

Orange Department of Police Service

ADULT ORIENTED ESTABLISHMENTS PERMIT

Print or type carefully all the information requested. Please give complete answers to those questions that pertain to you. If a question does not pertain to you, print "N/A". The information you provide will be used to evaluate the permit application. All information submitted may be investigated. The application will not be processed without this completed form. A separate form is required for each officer, partner, member, manager and director of the operating entity of the business and of each person with authority to participate directly and regularly in the management of the business. If you need additional space to answer any questions, attach an additional sheet.

Date of Application _____ Date of formation of the organization _____

Business Name _____ Business location _____

Business is a Corporation Limited Liability Co. Partnership

Sole Proprietorship Other _____

Business mailing address _____

Telephone Number of establishment _____

Full true name of applicant/principal of applicant completing application _____

Office held by applicant _____

Aliases, stage names, etc. used in the past five (5) years _____

Current residence _____

Mailing address (if different) _____

Home telephone number _____ Email _____

Other licenses or permits relating to adult oriented or adult use establishments _____

Has any such license or permit been suspended or revoked No Yes, reason _____

Name, address, phone, email of Statutory Agent: _____

Name of Business Manager(s) (Actual supervisory authority over operation of the business):

For each applicant, provide names, business addresses, home addresses, telephone numbers, email addresses, and offices held for each officer, director, manager, member or partner.

Last name _____ First name _____ Middle Name _____

Title _____ Gender: Male Female

Aliases, other names know by, including maiden name: _____

Date of Birth _____ Place of Birth (please provide copy of birth certificate) _____

Social Security Number _____ Operator's License number and State _____

U.S. Citizen Yes No If no, alien registration # _____

Date and place of Naturalization _____

Home Telephone _____ Business Telephone _____

Present home address _____ Since _____

All resident addresses for the past 10 years. Indicate dates at each address:

Show employment for the past 10 years. Provide name, address and telephone number of employers, positions held and dates employed:

Issuing jurisdiction and effective dates of any license or permit relating to an adult oriented business or adult service. _____

Has any such license been suspended or revoked and if so, state the reason for suspension or revocation.

Criminal Record: List all criminal charges, complaints or indictments which resulted in conviction or a plea of guilty or nolo contendere. Include date and disposition of each case. If you have no such record, indicate by using the word "None".

Public offices now held by applicant, individual backers, shareholders, corp. officers, LLC. Give name of office holder and identify by title, place and name of town, city, state or federal agency.

Are you able to read and understand English? Yes No

Have you ever defaulted on any obligations to the State of Connecticut Labor Department, to the State Department of Revenue Services, to the United States Internal Revenue Service or to any municipalities, including but not limited to any withholding taxes or unemployment taxes for which you are responsible?

Yes No

Are you current in all Federal and State tax filing obligations? Yes No

I, _____, do hereby swear or affirm that the information herein contained is true to the best of my ability and that I personally completed/directed completion of this form.

Signed (Applicant)

Print name

Date

Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

Signed (Commissioner of the Superior Court, Notary, Justice of Peace)

Print name

Date

Chapter 160

ADULT-ORIENTED ESTABLISHMENTS

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[HISTORY: Adopted by the Board of Selectmen of the Town of Orange 8-6-1996. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 383.

§ 160-1. Policy statement.

- A. There may be “adult-oriented establishments” located in the Town of Orange (“town”) which will require special supervision from the town public safety agencies in order to protect and preserve the health, safety and welfare of the patrons of such establishments, as well as the health, safety and town’s welfare of the town’s citizens. This is so because such businesses may and do generate secondary effects which are detrimental to neighborhoods.
- B. Statistics and studies performed by a substantial number of cities and towns in the United States indicate that:
- (1) Large numbers of persons frequent such “adult-oriented establishments,” especially those which provide closed booths, cubicles, studios and rooms for private viewing of so-called “adult” motion pictures and/or video tapes and/or live entertainment; and
 - (2) Such closed booths, cubicles, studios and rooms have been used by patrons, clients or customers of such “adult-oriented establishments” for the purpose of engaging in certain sexual acts; and
 - (3) Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms; and
 - (4) Doors, curtains, blinds and/or other closures installed in or on the entrances and/or exits of such booths, cubicles, studios, and rooms which are closed while such booths, cubicles, studios and rooms are in use encourage patrons using such booths, cubicles, studios and rooms to engage in sexual acts therein with prostitutes or others, thereby

promoting and encouraging prostitution and the commission of sexual acts which cause blood, semen and urine to be deposited on the floors and/or walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and

- (5) The reasonable regulation and supervision of such "adult-oriented establishments" tends to discourage such sexual acts and prostitution, and thereby promotes the health, safety and welfare of the patrons, clients and customers of such establishments.
- C. The continued unregulated operation of "adult-oriented establishments" including, without limitation, those specifically cited at Subsection A of this section, is and would be detrimental to the general welfare, health and safety of the citizens of the town.
- D. The Constitution and laws of the State of Connecticut grant to the town powers, and in particular, police power, to enact reasonable legislation and measures to regulate and supervise "adult-oriented establishments" as hereinafter defined in order to protect the public health, safety and welfare.
- E. It is not the intent of the Board, in enacting this chapter, to deny to any person rights to speech protected by the United States and/or State Constitutions, nor is it the intent of the Board to impose any additional limitations or restrictions on the contents of any communicative materials, including sexually oriented films, video tapes, books and/or other materials.
- F. Further, by enacting this chapter, the Board does not intend to deny or restrict the rights of any adult to obtain and/or view any sexually oriented materials protected by the United States and/or State Constitutions, nor does it intend to restrict or deny any constitutionally protected rights that distributors or exhibitors of such sexually oriented materials may have to sell, distribute or exhibit such materials.

§ 160-2. Definitions.

For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

ADULT ENTERTAINMENT — Any exhibition of any adult-oriented motion pictures, live performance, display or dance of any type, which as a significant or substantial portion of such performance any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas," removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.

ADULT MEDIA OUTLET — A business engaging in the barter, rental or sale of items consisting of books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is open to the public, patrons or members; or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas." For the purposes of this definition, factors indicating that a "substantial or significant" portion of a

business is devoted to the sale or rental of such items include without limitation any one or more of the following criteria:

- A. Thirty-five percent or more of all inventory consists of such items at any time;
- B. Thirty-five percent or more of the merchandise displayed for sale consists of such items at any time;
- C. Thirty-five percent or more of the stock in trade consists of such items at any time;
- D. Thirty-five percent or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public) is devoted to such items at any time;
- E. Thirty-five percent or more of the sales, measured in dollars over any consecutive ninety-day period, is derived from such items.
- F. Thirty-five percent or more of the number of sales transactions, measured over any consecutive ninety-day period, is of such items;
- G. Thirty-five percent or more of the dollar value of all merchandise displayed at any time is attributable to such items.

ADULT MINI-MOTION PICTURE THEATER — An enclosed building with a capacity of less than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined below, for observation by patrons therein.

ADULT MOTION PICTURE THEATER — An enclosed building with a capacity of 50 or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities,” or “specified anatomical areas,” as defined below, for observation by patrons therein.

ADULT NEWSRACK — Any coin or card operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ADULT-ORIENTED ESTABLISHMENT — Includes, without limitation, “adult media outlet,” “adult motion picture theaters,” “adult mini-motion picture theaters,” “adult newsracks” and “adult retail establishments” and further means 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 adult-oriented motion pictures, or any premises wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An “adult-oriented establishment” further includes, without limitation, any adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.

ADULT RETAIL ESTABLISHMENT — A business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with “specified sexual activities,” clothing that graphically depicts “specified anatomical areas” or any of the materials sold or rented in an “adult media outlet” as defined above, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.” For purposes of this definition, a “substantial or significant” portion of a business shall be determined by reference to the factors, without limitation, set forth in the definition of “adult media outlet.” In determining whether an item is “designed or marketed for use” in connection with specified sexual activities, the following guidelines may be considered:

- A. Expert testimony as to the principal use of the item;
- B. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
- C. National and local advertising concerning the use of the item;
- D. Evidence of advertising concerning the nature of the business establishment;
- E. Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- F. The physical or structural characteristics of the item;
- G. The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

BOARD — The Board of Selectmen of the Town of Orange, Connecticut.

CHIEF OF POLICE — The Chief of Police of the town or his designated agent.

EMPLOYEE — Any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

ENTERTAINER — Any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or as an independent contractor.

INSPECTOR — An employee of the Town Police Department, Health Department, Fire Department, including the Fire Marshal, Building Department, the Zoning Enforcement Officer and/or any other town employee designated by the Chief of Police, who shall hereby be authorized to inspect premises regulated under this chapter and to take the required actions authorized by this chapter in case of violations being found on such premises, and to require corrections of unsatisfactory conditions found on said premises.

MINOR — A person under the age of 18 years.

OPERATOR — Any person, or any proprietor, shareholder, general partner or limited partner who holds 20% or more of the shares or partnership interest of any business which is operating, conducting, owning or maintaining an adult-oriented establishment.

SEXUAL ACTIVITY — Not intended to include any medical publications or films or bona fide educational publication or films, nor does it include any art or photography publications which denote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography. Nor does this definition apply to any news periodical which reports or describes current events and which, from time to time, publishes photographs of nude or semi-nude persons in connection with the dissemination of the news. Nor does this definition apply to publications or films which describe and report different cultures and which, from time to time, publish or show photographs or depictions of nude or semi-nude persons when describing cultures in which nudity or semi-nude is indigenous to the population.

SPECIFIED ANATOMICAL AREAS:

- A. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region;
 - (2) Buttocks;
 - (3) Female breasts below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely opaquely covered.

SPECIFIED SEXUAL ACTIVITIES — Includes any of the following:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Sex acts, actual or simulated, of human masturbation, sexual intercourse, or sodomy;
- C. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

TRANSFER OF OWNERSHIP OR CONTROL OF AN ADULT-ORIENTED ESTABLISHMENT — Includes any of the following:

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

§ 160-3. Requirements for adult-oriented establishments.

- A. Responsibilities of the operator:
 - (1) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the

operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- (2) An operator of an adult-oriented establishment shall be responsible for the conduct of all employees while on the premises of such establishment, and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this chapter.
 - (3) No operator or employee of an adult-oriented establishment shall allow or permit any minor or intoxicated person to loiter in any part of such establishment including parking lots immediately adjacent to such establishment used by patrons of such adult-oriented establishment.
 - (4) Every adult-oriented establishment business in the town on or after September 1, 1996, shall be well-lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be clearly visible from the common areas of the premises and visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. On the effective date of this chapter, it shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult-oriented establishments for the purpose of providing secluded viewing of adult-oriented motion pictures, or other types of adult-oriented entertainment.
 - (5) The operator of each adult-oriented establishment shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be well-lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level. It shall be the duty of the operator and its employees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
 - (6) The operator shall insure compliance of the adult-oriented establishment and its patrons with the provisions of this chapter.
- B. Inspections. An operator or an applicant for a license to operate an adult-oriented establishment shall permit representatives of the Police Department, Health Department, Fire Department, Building Department and/or any other inspector as defined in § 160-2 of this chapter, to inspect the premises of an adult-oriented business for the purpose of insuring compliance with the law, at all reasonable times.

§ 160-4. License required.

The operator of each adult-oriented establishment shall be responsible for and shall acquire a license from the town in the following manner:

- A. The operator(s) as defined in § 160-2 above of each adult-oriented establishment shall submit an application to the Chief of Police, upon a form to be provided by the Chief of Police. Within 90 days after receipt of a completed application for an adult-oriented business license, the Chief of Police shall mail to the applicant a license or a notice of intent to deny. If he fails to do so, the license shall be deemed granted. The application shall be deemed complete when the Chief of Police has received the fees, all information required in § 160-5 below, photograph and fingerprints of the applicant and, in the case of a corporation or other business organization, photographs and fingerprints of all persons for whom information is required under § 160-5 of this chapter.
- B. The premises must be inspected by the Town Health Department, Fire Department, Building Department and Zoning Enforcement Officer within 60 days of receipt of the complete application. If the premises are in compliance with state and local health, fire and building codes and zoning regulations, a license shall be issued within 90 days of receipt of the complete application unless the applicant is deemed unqualified.
- C. An applicant shall be unqualified if one or more of the following is true:
- (1) An applicant is under 18 years of age;
 - (2) An applicant is overdue in payment to the town of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to an adult-oriented business;
 - (3) An 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;
 - (4) An applicant has violated a provision of this chapter within two years immediately preceding the application;
 - (5) The premises to be used for the adult-oriented business have not been approved by the Town Health Department, Fire Department and Building Department as being in compliance with applicable laws, ordinances and regulations, within 60 days of the filing of the application;
 - (6) An applicant is in violation of Chapter 383, Zoning;
 - (7) The license fee required by § 160-6 of this chapter has not been paid at the time the application was filed with the Chief of Police;
 - (8) An applicant has been employed in an adult-oriented establishment in a managerial capacity within the preceding 36 months and knowingly:
 - (a) Permitted alcoholic liquor or cereal malt beverages to be illegally brought or consumed upon the premises;
 - (b) Permitted the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;
 - (c) Permitted any person under the age of 18 to be in or upon the premises of an adult entertainment business; or
 - (d) Permitted any act of prostitution or patronizing prostitution as defined under state law on the premises.

- (9) An applicant has been convicted of or has plead nolo contendere to a felony within five years immediately preceding the application or has been convicted of or plead nolo contendere within two years immediately preceding the application where such misdemeanor involved sexual assaults or batteries, prostitution, indecent exposure, sexual abuse of a child, child pornography or sale or distribution of controlled substances or illegal drugs or narcotics.
- D. If an applicant is deemed unqualified said rejection shall be in writing and shall specifically state the evidence presented and reason for rejection and shall be sent to the applicant by registered mail as further provided in § 160-12 of this chapter.
- E. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult-oriented business. The license shall be posted in a conspicuous place at or near the entrance to the adult-oriented business so that it may be easily read at any time.

§ 160-5. License application information required.

- A. The application shall include the information called for in Subsection A(1) through (9) below. If the applicant is an enterprise, it shall designate an officer or partner as applicant. In such case, in addition to the information in Subsection A(1) through (9) below, the application shall state the date of formation of the organization and the information called for in Subsection A(2) through (6) of this section with respect to each officer, director, general partner and all other persons with authority to participate directly and regularly in management of the business, but such information need not be provided with respect to attorneys, accountants and other persons whose primary function is to provide professional assistance to the licensee.
- (1) The name, business location, business mailing address and phone number of the proposed adult-oriented business establishment.
 - (2) The full true name and any other names, aliases or stage names used in the preceding five years.
 - (3) Current residential mailing address and telephone number.
 - (4) Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency.
 - (5) The issuing jurisdiction and the effective dates of any license or permit relating to an adult-oriented business or adult service, whether any such license or permit has been revoked or suspended, and, if so, the reason or reasons therefor.
 - (6) All criminal charges, complaints or indictments in the preceding five years which resulted in a conviction or a plea of guilty or nolo contendere.
 - (7) The name and address of the statutory agent or other agent authorized to receive service of process.
 - (8) The name(s) of the adult-oriented business manager(s) who will have actual supervisory authority over the operations of the business.

- (9) An accurate, to scale, but not necessarily professionally drawn, floor plan of the business premises clearly indicating the location of one or more manager's stations.
- B. The information provided pursuant to Subsection A (5) and (6) shall be supplemented in writing by certified mail to the Chief of Police within 10 working days of a change of circumstances which would render information originally submitted false or incomplete.

§ 160-6. Application fee.

A license fee of \$1,500 shall be submitted with the application for a license. If the application is denied, 1/2 of the fee shall be returned.

§ 160-7. Renewal of license; fees.

- A. Each license shall expire one year from the date of issuance and may be renewed annually by making application as provided in § 160-5 of this chapter. Application for renewal shall be made at least 30 days before the expiration date, to allow town officials to review the application in a timely manner. However, when an application for renewal is made less than 90 days before the expiration date, the expiration of the license will not be affected.
- B. An annual license renewal fee of \$750 shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of \$100 shall be assessed against the applicant who files for renewal less than 90 days before the license expires. If the application for renewal is denied, 1/2 of the total fees collected shall be returned.
- C. No adult-oriented establishment shall operate if its license expires by lapse of time.

§ 160-8. Suspension.

The Chief of Police shall suspend a license for a period not to exceed 30 days if he determines that an operator or an employee of an operator has violated any part of this chapter or violated any state statute regarding the subject establishment.

§ 160-9. Revocation.

- A. The Chief of Police shall revoke a license if a cause of suspension in this § 160-9 occurs and the license has been suspended within the preceding 12 months.
- B. The Chief of Police shall revoke a license if he determines that:
- (1) An operator gave false or misleading information in the material submitted during the application process;
 - (2) An operator or an employee of an operator has knowingly allowed possession, use or sale of controlled substances on the premises of the adult-oriented business;
 - (3) An operator or an employee of an operator has knowingly allowed or promoted prostitution on the premises of the adult-oriented business;

- (4) An operator or an employee of an operator has knowingly operated the adult-oriented establishment during a period of time when the operator's license was suspended;
 - (5) An operator or an employee of an operator has knowingly allowed or, as a result of his or her negligent failure to supervise, has allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the premises of the adult-oriented establishment; or
 - (6) An operator is convicted or pleads guilty or nolo contendere to an offense stated in § 160-4C(9) above.
- C. Any operator whose license is revoked shall not be eligible to receive a license for one year from the date of revocation.

§ 160-10. Penalties for offenses.

- A. Any person, partnership or corporation who is found to have violated this chapter shall be fined a definite sum not exceeding \$90 for each such violation.
- B. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.

§ 160-11. Transfer of license.

- A. An operator shall not transfer his or her license to another, nor shall an operator operate an adult-oriented establishment under the authority of a license at any place other than the address designated in the application.
- B. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.

§ 160-12. Appeal.

If the Chief of Police denies the issuance of a license, or suspends or revokes a license, he shall, within 10 days of his decision, send to the applicant or operator at the address listed on the application, by certified mail, return receipt requested, written notice of his decision and further shall specifically state the evidence presented, the reason for the decision, and the right to an appeal. The aggrieved party may appeal the decision to the Board of Police Commissioners within 30 days of receipt of the notice. The Board must render a decision within 45 days of receipt of the appeal. The aggrieved party may file an appeal from the Board of Police Commissioners directly to the Superior Court for the Judicial District of Ansonia-Milford within 15 days of issuance of notice of denial of the appeal from the Board of Police Commissioners. The filing of an appeal stays the action of the town in suspending or revoking a license until the Board of Police Commissioners or Superior Court makes a final decision. Nothing in this paragraph shall prevent the town from proceeding with an injunction action pursuant to § 160-13 hereof.

§ 160-13. Injunction.

A person who operates or causes to be operated an adult-oriented business without a valid license is subject to a suit for injunction.