing with the applicant holds any other licenses under this Ordinance or other similar sexually-oriented business ordinance from another municipality, state or county, and, if so, the names and locations of such other licensed businesses.
- 201.27 The specific classification of sexually-oriented use for which the applicant is filing along with a detailed description of each and every activity encompasses by the proposed sexually-oriented business, which description shall thoroughly demonstrate compliance and/or intended compliance with all provisions of this Ordinance.
- 201.28 The location of the proposed sexually-oriented business, including a legal description of the property, street address and telephone number(s), if any;
- 201.29 The applicant's mailing address and residential address;
- 201.30 A recent photograph of the applicant(s);
- 201.31 The applicant's driver's license number, social security number and his/her state or federally issued tax identification number;
- 201.40 A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business.
- 201.41 The sketch or diagram need not be professionally 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.
- 201.42 A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the property to be certified in conformity with sections: 115.30, 115.40, and 115.41:
- 201.50 If an applicant wishes to operate a sexually-oriented business, which includes viewing booths, then the applicant shall also comply with the application requirements set forth in Section 900 and shall separately apply for and obtain a building and occupancy permit for the installation of the viewing booths.
- 201.60 The application form shall inform the applicant that:
- 201.61 Separate applications are required for any necessary zoning permits, subdivision and land development approval;
- 201.62 Building and occupancy permits that the applicant must apply for; such permits by contacting the Borough Code Enforcement Officer;
- 201.63 And the Department of Labor and Industry approval is required.

**300.00 Issuance of License:**

- 300.10 Upon the filing of said application in a fully completed form for a sexually-oriented business license, the application shall then be referred to the Borough Mayor for review and investigation.

300.20 The Borough Mayor shall utilize any available resources through the Pennsylvania State Police, the Crawford County Sheriff, the Commonwealth of Pennsylvania and/or other law enforcement agencies as may be necessary to complete the review and investigation required by this Ordinance.

**301.00 Mayor's Determination:**

301.10 Within thirty (3) days from the date the completed application is filed, the Borough Mayor, the Code Enforcement Officer, or duly appointed person by resolution of Council, shall issue a license, *unless* it is determined by the Borough Mayor, the Code Enforcement Officer, or duly appointed person by resolution of Council, that one (1) or more of the following findings is true:

301.11 The applicant has failed to provide all information required for issuance of the license or has falsely answered a question or request for information on the application form;

301.12 The applicant is under the age of eighteen (18) years;

301.13 The applicant has been convicted of "specified criminal activity" as defined in this Ordinance;

301.14 The required application, investigation and license fees have not been paid;

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

301.17 The proposed sexually-oriented business is in violation of, or is not in compliance with, any of the provisions of this Ordinance.

**302.00 Annual Review:**

302.10 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 in this Ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application.

302.11 The renewal of the license shall be subject to the payment of the fees as set forth in Section 400.

**303.00 The sexually-oriented business license:**

303.10 The sexually-oriented business license, if granted, shall state on its face:

303.11 The name of the person or persons to whom it is granted;

303.12 The expiration date;

303.13 The address of the business and the specific classification of use for which the license is issued.

303.20 Licenses for businesses shall state that the business shall not commence until all necessary zoning, subdivision and land development, and/or building code approvals and the Department of Labor and industry approvals are obtained.

303.30 All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

303.40 Applications for building and occupancy permits shall be processed and either denied or approved according to Section 503.2 of the Borough of Saegertown Zoning Ordinance.

303.50 A sexually-oriented business license shall be issued for the specific classification of sexually-oriented use as



permitted by ordinance and applied for.

**304.00 Renewal Denial:**

- 304.10 A license denial shall conform to the provisions of Section 800.
- 304.20 Any person aggrieved by the license may appeal, in writing, within thirty (30) days from the date of issuance of the license to the Zoning Hearing Board.
- 304.30 The Zoning Hearing Board shall then hold a local agency law hearing within twenty (20) days from the date of filing of the appeal and render a decision within ten (10) days from the end of the hearing.
- 304.40 Appeals from a decision of the Zoning Hearing Board may be taken to court subject to Sections 800.60, 800.70, 800.71, 800.80, 800.81, 800.82, of this Ordinance.

**400.00 Fees:**

- 400.10 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 non-refundable application and investigation fee of \$150.00, or an amount set by resolution of Council
- 400.20 In addition to the application and investigation fee required above, every sexually- oriented business that is granted a license (new or renewal) shall pay the Borough an annual non-refundable license fee of \$50.00, or an amount set by resolution of Council within thirty (30) days of license issuance or renewal.
- 400.30 All license applications and fees shall be submitted to the office of the Borough Manager, and thereafter, the applications shall be forwarded to the Mayor of the Borough of Saegertown for review and investigation and approval or denial.

**500.00 Inspection:**

- 500.10 An applicant or licensee shall permit authorized Borough officials and their agents or consultants to inspect the premise of a sexually-oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- 500.20 A person who operates a sexually-oriented business commits a violation of this Ordinance if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

**600.00 Expiration of License:**

- 600.10 Each license shall expire one (1) year from the date of issuance and may be renewed only by making application as provided for in Section 200.
- 600.20 Application for renewal shall be made at least thirty (30) days before the expiration date;
- 600.30 When made less than thirty (30) days before the expiration date, the date of expiration of the license will not be extended.
- 600.40 When the Borough denies renewal of a license for noncompliance of this Ordinance or violation of Section 302.10 or if the establishment becomes a Public Nuisance, the applicant shall not be issued a license for one (1) year from the date of denial.
- 600.50 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 according to Section 302.10 if at least ninety (90) days have elapsed since the date denial became final.

**700.00 Suspension:**

- 700.10 The Borough [Code Officer] shall suspend a license for a period not to exceed thirty (30) days if he determines that a licensee of a licensed sexually-oriented business has:
  - 700.11 Violated or is not in compliance with any provision of this Ordinance;
  - 700.12 Refused to allow an inspection of the sexually-oriented business premises as authorized by this Ordinance;
  - 700.13 Knowingly permitted gambling by any person on the sexually-oriented business premises.

**800.00 Revocations and Appeals of Denials, Suspensions or Revocations:**

- 800.01 The Mayor shall revoke a license if a cause of suspension in Section 800 occurs and the license has been suspended within the preceding twelve (12) months.
- 800.10 The Mayor shall revoke a licensee if he determines that one or more of the following:
  - 800.11 A licensee gave false or misleading information in the material submitted during the application process;
  - 800.12 A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;
  - 800.13 A licensee has knowingly allowed prostitution on the premises;
  - 800.14 A licensee has knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;
  - 800.15 A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex acts to occur in or on the licensed premises;
  - 800.16 A license is delinquent in payment to the Borough for any licensing fee or fees.
- 800.20 When the Borough Mayor revokes a license, the revocation normally will continue for one (1) year, and the license shall not be issued a sexually-oriented business license for one (1) year from the date the revocation became effective.
- 800.30 If, subsequent to revocation, the Borough Mayor finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license by the Borough Mayor upon his finding that the condition leading to the revocation has been corrected or abated if at least ninety (90) days have elapsed since the date the revocation became effective.
- 800.40 All permit denial, renewal, suspension or revocation decisions shall be sent in writing to the applicant or licensee.
- 800.41 All such decisions which deny, refuse to renew, suspend or revoke a permit shall state specifically the ordinance requirement not met and any other basis for the decision.

**801.00 Appeal:**

- 801.10 After denial of an application or denial of a renewal of an application or after suspension or revocation of any permit, the applicant or permittee may appeal pursuant to procedures of the Local Agency Law (2 Pa. c.s. § 101, et seq. or any updates to the code) to the Zoning Hearing Board, except as modified herein.
- 801.20 Any such appeal must be filed in writing, with the Borough Mayor within ten (10) days from the date of the mailing of the decision appealed from and shall specify, in detail, the basis for the appeal.

- 801.30 Failure or refusal to file said appeal or specify the basis of said appeal with the Borough Mayor shall be deemed a conclusive determination as to the issues or matters addressed by the written decision.
- 801.40 If an appeal is timely filed, the Zoning Hearing Board will then hold a zoning hearing pursuant to 2 Pa. c.s. § 101, et. seq. or any updates to the code within thirty (30) days from the date the appeal is filed;
- 801.41 And will render a written decision within ten (10) days from the date such hearing concludes.
- 801.50 In the case of denial of renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of:
- 801.51 The expirations of the ten (10) day appeal period without filing of an appeal;
- 801.52 Or the date of the final decision dismissing any appeal.
- 801.60 Any person aggrieved by a decision of the Zoning Hearing Board may appeal to a court of competent jurisdiction pursuant to the Local Agency Law (2 Pa. c.s. § 101, et. seq.) AND 42 Pa. c.s. § 933 (A)(2) or any updates to the code.
- 801.70 The Zoning Hearing Board shall, upon filing of such appeal, consent to any/all request(s) by an appellant to the Court to give expedited review of such appeal.
- 801.71 The Borough Council shall certify any record to the court within twenty (20) days after the appeal is filed.
- 801.80 In the case of a denial of a permit renewal, or in the case of a permit suspension or revocation, the permittee may continue to operate to the same extent as immediately prior to the denial, suspension or revocation until the earlier of:
- 801.81 The expiration of the thirty (30) day appeal period without filing an appeal;
- 801.82 Or the date of a decision dismissing an appeal by a court of competent jurisdiction.

**900.00 Regulations Pertaining to Exhibition of Sexually Explicit Films, Videos or Live Entertainment in Viewing Rooms:**

- 900.10 A person who operates viewing booths shall comply with the following:
- 900.11 The person's application must show a diagram of business layout.
- 900.12 The diagram should be well constructed, sufficiently detailed and drawn to scale and demonstrate conformity to all sections 900.30 through 900.95 below.
- 900.13 The applicant shall be sworn to be true, and all drawing shall be notarized and sworn.
- 900.20 It is the duty of licensee to ensure that at least one (1) employee is on duty on the premises at all hours the business is open.
- 900.30 The Employee's station must have full view of the interior premises.
- 900.40 Only one (1) person at a time is permitted in each viewing room.
- 900.50 The premises must be well lit.
- 900.60 All lighting must be maintained.

- 900.70 There shall be no opening between viewing rooms or booths, and no opening shall be allowed to be made between booths or viewing rooms.
- 900.80 The licensee shall inspect walls each day for openings and seal any openings found.
- 900.90 There shall be no rugs or carpets placed in the viewing rooms.
- 900.95 All walls and floors shall be constructed of nonporous, easily cleanable material.
- 900.96 A person having a duty under subsection 900.00 through 900.95 above commits a violation of this Ordinances if he/she knowingly fails to fulfill that duty.

**1000.00 Prohibition Against Children in a Sexually-Oriented Business:**

- 1000.10 A person commits a violation of this Ordinance if the person knowingly allows a person under the age of eighteen (18) years on the premises of a sexually-oriented business.

**1100.00 Exemptions:**

- 1110.10 It is a defense to prosecution under Section 114.50 and Section 116.00, that a person appearing in a state of nudity did so in a modeling class operated by a school, licensed by the Commonwealth of Pennsylvania, a college, junior college;
- 1110.11 Or by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university;
- 1110.12 Or in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
- 1110.13 And where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class;
- 1110.14 And where no more than one (1) nude model is on the premises at any one time.

**1200.00 Enforcement:**

- 1200.10 The Borough of Saegertown Mayor is hereby authorized and directed to enforce the terms of this Ordinance.

**1300.00 Penalties for Violation:**

- 1300.10 Any person or entity committing any act(s) prohibited herein shall violate this Ordinance.
- 1300.20 Whoever violates this Ordinance, either by commission of a public indecency, or as a property owner, proprietor, manager of a business or similar establishment who permits, promotes or allows the violation of this Ordinance, shall be guilty of a summary offense;
- 1300.21 Upon conviction, shall be sentenced to pay a Class C fine as set by resolution of Council or be imprisoned for not more than ninety (90) days, or both.
- 1300.30 In any enforcement action, a person or entity found to have violated this Ordinance shall also be obligated within the judgment to pay all costs and attorney's fees incurred by the Borough in the enforcement action.
- 1300.40 Each day a violation of this ordinance continues shall constitute a separate offence.
- 1300.50 Each violation of this ordinance shall constitute a separate offense, subject to the prescribed penalty for each violation.

**1400.00 Severability:**

- 1400.10 If any provision of this Chapter or the application thereof to any person or circumstances is held invalid, such holding shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid provision or applications;
- 1400.11 To this end, the provisions of this Chapter are declared severable.
- 1400.20 All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**1500.00 Effective Date:**

- 1500.10 This Ordinance shall become effective five (5) days after final passage and approval by the Council for the Borough of Saegertown.
- 1500.20 Enacted and Ordained July 11<sup>th</sup>, 2005