COUNTY AGENDA REQUEST

Department:	Planning & Zoning	Presenter(s):	Pete Frisina / Kathy Hobbs
Meeting Date:	Thursday, October 24, 2013	Type of Request:	Public Hearing

Wording for the Agenda:

Public Hearing to gain public input on the regulation of sexually oriented businesses and consideration of Ordinance 2013-16 for the amendment of the Fayette County Code of Ordinances, Chapter 6. Business Licenses to now be titled Regulation of Specific Occupations and associated Fee Schedule.

Background/History/Details:

Staff is proposing amendments to Chapter 6 of the Fayette County Code of Ordinances that include new regulations for Sexually Oriented Businesses and Massage Parlors and amended regulations for Amusements Activities, Canvassers and Solicitors, Personal Care Homes and Community Living Arrangements, and Body Art Studios. These amendments will also update our codes with current State Codes.

Attachment A provides Ordinance 2013-16 as proposed by staff. Attachment B provides the edited ordinance detailing changes to the County Code of Ordinances. Attachment C, located on the last page of this request, is the proposed Fee Schedule.

What action are you seeking from the Board of Commissioners?

Approval and adoption of the amended Chapter 6 of the Fayette County Code of Ordinances to now be titled Regulation of Specific Occupations and associated Fee Schedule.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Not Applicable	Reviewed by Legal	
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

STATE OF GEORGIA
COUNTY OF FAYETTE

ORDINANCE NO. 2013 - 16

AN ORDINANCE TO AMEND THE FAYETTE COUNTY CODE OF ORDINANCES, CHAPTER 6. BUSINESS LICENSES; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES ALLOWED BY LAW.

WHEREAS, the duly elected governing authority of Fayette County is the Board of Commissioners thereof;

WHEREAS, the governing authority desires to amend the provision that provides for the regulation of land development as allowed by the State of Georgia;

WHEREAS, the health, safety, and welfare of the citizens of Fayette County, Georgia shall be improved and protected by adoption and implementation of this Ordinance.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF FAYETTE COUNTY AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF:

Section 1. That Chapter 6. Business Licenses of the Fayette County Code of Ordinances is hereby deleted in its entirety and replaced by a new Chapter 6. to be titled Regulations of Specific Occupations to read as follows:

Article I. – IN GENERAL

Sec. 6-1. Authority.

The regulation and regulatory fees provided for in this chapter are imposed pursuant to the general police powers granted to Fayette County, Georgia, and allowed by O.C.G.A. title 48, ch. 13, art. 5 (O.C.G.A. § 48-13-2 et seq.).
(Code 1992, § 6-1; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-2 - 6-25 - Reserved

ARTICLE II. AMUSEMENT ACTIVITIES.

Sec. 6-26. Definition.

Amusement activity includes any fair, carnival, sideshow, circus, tent show, amusement ride and migratory entertainment and those activities, rides and games normally associated with such amusements wherein the general public is allowed to view or participate for a price.
(Code 1992, § 6-61; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-27. Permit period.

(a) No permit for amusement activity shall be valid for more than fourteen (14) days

from the date that the amusement activity begins.

(b) No person or entity shall receive more than two (2) permits per calendar year. (Code 1992, § 6-62; Ord. No. 2010-01, § 1, 5-13-2010)

Sec . 6-28. Application for permit.

(a) All applications for a permit pursuant to this article shall be on forms prepared by the County Administrator or his or her designee.

(b) An application must be submitted to the Code Enforcement office at least fourteen (14) days prior to the date that the amusement activity is to begin.

(c) The application shall include the following:

1. The name, address and phone number of the business operating the amusement activity;

2. The name of the business owner;

3. The name of the business manager if different from the owner;

4. Proof of any required state permits, proof of liability insurance, Fire Marshal inspection approval, Environmental Health inspection approval, zoning approval, current state insurance inspection report and other required approvals;

5. Proper photo identification of the owner and/or manager;

6. Payment of any regulatory fees required by this article; and

7. Any other documents required pursuant to state law.

Sec. 6-28. Criteria for granting of permit.

(a) No application for any permit for amusement activities shall be granted where the application or any evidence, shows any of the following conditions to exist:

1. The applicant has had any permit issued under the police powers of any county or other governmental subdivision previously suspended or revoked.

2. The applicant, as a previous holder of a permit for the business or business activity for which he now seeks a permit, has violated any law, regulation or ordinance pertaining to such business within a five-year period immediately preceding the date of application.

3. The applicant and/or the owner of the business operating the amusement activity have been convicted of a felony or a crime of moral turpitude within the last five (5) years.

(b) In addition to the conditions listed in subsection (a) of this section, in determining whether or not any permit applied for shall be granted, the following shall be considered in the public interest and welfare:

1. If the applicant is a previous holder of a permit, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

2. The location for which the permit is sought, as to traffic congestion.

3. The number of permits already granted for similar businesses in the trading area of and the place for which the permit is sought.

(Code 1992, § 6-63; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-29. Temporary carnival or amusement rides.

Applicants intending to operate a temporary carnival or amusement ride(s) must provide proof that they hold a valid permit from the State of Georgia to operate said rides.
(Code 1992, § 6-64; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-30. Permit issuance or denial; Fees.

(a) The County Administrator or his or her designee shall issue a permit to an individual who is operating an amusement activity, after the applicant meets the qualifications listed in this chapter and upon the applicant's payment of a fee to be set by the Board of Commissioners.

(b) The County Administrator or his or her designee shall deny the issuance of a permit if the applicant submits an incomplete application or if the applicant does not meet the requirements provided for herein.
(Code 1992, § 6-65; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-31 - 6-40 - Reserved

ARTICLE III. CANVASSERS AND SOLICITORS.
Sec. 6-41. - Definitions.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
Canvasser, peddler, or solicitor means any person who sells or solicits for sale in the unincorporated county any new or used goods, wares, merchandise, services, produce or other things of value and goes about from place to place within the unincorporated county selling or offering for sale any of such things to either merchants or customers shall be deemed a peddler or solicitor. Excluded from this definition are persons who sell or solicit for sale goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

Charitable organization means any benevolent, philanthropic, patriotic, or eleemosynary (of, relating to, or supported by charity or alms) corporation, partnership, limited liability company, association, joint-stock company, trust, governmental agency or entity, unincorporated organization or individual who solicits or obtains contributions solicited from, or conducts the sale of merchandise to, the general public, which contributions are used for charitable purposes or governmental purposes.

Charitable purpose means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose for religion, health, education, social welfare, arts and humanities, environment, civic or public interest.

Door-to-door salesperson means any person who shall solicit orders on behalf of a firm, corporation, company, association, partnership or individual of any goods, wares or merchandise, or other things of value from house to house shall be deemed a door-to-door salesperson. Any person who obtains orders for merchandise or other things of value shall be deemed a door-to-door salesperson. Excluded from this definition are persons who solicit orders for goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

Vehicle means motorized conveyance fully functioning and moving under its own power with valid vehicle tag. A vehicle shall include a trailer or anything pulled by the vehicle. Vehicles shall not be in excess of 20 feet in length, ten feet in width, and eight feet in height.

Sec. 6-42. - Registration required.

It shall be unlawful for any person to engage in business as a canvasser, solicitor, peddler, or door-to-door salesperson without first having registered at the Code Enforcement office. Each registrant shall be required to fill out a registration form giving complete identification, signature, name of employer, products sold, name of manufacturer of products, name of organization he is representing, time of operation in the county and proposed method of operation within the county and to provide such other identification of information as may be required. Any person selling or peddling any objects or goods shall, before being issued a permit, file with the county proof that the applicant or their business proposed to be conducted pursuant to the permit possesses a valid state sales tax number issued by the commissioner of revenue of the state.

Sec. 6-43. - Registration fee prescribed; application for identification or registration form.

Each registrant shall pay a non-prorated, nonrefundable regulatory fee as set by the Board of Commissioners. Each registrant shall make application with the county for authorization to peddle, canvass or solicit and be issued a permit which shall expire December 31 of each year. Permits will be renewed annually prior to the expiration date.

Sec. 6-44. - Evidence of good character; issuance of permit, possession, display.

(a) No door-to-door salesperson, solicitor, peddler, or transient merchant shall be authorized to sell or to solicit orders until a signed application has been filed with the county and a permit issued in accordance with the provisions of this chapter. Code Enforcement shall make an investigation, including but not limited to an investigation of the GCIC record of the applicant. The applicant will submit an annual administrative processing fee set by the Board of Commissioners to Code Enforcement for a thorough background check to be completed. No permit shall be given to any applicant who, based on the information obtained by Code Enforcement, shall have either a pending charge or a conviction for a crime of moral turpitude or an offense involving the elements of assault and battery, or evidence of any other action by the applicant evidencing actions which

would constitute fraud and deceit under the laws of the state.

(b) Each person, while peddling, canvassing, soliciting or selling door-to-door within the limits of unincorporated county, shall have the permit available for inspection by any person being solicited or to Code Enforcement personnel, or Sheriff's Deputies. Possession of this permit shall not in any way represent an endorsement or approval of any product or project by the County.

(c) It shall be unlawful for any person to peddle, canvass or solicit without having first registered with the county in accordance with this chapter and obtained a permit from the county in accordance with this section, or to peddle, solicit or canvass without having the permit available in accordance with this section. Any person violating this chapter shall be punished as provided.

Sec. 6-45. - Applicability of provisions; exceptions.

Except for the regulations set forth in this section nothing in this chapter shall apply to the following:

(1) Officers or employees in the city, county, state or federal governments or the school system, or any subdivisions thereof, when on official business;

(2) Any local nonprofit organization such as boy scouts, civic clubs, religious, charitable, political, or educational organizations and the like, when the membership of such club or organization does the soliciting itself; but it shall apply when the soliciting is done by a paid solicitor or by a solicitor on contract with an individual with only a percentage or portion of any sales or collections to go to the benefit of such nonprofit club or organization;

(3) Any person selling only agricultural or forestry products or selling food for immediate consumption at an approved location

(4) Any person who conducts business at any industry or association trade show;

(5) Any person selling items at a rummage, garage, antique or similar sale when such person, firm, corporation or other legal entity is a resident of this state or has a permanent place of business within this state and such sale is not part of the regular business activity of such person, firm, corporation or legal entity or when the net proceeds of such sale are to be used for charitable purposes;

(6) Any person selling such items at a county-sponsored festival or special event, provided that such person has obtained the necessary approvals from the county to operate at said festival or event.

Sec. 6-46 - Revocation of permit.

Any permit may be revoked by County Administrator or his/her designee because of any violation by the registrant (or any one of a group of registrants) of these regulations, or of any ordinance of the county, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and good character required in this chapter for the original registration.

Sec. 6-47. - Regulations for solicitors and peddlers; operating on public lands or from vehicle.

(a) No person shall stand on or adjacent to a street, road, or highway or on rights-of-way within the county limits for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(b) No person shall locate and/or conduct a business from a mobile vehicle, with the exception of mobile ice cream venders, mobile food venders that serve building/construction sites and venders located at special events, or upon the public sidewalks, streets, alleys, walkways, parks, parking lots, rights-of-way, or other public lands of the county or upon state rights-of-way within the county limits. All mobile ice

cream venders are required to have a Canvasser and Solicitors permit per this Article and shall only operate on streets where the speed limit is 25 miles per hour or less.

(c) The provisions of the county zoning ordinance, pertaining to outside displays, shall be applicable to any solicitor or peddler.

(d) The provisions of county environment ordinance, pertaining to stormwater and illicit discharges, shall be applicable to any solicitor or peddler.

(e) No canvasser, solicitor, peddler or door-to-door salesperson shall:

(1) Call at residences, offices or businesses clearly displaying a sign stating "No Solicitors or Peddlers Invited," "No Solicitation," or using similar language;

(2) Engage in door-to-door soliciting at residences on Sundays or between the hours of 8:00 p.m. and 9:00 a.m.;

(3) Enter any private dwelling without the consent of the owner or occupant, or to remain there after being requested or directed to leave;

(4) Fail to register and carry or produce for inspection a permit when required under this chapter;

(5) Make any false or deceptive statement on any registration hereunder.

(f) A person who is soliciting or selling on behalf of a nonprofit organization shall be required to verify the nonprofit status of such organization.

Sec. 6-48. - Applicability of provisions to farm products and food products.

The legal right of the local farmer and producer to sell the products of his own farm, orchard, poultry yard, etc. is recognized. No permit shall be required from any bona fide farmer who is selling the products of his own farm, orchard, poultry yard, etc.; provided, however, that no such sales shall occur as a door-to-door salesman.

Sec. 6-49. - Exemption of disabled or indigent veterans of armed forces.

(a) *Scope of exemption.* It shall be lawful for any disabled or indigent veteran of the armed forces, such veteran is defined in O.C.G.A. § 43-12-1, to peddle without obtaining a permit for the privilege of so doing, and a certificate from the probate court of the county stating the fact of his being such disabled or indigent veteran shall be sufficient proof thereof; provided, that this section shall not authorize peddling ardent spirits. The privileges hereby granted shall not be transferred to or used by any other person.

(b) *Effect of exemption.* All such persons are authorized to peddle in the county without first obtaining a permit therefor from the county and without being subject to any tax therefor.

(c) *Affidavit required.* Before any such person shall avail himself of the privilege conferred by this section, he shall go before the judge of the probate court of the county and make oath in writing that he served as a soldier and that the business which he proposes to carry on (stating what he proposes to peddle) is his own, and that he will not sell or offer to sell any article for another, directly or indirectly.

(d) *Issuance of certificate.* Upon making and filing the affidavit provided for in subsection (a), the judge of the probate court shall issue a certificate stating that such person has taken the oath prescribed, which certificate shall authorize such person making such affidavit and holding such certificate to peddle in the county without procuring a permit or being subject to any tax therefor.

Sec. 6-50. - Obstruction of street, highway or sidewalk prohibited.

No canvasser, solicitor, peddler or door-to-door salesperson authorized to engage in any business in the county shall, in carrying on such business, obstruct the whole or any part of any sidewalk, street or highway of the county and any such person peddling in the county or using the streets or sidewalks in the county for the purpose of selling or offering for sale any goods, wares, medicines or merchandise of any kind, shall

continually move from place to place in the county, and shall not in the conduct or carrying on of such.

Sec. 6-51. - Enforcement.

Citations for violation of this chapter may be issued by the County Administrator or his/her designee, Code Enforcement personnel or Sheriff Deputies. The citation shall be returnable to and tried before the state court of the county. Any person, firm or corporation violating any provisions of this chapter may, upon conviction, be fined in an amount, and/or imprisoned for such term as authorized by the county's Charter. Each day said violation shall continue shall constitute a separate offense.

Sec. 6-52 - 6-60 - Reserved

ARTICLE IV. Personal Care Homes and Community Living Arrangements.

Sec 6-61 Permit required

As required in State regulations from the Department of Human Services 297-9-37-01 through 297-9-37-25 Community Living Arrangements; whether operated for non-profit or profit which undertakes through their ownership or management to provide or arrange for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financial supported in whole or in part by funds designated through the Department of Behavioral Health and Developmental Disabilities, and Personal Care Home Regulations from The Department of Community Health Chapter 111-8, 111-8-62 in its entirety are hereby adopted as part of the Fayette County Regulation of Specific Occupations Code of Ordinance.

6-62 Application

1. Operator and or owner shall provide a copy of the application submitted to the state with a copy of the approved permit

a. Personal Data concerning administrator and owner if different

1. Name and Address
2. Date of Birth
3. Social Security Number
4. Sex
5. Affidavit of residency on site

b. References: Furnish the name, address, and phone number of at least three (3) individuals, other than family members

2. A complete list of all employees with affidavit of approval from DCH or DHS
3. Approval letter from Fayette County Environmental Health stating adequate septic system.
4. Approval letter from Fayette County Zoning Administrator, showing approved zoning area.

5, Approval letter from Fayette County Building Permits and Inspections showing the site has passed inspection.

6. Approval letter from Fayette County Fire Marshal showing the site compliant with all Life safety codes as required.
7. Copy of liability insurance as required by state. (1 million per resident and 3 million per incident as of 08/29/13)

6-63 Size

(a) No personal care home shall have more than (3) residents and (1) administrator living on site

(b) All occupants of the permitted location who are not residents receiving care, must be related by blood, marriage, or adoption.
(c) Every occupant of the permitted location regardless whether they receive care services shall have a minimum square footage and bed space for residents as required.

6-64 Records of Treatment

As required by state law and/or DCH and/or DBHDD Regulations

6-65 Permit issued

Fayette County permit shall be issued in accordance with all state required laws and regulations.

6-66 Fees

Permits are issued on a yearly basis expiring at midnight December 31 a each year. A permit fee as set by the Board of Commissioners shall be paid and include

(a) Application/investigation fee (nonrefundable and not deducted from permit fee)
(b) Annual Permit Fee

6-67 Denial or revocation of permit

In the addition to other reasons for denial or revocation stated in this chapter, the permit may be revoked upon grounds including, but not limited to, the following:

(a) The permit holder is guilty of fraud in the rendering of services or fraud or deceit in obtaining a permit
(b) The permit holder is addicted to the use of intoxicating liquors, narcotics or stimulants to such an extent to incapacitate such person or to the extent the services rendered is not being fulfilled
(c) The permit holder or any employee is guilty of fraudulent, false misleading, or deceptive practices.
(d) The state permit is suspended or revoked
(e) The permit holder, resident or any employee commits any criminal act at the permit holder premise.

Sec. 6-68 - 6-80 - Reserved

Article V. - Sexually Oriented Businesses and Massage Parlors

Sec. 6-81. - Purpose and intent.

(a) It is the purpose and intent of this article to regulate sexually oriented businesses and massage parlors to promote the health, safety, morals, and general welfare of the citizens of Fayette County and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the county, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance [from which this article derives] to condone or legitimize the distribution of obscene material.

(b) This article is not intended to interfere with or suppress legitimate expression or any speech activities protected by the First Amendment to the United States constitution nor is it intended to permit any use or activity which is otherwise prohibited or made punishable by law.

(c) Findings and rationale. Based upon evidence of the adverse secondary effects of sexually oriented businesses presented to, and made available to the Fayette County Board of Commissioners in reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to:

• A Report on Zoning and Other Methods of Regulating Adult Entertainment in Amarillo, dated September 12, 1977, by the Planning Department, City of Amarillo, Texas;

• Adult Business Study, dated May 25, 1979, by the Planning Department of the City of Phoenix, Arizona;

• Regulation of Adult Uses: Issues and Analysis, dated September 14, 1982, by Planning Department of Beaumont, Texas;

• Adult Entertainment Business in Indianapolis: An Analysis, dated February, 1984, by the Department of Metropolitan Development of Indianapolis, Indiana; and Los Angeles, California

• Adult Entertainment Businesses in Oklahoma City: A Survey of Real Estate Appraisers, dated March 3, 1986, by the Community Development Department of Oklahoma City, Oklahoma;

• Director's Report on Proposed Land Use Code Text Amendment - Adult Cabarets, dated March 1989, by the Department of Construction and Land Use, Seattle, Washington;

• Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, dated June 6, 1989, Hubert H. Humphrey, III, Attorney General, State of Minnesota;

• Summary of Land Use Studies Relating to Secondary Effects of "Adult" Businesses, dated September 12, 1991, by Garden Grove, California;

• Legislative Report of the Committee on the Proposed Regulation of Sexually Oriented Businesses of the City of Houston, Texas, dated November 30, 1993; updated January 7, 1997

• Study conducted by City of Rome, Georgia Police Department, dated March 6, 1995;

• NLC summaries of "SOB Land Uses" studies, by the National Law Center for Children and Families, dated March 31, 1996;

• A Digest of Research: The Evidence of Relationship Between Adult-Oriented Businesses and Community Crime and Disorder, dated July 1996, prepared by the Chief of Police for the City of St. Mary, Georgia;

• Recent Developments Regarding Local Regulation of Sexually Oriented Businesses, by David W. Owens, dated August 1998, published by the Institute of Government, The University of North Carolina at Chapel Hill;

• Crime Risk in the Vicinity of a Sexually Oriented Business: A Report to the Centralia City Attorney's Office, dated February 28, 2004, Centralia, Washington;

• Survey of Appraisers: Fort Worth & Dallas Effects of Land Uses on Surrounding Property Values, dated September, 2004, by Duncan Associates to the City of Forth Worth, Texas;

• Report of Thomas J. O'Loughlin, Police Chief to the City of Milford, Massachusetts, dated May 6, 2008;

The Board of Commissioners finds:

(1) Sexually oriented businesses, as a category of uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property

crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the county's rationale for this article, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the county's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the county. The county finds that the cases and documentation relied on in this article are reasonably believed to be relevant to said secondary effects.

The county hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the studies, opinions and reports related to such secondary effects.

Sec. 6-82. - Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning.

Adult arcade means an establishment which, as a substantial business purpose, offers or provides to the public one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, which are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult bookstore or *adult video store* means an establishment which, as one of its substantial business purposes.

(1) Offers or provides books, magazines, films, videotapes, compact disks, digital video discs, slides or other visual representations, or software (whether for viewing off-premises or on-premises by use of motion picture machines, televisions, monitors, computers or other image-producing devices), periodicals, or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas; or

(2) Offers or provides instruments, devices, or paraphernalia that are designed for stimulation of human genital organs, for sadomasochistic use or abuse, or for use in conjunction with "specified sexual activities," excluding personal lubricants and creams, condoms and other birth control and disease prevention products.

Adult cabaret means an establishment, which as a substantial business purpose offers or provides live entertainment, where performers could be appear in a state of nudity, semi-nudity, or fully clothed, which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities, or specified anatomical areas.

Adult encounter parlor means an establishment which as a substantial business purpose offers or provides a premises where customers either congregate, associate, or consort with employees who engage in specified sexual activities with or in the presence of such customers, or who display specified anatomical areas in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.
Adult items includes any of the following: books, magazines, films, videotapes, compact discs, video discs, digital video discs, slides, software, or other visual representations (whether for viewing off-premises or on-premises by use of motion picture machines, televisions, monitors, computers or other image-producing devices), periodicals, or other printed or pictorial materials which are intended to produce sexual stimulation or sexual gratification to customers, and which are distinguished by or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities, or specified anatomical areas; instruments, devices, or paraphernalia designed for stimulation of human genital organs, for sadomasochistic use or abuse, or for use in conjunction with specified sexual activities, excluding personal lubricants and creams, condoms and other birth control and disease prevention products.
Adult modeling studio means an establishment which as a substantial business purpose offers or provides to customers figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
Adult movie theater means an establishment which as a substantial business purpose offers or provides the exhibition to customers of motion pictures, films, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" which are intended to provide sexual stimulation or sexual gratification to such customers.
Adult service means a dance, performance or other activity, including, but not limited to, service of food or beverages, modeling, posing, wrestling, singing, reading, talking, or listening conducted for any consideration in an adult service business by a person who exposes one or more specified anatomical areas or performs a specified sexual activity during all or part of the time that the person is providing the service.
Adult service business means a commercial establishment where any adult service is provided to patrons in the regular course of business and as one of the substantial business purposes of the establishment.
Adult service provider or providers means any person who provides an adult service, or bathhouse technician.
Adult theatre means a theater, concert hall, auditorium, or similar commercial establishment which, as a substantial business purpose, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.
Adult video facility means a commercial establishment which, as one of its substantial business purpose, offers or provides films, motion pictures, video cassette projections, slides, photographs or other visual media characterized by depiction of "specified sexual activities" or "specified anatomical areas" which are shown in the regular course of business and as a substantial business purpose of the establishment. "Adult video facility" does not include a theater where all viewing occurs in a common area with seating for 50 or more persons.
Applicant means the applicant for a permit shall be the intended operator of the sexually

oriented business.

Bath means any method of washing or cleansing of the structure of the human body or any external part thereof with water or other liquid, vapor or steam, including but not limited to steam rooms, cabinet baths, sauna baths, sitz baths, colon irrigations, showers and baths of all kinds.

Bathhouse means any establishment which, as a substantial business purpose, offers or provides baths administered by bath technicians or where any person engages in any or all of the activities mentioned in the definition of bath, provided that nothing in this section contained shall be construed to include a duly licensed hospital, nursing home, medical clinic, physician, surgeon, physical therapist, chiropractor, osteopath, naturopath, podiatrist, or person holding a drugless practitioner's certificate under the laws of the State of Georgia. Furthermore, this definition shall exclude from its operation establishments wherein duly licensed barbers and cosmetologists administer baths only to the scalp, the face, the neck or the shoulders.

Bath technician means any person who for any consideration whatsoever administers a bath to another person at a bathhouse.

Child care facility means an agency, organization, or individual providing care for four (4) or more children not related by blood or marriage or not the legal wards of the attendant adult.

County means Fayette County, Georgia.

County Administrator means the administrator of the county or such person as the County Administrator may designate to perform the duties of the County Administrator under this article.

Conduct any business in a sexually oriented business means any person who does any one or more of the following shall be deemed to be conducting business in a sexually oriented business:

(1) Operates a cash register, cash drawer or other depository on the sexually oriented business premises where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the establishment or the activities conducted therein are kept;

(2) Displays or takes orders from any customer for any merchandise, goods, entertainment or other services offered on the sexually oriented business premises;

(3) Delivers or provides to any customer any merchandise, goods, entertainment or other services offered on the sexually oriented business premises;

(4) Acts as a door attendant to regulate entry of customers or other persons into the sexually oriented business premises; or

(5) Supervises or manages other persons in the performance of any of the foregoing activities on the sexually oriented business premises.

Customer means any person who:

(1) Is allowed to enter a sexually oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or

(2) Enters a sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(3) Is a member of and on the premises of a sexually oriented business operating as a private club.

Employee means any person who renders any service whatsoever to the customers of a sexually oriented business, whether as an independent contractor or otherwise, or who works in or about a sexually oriented business and who receives compensation for such service or work from the operator or owner of the sexually oriented business or from the

customers therein.

Entertainment means any act or performance, such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees, agents, contractors, or customers. The term "entertainment" shall also mean bartenders, waiters, waitresses, or other employees exposing specified anatomical areas or engaging in specified sexual activities in the presence of customers.

Escort means a person who, for any form of 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 means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its substantial business purposes for a fee, tip, or other consideration.

Establish or *establishment* means any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business.

Exterior portion means any part of the physical structure of a sexually oriented business, including a wall, veneer, door, fence, roof, roof covering, or window, which is visible from any public way or public property.

Floor space means the floor inside a sexually oriented business that is visible or accessible to patrons for any reason, excluding restrooms.

Influential interest means any of the following:

(1) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business;

(2) Ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business; or

(3) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

Manager means any person, who supervises, directs or manages any employee of a sexually oriented business or any other person who conducts any business in a sexually oriented business with respect to any activity conducted on the premises of the sexually oriented business, including any on-site manager.

Massage is the manipulation of soft tissue and includes but is not limited to effleurage (stroking skin without going deep), petrissage (kneading movement by lifting and grasping), tapotement (brisk blows in rapid alternating fashion), compression, vibration, friction, nerve strokes, and other movements, whether by hand or with mechanical or electrical apparatus, for the purpose of muscular massage. This may include the use of oil, salt glows, hot and cold packs, and other recognized forms of massage therapy. "Massage therapy" shall not include a diagnosis, service, or procedure normally provided by a doctor of medicine, doctor of chiropractic, or doctor of podiatry, nor shall it apply to athletic trainers, technicians or physical therapists who act by a prescription or under the supervision of an authorized licensee to practice medicine or surgery. Massage shall not include any "massage therapy" performed by a licensed "massage therapist" pursuant to the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1, et seq.).

Massage parlor means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentation, electric or magnetic treatments, or any other treatment involving manipulation of the human body occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation or service related thereto, exposes his or her specified anatomical areas or performs a specified sexual activity. The definition of massage parlor shall not include the practice of massage in any licensed hospital, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for amateur, semiprofessional or professional athlete or athletic team or school athletic program. A facility which is operated for the purpose of massage therapy performed by a massage therapist is not a massage parlor. A "massage therapist" means a person who:

(1) Has graduated from a massage therapy program of at least 500 hours of training approved by the Georgia Nonpublic Postsecondary Education Commission or by a technical college of the Georgia Department of Technical and Adult Education or by a university or higher education institute of Georgia, or from a school with comparable approval or accreditation from another state with transcripts indication completion of at least 500 hours of training in massage therapy; or

(2) Is currently licensed, certified, or registered as a massage therapist in another jurisdiction, state, or territory of the United States or of a foreign country, which requires graduation from a massage therapy program of at least 500 hours of training.

Multifamily tract means any residential tract that contains any building or buildings or portion or portions thereof, that is designed, built, rented, leased, sold, let out or hired out to be occupied, or which is occupied, in separate units, each containing living, sleeping and food preparation facilities, as the homes or residences of three or more families, groups, or individuals living independently of each other.

Nudity or state of nudity means a state of dress which fails to opaquely and fully cover the cleft of the human buttocks, anus, male or female genitals, pubic region, or female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola.

On-site manager means a person charged by an owner or operator of a sexually oriented business with the responsibility for direct supervision of the operation of the sexually oriented business and with monitoring and observing all areas of the sexually oriented business to which customers are admitted at all times during which the sexually oriented business is open for business or customers are on the premises of the sexually oriented business.

Operator means the manager or other natural person principally in charge of a sexually oriented business.

Owner or *owners* means the proprietor if a sole proprietorship, all general partners if a partnership, or the corporation and all officers, directors, and persons holding 20 percent or more of the outstanding shares of a corporation.

Permit means a current, valid permit issued by the county pursuant to the terms of this article to an operator of a sexually oriented business, to an adult service provider, manager, operator or other adult service employee.

Public park means a publicly owned or leased tract of land, whether situated in the county or not, designated, dedicated, controlled, maintained and operated for use by the general public for active or passive recreational or leisure purposes by the county or any political subdivision of the state and containing improvements, pathways, access or facilities intended for public recreational use. The term "public park" shall not include

parkways, public roads, rights-of-way, esplanades, traffic circles, easements or traffic triangles unless such tracts or areas contain and provide improvements or access to a recreational or leisure use by the public.

Religious institution means any church, synagogue, mosque, temple or building, whether located within the county or not, where persons regularly assemble for religious worship and related religious activities or for propagating a particular form of religious belief.

Residential means pertaining to the use of land, whether situated within the county or not, for premises such as homes, townhomes, patio homes, manufactured homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for nontransient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. A premise which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes, college or university dormitories, hospitals, and nursery schools shall not be considered to be residential. The term "residential" shall also include any unimproved tract zoned for residential uses by the zoning ordinances of the county, and any unimproved tract within Fayette County zoned for residential uses by the zoning ordinances of Fayette County, Georgia.

School means a building, whether situated within the county or not, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

(1) Public and private schools used for primary or secondary education, in which any regular kindergarten or grades one through 12 classes are taught; and

(2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12.

Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breasts, as well as portions of the body covered by supporting straps or devices.

Sexually oriented business means an adult bookstore, adult cabaret, adult encounter parlor, adult lounge, adult modeling studio, adult movie theater, adult theatre, massage parlor, escort agency or any establishment which has a substantial business purpose of offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. The term sexually oriented business shall not be construed to include:

(1) Any business operated by or employing Georgia licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the Georgia permits held;

(2) Any business operated by or employing Georgia licensed physicians or Georgia licensed chiropractors engaged in practicing the healing arts; or

(3) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

Sexually oriented business manager or managers means a person on the premises of sexually oriented business who has overall supervisory authority over the operation of the business.

Separate area means any portion of the interior of a sexually oriented business separated

from any other portion of a sexually oriented business by any wall, partition or other divider.

Sign means any display, design, pictorial, or other representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of a sexually oriented business and that is used to seek the attraction of the public to any goods, services or merchandise available at such sexually oriented business. The term "sign" shall also include such representations painted on or otherwise affixed to any exterior portion of a sexually oriented business as well as such representations painted on or otherwise affixed to any part of the tract upon which such a sexually oriented business is situated.

Specified anatomical areas means:

(1) Less than completely and opaquely covered:

a. Human genitals, pubic region or pubic hair;

b. Anus or cleft of the buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs and any other similar garment that does not completely and opaquely cover the cleft of the buttocks;

c. Female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola; or

d. Any combination of the foregoing; or

(2) Human male genitals in a discernible erect state, even if completely and opaquely covered.

Specified sexual activities means:

(1) Human genitals in a discernible state of sexual stimulation or arousal; or

(2) Actual or simulated sexual intercourse, masturbation, oral copulation, flagellation, bestiality, fondling, or sodomy; or

(3) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast or breasts; or

(4) Any combination of the foregoing.

Substantial business purpose means a business within the county which meets one or more of the following criteria:

(1) At least 25 percent of the business's displayed merchandise consists of the "adult items"; or

(2) At least 25 percent of the wholesale value of the business's displayed merchandise consists of the "adult items"; or

(3) At least 25 percent of the retail value (defined as the price charged to customers) of the business's displayed merchandise consists of the "adult items"; or

(4) At least 25 percent of the business's revenues derive from the sale or rental, for any form of consideration, of the "adult items"; or

(5) The business maintains at least 25 percent of its floor space for the display, sale, and/or rental of the "adult items" (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(6) The business maintains at least 500 square feet of its floor space for the display, sale, and/or rental of the "adult items" (aisles and walkways used to access said items shall be included in "floor space" maintained for the display, sale, or rental of said items); or

(7) The business regularly offers for sale or rental at least 2,000 of the "adult items"; or

(8) The business regularly features the "adult items" and regularly advertises itself or

holds itself out, by using "adult," "adults-only," "XXX," "sex," "erotic," or substantially similar language, as a business that caters to adult sexual interests; or

(9) The business maintains an "adult arcade."

Tract means a contiguous parcel of land under common ownership, whether situated within the county or not.

Transfer of ownership or control of a sexually oriented business includes:

(1) the sale, lease or sublease of the business;

(2) the transfer of securities in the business, whether by sale, exchange or similar means; and

(3) the establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Zoning administrator means the person appointed and responsible for the enforcement of the zoning ordinances of the county.

Sec. 6-83. - Construction of definitions.

Words and terms not explicitly defined in these regulations or in the Official Code of Georgia Annotated shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

Sec. 6-84. - Administration.

(a) The administration of this article, including the duty of prescribing forms, is vested in the County Administrator or his/her designee, except as otherwise specifically provided. The Code Enforcement section, Sheriff's Office and zoning administrator shall render assistance in the administration and enforcement of this article as follows:

(1) The Sheriff shall make Sheriff's Office facilities and personnel available to fingerprint an applicant for a permit. The cost of fingerprinting shall be paid by the applicant at the time the service is provided. Records of fingerprints so obtained shall be maintained at the Sheriff's Office in the normal course of business.

(2) Code Enforcement shall have a criminal history inquiry conducted on all persons listed as applicants in a permit application. The inquiry shall be limited to determining whether an applicant for a permit has a criminal conviction of the type described and for the period indicated in Sec. 6-56 of this article. Code Enforcement shall notify the County Administrator or his or her designee in the event such criminal conviction is found to exist.

(3) The zoning administrator shall confirm whether the proposed location of the sexually oriented business is in the appropriate zoning district.

(4) Nothing herein is intended to prohibit or restrict Code Enforcement or the zoning administrator from providing additional assistance as may derive from their normal duties and responsibilities or as may be requested by the County Administrator or his or her designee. In no event shall any assistance as described herein, or the absence of such assistance, delay or extend the time period specified for the County Administrator or his or her designee to act on a permit application.

(b) An application for a permit or for the renewal of a permit, made pursuant to this article shall be submitted to Code Enforcement, which shall investigate the application and submit its findings to the County Administrator or his or her designee who shall grant or deny the application in accordance with the provisions of this article. The County Administrator or his or her designee shall also suspend or revoke a permit in accordance with the provisions of this article.

(c) A permit issued pursuant to this article shall expire on December 31st of the year

in and for which it is issued and may be renewed annually.
(d) A permit, if granted, shall state on its face:
(1) The name of the permit holder;
(2) The name and address of the permitted premises;
(3) The date of issuance of the permit;
(4) The particular classification or classifications of sexually oriented business for which the permit is granted, pursuant to the classifications in subsection (e) below; and
(5) The permit number.
(e) Sexually oriented businesses shall be classified as follows, based upon the information in the application and subject to subsequent inspection for verification:
Adult arcade;
Adult bookstore;
Adult cabaret;
Adult encounter parlor;
Adult modeling studio;
Adult movie theater;
Adult video facility;
Bathhouse; or
Escort agency
(f) Massage Parlors are prohibited as defined in this ordinance.

Sec. 6-85. - Permit; purpose and intent.

It is the purpose of this article to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of Fayette County, and to establish reasonable and uniform regulations to prevent deleterious effects of sexually oriented businesses within the county. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this article to in any way condone or legitimize the distribution of obscene material or material harmful to minors.

Sec. 6-86. - Sexually oriented business permit required.

(a) It shall be unlawful for a person to operate a sexually oriented business without a valid permit issued pursuant to this article for the particular classification of sexually oriented business sought to be operated.
(b) It shall be unlawful for a person to operate a sexually oriented business in an establishment that is licensed to sell or dispense alcoholic beverages.
(c) It shall be unlawful for a person to operate a sexually oriented business under any name or designation, or under any premises name or designation, or at any premises address not specified in a valid permit issued pursuant to this article. Each additional premise sought to be operated as a sexually oriented business shall require a separate permit.
(d) It shall be unlawful for any operator of a sexually oriented business to hire or engage any provider, employee or manager who does not hold a valid permit as required under this article.
(e) It shall be unlawful for any person to own, operate, or conduct any business in a sexually oriented business located within the county unless the permit is posted at or near the principal public entrance to the sexually oriented business in such a manner that it

will be conspicuous to patrons who enter the premises.

(f) In any prosecution under this section, it shall be presumed that there was no permit at the time of the alleged offense, unless a permit was then posted as provided

Sec. 6-87. - Application for permit.

(a) A person who wishes to operate a sexually oriented business shall make application for a permit in person at the Code Enforcement office. The application shall be on a form prescribed by the County Administrator or his/her designee and obtainable from Code Enforcement. The application shall be signed under oath by each individual listed as an applicant and notarized. An application shall be deemed filed with the county when Code Enforcement has received the required fee in full, in addition to a completed application with all information required in subsection (c), and the photograph and fingerprints of each applicant. The application shall be in duplicate, including all addendum or attachments thereto, with one copy being kept on file with Code Enforcement and one copy being transmitted to the County Administrator or his or her designee.

(b) If a person who wishes to operate a sexually oriented business is an individual, that individual must be listed in the application for the permit as the applicant and also as the designated permit holder. If a person who wishes to operate a sexually oriented business is a legal entity other than an individual, each officer, manager, or general partner of the entity, and any other individual who has an influential interest in the business, must be listed in the application as an applicant, with the individual appearing in person to make application being further designated as the primary applicant with general authority to act on behalf of the entity in connection with the application, and the entity listed as the designated permit holder. Each applicant shall provide his or her photograph and fingerprints as provided in subsection (a) above.

(c) In addition to such other information as may be requested on the face of the application form, the application shall include the following information:

(1) The name, premises address, business mailing address if different for the premises address, and phone number of the proposed sexually oriented business;

(2) The name, address and phone number of the designated permit holder;

(3) Where the person seeking to operate the sexually oriented business is other than an individual, the entity's state of origination and date of formation;

(4) The name under which the sexually oriented business is to be operated and a general description of the services to be provided;

(5) The telephone number of the sexually oriented business;

(6) The address, plat and/or legal description of the tract of land on which the sexually oriented business is to be located;

(7) If the sexually oriented business is in operation, the date on which the owner(s) acquired the sexually oriented business for which the permit is sought, and the date on which the sexually oriented business began operations as a sexually oriented business at the location for which the permit is sought;

(8) If the sexually oriented business is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same;

(9) Each applicant's full true name and any other names, aliases or stage names used in the preceding five years;

(10) Each applicant's current residential mailing address and telephone number. This information shall be supplemented in writing to Code Enforcement by letter postmarked not later than ten days after any change in this information;
(11) Written proof of each applicant's age, in the form of either a current driver's permit with picture or other picture identification issued by an appropriate governmental agency;
(12) The issuing jurisdiction and the effective date of any permit or permit relating to the operation of a sexually oriented business or relating to the provision of any adult services which is held or has been held at any time by any applicant or by the designated permit holder, whether any such permit has been revoked or suspended, and the reason or reasons therefor;
(13) Any "specified criminal" act(s) committed by the applicant or the intended permit holder for which:
(A) Less than two years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the county or the State of Georgia, would constitute a specified criminal act under this section; or
(B) Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the county or the State of Georgia, would constitute a specified criminal act under this section;
(C) Less than five years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses occurring within any 24-month period for the "specified criminal" acts which are sexual crimes against children, sexual abuse, rape or statutory rape, prostitution, bestiality, sodomy, sexual assault, kidnapping, gambling, Family Violence or crimes connected with another sexually oriented business including, but not limited to, distribution of obscenity or material harmful to minors, prostitution, pandering, or any conviction in another jurisdiction for conduct which, if carried out in the county or the State of Georgia, would constitute a specified criminal act under this section;
(D) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
(14) The name and address of the statutory agent or other agent authorized to receive service of process;
(15) The name(s) of the sexually oriented business manager(s) who will have actual supervisory authority over the operation of the business. This information shall be supplemented in writing to Code Enforcement by letter postmarked no later than ten days after any change in this information; and
(16) An accurate, to-scale, but not necessarily professionally drawn, floor plan or diagram of the business premises clearly showing the configuration of the premises, including a statement of total floor space occupied by the business, the place at which the

permit will be conspicuously posted, if granted, the location of all manager's stations and overhead lighting fixtures, and clearly designating all portions of the premises in which patrons will not be permitted. Each diagram should be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. Code Enforcement 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.

(d) The application shall be accompanied by the following:

(1) Payment in full of the fee as required

(2) A certified copy of the trade name certificate filed in compliance with the trade name statute of the Official Code of Georgia Annotated, if the sexually oriented business is to be operated under an assumed name;

(3) If the sexually oriented business is a Georgia corporation, a certified copy of the Articles of incorporation, together with all amendments thereto;

(4) If the sexually oriented business is a foreign corporation, a certified copy of the certificate of authority to transact business in the State of Georgia, together with all amendments thereto;

(5) If the sexually oriented business is a limited partnership formed under the laws of the State of Georgia, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;

(6) If the sexually oriented business is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the Secretary of State of Georgia;

(7) Proof of the current fee ownership of the tract of land on which the sexually oriented business is to be situated in the form of a copy of the recorded deed;

(8) If the persons identified as the fee owner(s) of the tract of land in item (7) are not also the owners of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owners or proposed owners of the sexually oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business for the purpose of the operation of the sexually oriented business; and

(9) Any of items (1) through (8) above, shall not be required for a renewal application if the applicant states that the documents previously furnished Code Enforcement with the original application or previous renewals thereof remain correct and current.

(e) The application shall contain a statement under oath that:

(1) The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and

(2) The applicant has read the provisions of this article.

(f) A separate application and permit shall be required for each sexually oriented business.

Sec. 6-88. - Fees.

Every application for issuance or renewal of a sexually oriented business permit shall be accompanied by a non-prorated and nonrefundable application fee to be set by the Board of Commissioners and changed as necessary.

Sec. 6-89. - Issuance or denial.

(a) Within 45 days after the completed application for a sexually oriented business permit is filed with Code Enforcement, the County Administrator or his/her designee shall mail to the designated permit holder a permit or a written notice of granting of the permit or of intent to deny.

(b) The County Administrator or his/her designee shall issue a permit to the applicant unless one or more of the following conditions exist:

(1) The applicant's sexually oriented business is located within 1,000 feet of any school, religious institution, public park, child care facility, or zoned for residential purposes. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the front door of the applicant's sexually oriented business to the nearest point on the property line of such school, religious institution, public park, child care facility, or zoned for residential purposes, as certified by a registered surveyor;

(2) The applicant's sexually oriented business is located within 1,000 feet of any other sexually oriented business for which there is a permit under this article. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the front door of the applicant's sexually oriented business to the front door of any other sexually oriented business, as certified by a registered surveyor;

(3) The applicant's sexually oriented business is located in a section of the county that is zoned other than the M-1 Light Industrial District;

(4) The applicant holds a license, issued under Chapter 3 of this Code, to sell or dispense alcoholic beverages upon the premises of the intended sexually oriented business;

(5) The applicant failed to supply all of the information requested on the application;

(6) The applicant gave materially false, fraudulent or untruthful information on the application;

(7) The applicant, or the intended permit holder, has been convicted of a specified criminal act;

(8) The application or the sexually oriented business does not meet any other requirement of this article;

(9) The operator has had a permit revoked for the same sexually oriented business within the 12-month period next proceeding the date that the application was filed. The fact that a revocation is being appealed shall have no effect;

(10) The applicant has not demonstrated that the owner of the sexually oriented business owns or holds a lease for the property or the applicable portion thereof upon which the sexually oriented business will be situated or has a legally enforceable right to acquire the same;

(11)The applicant or the designated permit holder has failed to comply with or is in violation of applicable provisions of the zoning ordinances, or the building codes, development standards or other land use ordinances and regulations of the county relating to the business or activity to be conducted under the permit;

Within the past two years, the applicant or the designated permit holder has had a permit similar to that authorized under this article, but issued in another jurisdiction, revoked on the basis of conduct which would be a ground for revocation of a permit issued under this article if committed in the county. The fact that the revocation is being appealed at the time of the decision on this application shall have no effect.

(12) The granting of a permit would violate a state or federal statute, county ordinance, or a court order.

(c) Property uses and distances for original applications shall be determined as of the time that the application is filed. If a renewal application is timely filed as provided in

this Article of this article, the property uses and measurements for the renewal application shall be determined as of the time that the original application for the sexually oriented business was filed. If not timely filed, renewal applications shall be subject to the same fees and shall be treated in the same manner in all respects as original applications.

Sec. 6-90. - Appeal from denial of permit.

(a) In the event that, prior to submitting the application to the County Administrator or his or her designee, Code Enforcement determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within 20 days of the receipt of its application by Code Enforcement, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten days at any time before the notice is issued in order to make modifications necessary to comply. An applicant may appeal the decision of Code Enforcement regarding such denial by filing a written request for a hearing with the County Administrator or his or her designee within ten days after he is given notice of such denial. The County Administrator's or his or her designee's decision on the application shall be final unless an appeal of said decision is timely filed. An appeal shall not stay the County Administrator's or his or her designee's decision on the issuance of a permit. The applicant's written request for a hearing shall set out the grounds on which the denial is challenged. The hearing shall be conducted before the Board of Commissioners at a reasonable date and time established by the board and after reasonable notice to the applicant. At the hearing, the Board of Commissioners shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the board, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross examine witnesses and be represented by legal counsel.

(b) The Board of Commissioners shall conduct the hearing within 30 days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The Board of Commissioners shall render a written decision and issue notice thereof to the applicant within ten days after the conclusion of the hearing. The written decision of the Board of Commissioners shall be final.

(c) In any instance in which the applicant's establishment is to be situated within 1,000 feet, as measured hereunder, from another proposed establishment for which a previously filed permit application under this article has been denied, and the previously filed application is still subject to appeals, the County Administrator or his/her designee may grant the permit on a conditional basis, subject to the outcome of the appeals on the previous application. A permit so issued may be withdrawn and denied effective upon the third day after notice thereof is given to the operator following the resolution of the appeals on the prior permit. In case of denial the applicant shall have the same rights of appeal hereunder as if the permit had been denied in the first instance.

(d) The provisions of Section 6-87, above, shall not be construed to prohibit a sexually oriented business for which there is a permit from relocating to another location situated within 1,000 feet of its existing location, provided that the proposed location complies with all applicable requirements of this article other than its proximity to its own existing sexually oriented business location. An original permit application shall be required to be filed for the proposed relocation, and Code Enforcement shall conditionally grant the application, if granted, on the stipulation that the permit will not actually be issued until the applicant discontinues operation at its existing location and surrenders the permit for its existing location. Any such relocation must be completed within 180 days from the date that the permit is conditionally granted or the conditional

grant of the application will become void. Pending the removal of the sexually oriented business to its new location, both the old and new locations shall be deemed to be operating under a permit for purpose of measurements to locations of other proposed sexually oriented business for which applications may be filed.

(e) In any instance in which the proposed sexually oriented business tract description submitted by an applicant pursuant to this Article for a permit reflects a tract or parcel of land that has resulted from a subdivision of property for which compliance with the applicable subdivision requirements of this article was required, and the zoning administrator determines that the property has not been lawfully subdivided in accordance with the proper subdivision requirements, then the Code Enforcement shall cause all measurements and determinations regarding the issuance of the permit to be made on the basis of the parent tract from which the subdivision was made, rather than the subdivided tract.

Sec. 6-91. - Nontransferability of permit.

(a) Permits issued under this article are not transferable as to permit holder or location. A permit holder shall not conduct a different classification of a sexually oriented business than that designated in the permit or conduct a sexually oriented business under the authority of a permit at any place other than the address designated in the application. No sexually oriented business shall be conducted under any name or under any designation or classification not specified in the permit for that business.

(b) It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a permit.

Sec. 6-92. - Term; renewal.

Each permit shall be valid until December 31 of the year of issue and shall expire on December 31 of the year of issue, unless sooner revoked, or surrendered.

Sec. 6-93. - Suspension of permit.

The County Administrator or his/her designee shall suspend a permit for a period of 30 days if a permit holder is convicted of violating a provision of this article.

Sec 6-94. - Revocation of permit.

(a) The County Administrator or his /her designee shall revoke a permit issued pursuant to this article if the permit holder:

(1) Knowingly allowed a person less than 18 years of age to enter a sexually oriented business;

(2) Is convicted of a violation of this article in any 12-month period;

(3) Is convicted of any crime or crimes on the basis of which a permit may be denied under Sec.6-87;

(4) Gave false or misleading information in the application;

(5) The sexually oriented business has not been open for business for a period of 30 consecutive days, unless due to circumstances beyond the control of the owner, and the owner is proceeding with due diligence, given all attendant circumstances, to open or reopen the establishment;

(6) That the permit was erroneously issued in contravention of the criteria of this article;

(7) Has knowingly operated or worked in the sexually oriented business during a period of time when the permit was suspended; or

(b) The fact that a conviction is being appealed shall have no effect on the revocation of the permit.

Sec. 6-95. - Permit renewal.

(a) A permit may be renewed by filing an application for renewal on a form provided by Code Enforcement. The application for renewal shall be received by Code Enforcement not less than 45 days before the expiration of the permit. When the application for renewal is received less than 45 days before the expiration date, the expiration of the permit shall not be delayed, postponed or otherwise affected.

(b) The County Administrator or his/her designee may deny an application for renewal for any reason for which a new application may be denied or revoked under this article.

(c) An application for issuance or renewal of a sexually oriented business permit shall be accompanied by such fee as required.

Sec. 6-96. - Procedure for revocation, suspension and denial of renewal of existing permits.

(a) If the County Administrator or his/her designee determines that grounds exist to suspend or revoke a permit, or to deny an application for renewal of a permit, the County Administrator or his/her designee shall notify the designated permit holder or permit applicant, as applicable, in writing of the intent to deny, suspend, or revoke, which notice shall include a summary of the grounds therefor. The notice shall be sent by registered or certified mail to the address of the designated permit holder or permit applicant listed in the current year's permit application or renewal application.

(b) Within ten days after the effective date of notice, the respondent may provide to the County Administrator or his/her designee in writing a response which shall include a statement of reasons why the permit, or renewal thereof, should not be denied, suspended, or revoked and which may include a request for a hearing. If a response is not received by the County Administrator or his/her designee in the time stated, the denial of renewal, suspension or revocation shall be final, and notice thereof shall be sent to the applicable designated permit holder, or permit applicant by registered or certified mail.

(c) Within ten days after receipt of a response, the County Administrator or his/her designee shall withdraw the intent to deny the renewal, suspend, or revoke, and so notify the respondent, or shall deny the renewal, impose a suspension or revoke the permit. Following a decision to deny renewal, suspend or revoke a permit, County Administrator or his/her designee shall send notice thereof to the respondent, which shall include a statement of the reason(s) for the denial, suspension or revocation. The effective date of notice shall be the date the notice is actually received or five days after the date the notice is mailed, whichever occurs first.

Sec. 6-97. - Appeal from suspension, revocation or denial of renewal.

(a) An applicant may appeal the decision of the County Administrator or his/her designee regarding a suspension, revocation or denial of renewal of a permit by filing a written request for a hearing before the Board of Commissioners with the County Administrator or his/her designee within ten days after he or she is given notice of such denial. The County Administrator’s or his/her designee’s decision on the application shall be final unless an appeal is timely filed. The applicant's written request for a hearing shall set out the grounds on which the County Administrator’s or his or her designee’s decision is challenged. The hearing shall be conducted before the Board of Commissioners’ at a reasonable date and time established by the board and after reasonable notice to the applicant. At the hearing, the Board of Commissioners shall receive oral and written testimony regarding the application. Hearings shall be conducted under procedures established by the Board of Commissioners, which shall be consistent with the nature of the proceedings and shall ensure that each party may present evidence, cross examine

witnesses and be represented by legal counsel.

(b) The Board of Commissioners shall conduct the hearing within 30 days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The Board of Commissioners shall render a written decision and issue notice thereof to the applicant within ten days after the conclusion of the hearing. The written decision of the Board of Commissioners shall be final.

Secs.6-98-100. - Reserved.

Sec. 6-101. - Persons younger than 18 and intoxicated persons prohibited from entry; attendant required.

(a) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

(b) It shall be unlawful to allow a person who is visibly intoxicated to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

(c) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of 18 years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

(1) A valid operator's, commercial operator's, or chauffeur's driver's license; or

(2) A valid personal identification certificate issued by the State of Georgia or another official government agency containing a description of the person so identified, such person's photograph, and such person's date of birth. Appropriate forms of such identification include a passport, or military identification card. Appropriate forms of identification shall not include a birth certificate nor any traffic citation or complaint.

Sec 6-102. - Exterior portions of sexually oriented business.

(a) It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the sexually oriented business to be visible from any point outside such sexually oriented business.

(b) It shall be the duty of the owner or operator of a sexually oriented business to opaquely cover each non-opaque area through which a person outside the premises of the sexually oriented business may otherwise see inside the sexually oriented business.

Sec. 6-103. - Alcoholic beverages.

(a) It shall be unlawful for an owner, operator, or manager of an adult sexually oriented business to knowingly allow the sale, dispersion or consumption of alcoholic beverages upon the premises, including all outdoor areas, of a sexually oriented business.

(b) It shall be unlawful for an owner, operator or manager of an adult sexually oriented business to knowingly allow any person, whether a patron, employee or otherwise, to bring any alcoholic beverage onto the premises of the sexually oriented business, including all outdoor areas.

Sec. 6-104. - Access, visibility, lighting, supervision.

(a) It shall be unlawful for any owner, operator or manager of any sexually oriented business to permit any employee to provide any entertainment to any customer in any separate area within a sexually oriented business to which entry or access is blocked or

obscured by any door, curtain or other barrier, regardless of whether entry to such separate area is by invitation, admission fee, club membership fee or any form of gratuity or consideration.

(b) It shall be the duty of any owner, operator or manager of a sexually oriented business to allow immediate access by any law enforcement officer, county fire department official, Code Enforcement personnel, or health offical to any portion of the premises of the sexually oriented business upon request for purpose of inspection of such premises for compliance with this article, or any other applicable law.

(c) Each sexually oriented business shall be equipped with lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at four feet above floor level.

(d) It shall be the duty of any owner, operator or manager of a sexually oriented business to ensure that at least one on-site manager is on duty on the premises at all times during which the sexually oriented business is open for business or during which customers are on the premises.

(e) It shall be the duty of any owner, operator or manager of a sexually oriented business to ensure that all persons acting as managers or adult service providers on the premises hold and display permits under Division 4 of this article, and that adult service providers comply with this article.

(f) It shall be the duty of the on-site manager to ensure that no adult service provider or manager is allowed or suffered to conduct any business on the premises of a sexually oriented business unless the on-site manager thereof has in his possession or control an on-site card, as referenced in this article for the manager or adult service provider. On-site cards shall be made available for immediate inspection by any law enforcement officer, fire department official, Code Enforcement personnel, or health offical. Managers or adult service providers working at more than one sexually oriented business may retrieve their on-site cards upon departing the premises in order to present them to a manager at any other sexually oriented business where such persons are employed to hold while the manager or adult service provider remains on those premises.

(g) It shall be the duty of any owner, operator or manager to maintain a complete list of all persons, including names and addresses, which conduct any business on the premises and are required to obtain a permit under Division 4.

(h) It shall be the duty of an owner and manager of a sexually oriented business to provide that all off-street parking areas and premise entries of the sexually oriented business are illuminated from sunset to one hour following the time of closing of the sexually oriented business with a lighting system which provides an average maintained horizontal illumination of one foot-candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce specified criminal conduct as defined in this article.

Sec. 6-105. - Adult service business; operating requirements.

(a) An adult service business shall be provided in accordance with the following regulations. Knowing failure of a permit holder or manager to ensure compliance with the regulations on the premises is a violation of this article by the permit holder or manager.

(1) A person employed or acting as an adult service provider or manager shall have a valid permit issued pursuant to the provisions of this article. A permit or a certified copy thereof for each manager or provider shall be maintained on the premises in the custody of the manager at all times during which a person is serving as a provider or manager on

the premises. Such permits shall be provided by the manager for inspection upon request by a law enforcement officer or other authorized county official.

(2) A person under the age of 18 years may not receive, observe or provide an adult service.

(3) A person may not provide an adult service in an adult service business except upon a stage elevated at least 18 inches above floor level. All parts of the stage, or a clearly designated area thereof within which the adult service is provided, shall be a distance of at least three feet from all parts of a clearly designated area in which patrons may be present. The stage or designated area thereof shall be separated from the area in which patrons may be located by a solid barrier or railing the top of which is at least three feet in height. A provider or patron may not extend any part of his or her body over or beyond the barrier or railing.

(4) An adult service provider, in the course of providing an adult service, may not perform or simulate any specified sexual activities.

(5) Adult services may not be provided between the hours of 1:00 a.m. and 10:00 a.m. on and between Monday through Sunday morning, or between the hours of 12:01 a.m. on Sunday to 10:00 a.m. on Monday.

(6) An adult service may not be provided in any location which is not visible by direct line of sight at all times from a manager's station located in a portion of the premises which is accessible to patrons of the adult service business.

(7) An adult service shall not be provided in any location or area of a premise so as to be visible or viewable from a public right-of-way.

(8) An adult service provider shall wear his or her adult service work identification card at all times while on the premises except while providing an adult service. The card shall be affixed to clothing on the front of the person and above waist level so that the picture and permit number are clearly visible to patrons.

(9) A sexually oriented business manager shall be on the premises of an adult service business at all times during which any adult service is provided on the premises. The manager shall wear his or her work identification card, in the manner described above.

(10) An employee shall not touch the breast, buttocks, or genitals of a patron or another employee while on the premises, nor may a patron touch the breast, buttocks, or genitals of an employee.

(11) A sign, in a form prescribed by the county summarizing the provisions of this section shall be posted near the entrance of an adult service business in such a manner as to be clearly visible to patrons upon entry.

(12) An adult service provider shall not touch a customer or the clothing of a customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.

(13) An adult service provider or adult service provider shall not approach closer than three feet to any customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.

(14) An adult service provider shall not provide an adult service, expose any specified anatomical areas or perform specified sexual activities in the presence of a customer in any separate area within a sexually oriented business to which entry or access is blocked or obscured by any door, curtain or other barrier separating entry to such are from any other area of the sexually oriented business.

(15) An adult service provider or adult service provider shall not, by bending, stooping and other postural movements, display the interior of the anus or vagina.

Sec 6-106. - Adult video facility; operating requirements.

(a) An adult video facility shall be operated in accordance with the following regulations. Knowing failure of a permit holder or a manager to ensure compliance with the regulations on the premises is a violation of this article by the permit holder or manager.

(1) 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.

(2) The premises shall be configured in such a way that a patron, whether sitting or standing, is visible below the waist by direct line of sight from a manager's station at all times during which the patron is viewing video material or other visual media material characterized by depiction of specified anatomical areas or specified sexual activities. The manager's station shall be located in a portion of the premises accessible to patrons and shall not exceed 32 square feet of floor area. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this paragraph must be an unobstructed view from the manager's station. It is the duty of the permit holder or manager to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises.

(3) A sexually oriented business manager shall be on the premises of an adult video facility at all times that the facility is open for business. The manager shall wear his or her identification card in the manner described above.

Secs. 6-107-110. - Reserved.

Sec. 6-111. - Other regulations.

A permit required by this article is in addition to any other permits required by the county, or the state to engage in the business or occupation. Persons engaging in activities described in this article, including the operation of a sexually oriented business, shall comply with all other ordinances and laws, including the zoning ordinances, as may be required, to engage in the business or profession.

Sec. 6-112. - Penalty.

(a) Violation of any requirement or prohibition stated in this article is a misdemeanor, punishable upon conviction by a fine of not more than $1,000.00 or by imprisonment for not more than six months. With respect to a violation that is continuous in nature, each day that the violation continues shall constitute a separate offense.

(b) The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit. Imposition of a criminal penalty shall be a prerequisite to the revocation or suspension of a permit.

Sec. 6-113. - Injunction.

The operation of a sexually oriented business without a valid permit in violation of this article shall constitute a nuisance, and any person who operates or causes to be operated such business shall be subject to a suit for injunctive relief as well as prosecution for criminal violations.

Sec. 6-114. - Applicability.

This article shall apply to all persons engaging in the activities described herein. Persons so engaged as of the effective date of this article shall be in full compliance with the provisions of this article, including receipt of any permit required by this article, within

120 days from its effective date.

Secs. 6-115-116. - Reserved.

Sec. 6-117 - Permit required.

(a) It shall be unlawful for any person who does not hold a permit to act as an adult service provider or a sexually oriented business manager of or in a sexually oriented business.

(b) It shall be the duty of the operator and owners of each sexually oriented business to ensure that no person acts as an adult service provider or manager of or in the sexually oriented business unless that person holds a permit issued by Fayette County.

Sec. 6-118. - Issuance of permits.

(a) Any person who desires to obtain an original or renewal permit shall make application to Code Enforcement in person. The application shall be made under oath upon a form prescribed by Code Enforcement and shall include:

(1) The name, home street address and mailing address (if different) of the applicant;

(2) The applicant's age, date and place of birth;

(3) Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency;

(4) Height, weight, hair and eye color;

(5) A list of any specified criminal acts, and time of service in jail or prison, as specified; and

(6) Two passport-type photographs of the applicant of a size specified Code Enforcement, which shall become part of the photographic identity cards if a permit is issued.

(b) Each application shall be accompanied by a nonrefundable processing fee set by the Fayette County Board of Commissioners. Each applicant shall be required to provide fingerprints taken by the Fayette County Sheriff Office for a fee, equal to that fee charged by the state of Georgia, to be used to verify the applicant's identity and criminal history information. Each applicant shall sign a waiver and authorization form authorizing Code Enforcement to request on behalf of the applicant criminal history reports from GCIC or any other appropriate state or federal government entity.

(c) Code Enforcement shall issue the permit of the application unless he/she finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in the applicable provisions of this article within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided below, within ten days from the date of filing of the application.

(d) Each permit issued by Code Enforcement shall consist of two photographic identification cards, a personal card and an on-site card.

(e) Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within ten days following the receipt of the request by Code Enforcement. The hearing shall be conducted as provided in this article.

(f) If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify Code Enforcement and request a replacement, which shall be issued for a fee decided by the Board of Commissioners within three days following verification of the identity of the holder.

(g) No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he or she is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void.

Sec. 6-119. - Term, transfer, amendment.
(a) A permit is valid for one year from the date of its issuance.
(b) A permit is personal to the named permit holder and is not valid for use by any other person.
(c) Each permit holder shall notify Code Enforcement of his or her new address within ten days following any change of his or her address.

Sec. 6-120. - Display.
(a) Each manager or adult service provider shall conspicuously display his or her personal card upon his/her person at all times while acting as an adult service provider or manager of or in a sexually oriented business.
(b) Each manager or adult service provider shall provide his or her on-site card to the manager or on-site manager in charge of the sexually oriented business to hold while the manager or adult service provider is on the premises.
(c) In any prosecution under this article, it shall be presumed that the actor did not have a permit unless the permit was on display as required under subsection (a) of this section.

Sec. 6-121. - Revocation.
In the event that Code Enforcement has reasonable grounds to believe that any permit holder has been convicted of an offense as specified in the applicable provision of this article within the time specified therein or after, or has violated a requirement or prohibition of this article, then the County Administrator or his/her designee may revoke the permit following a notice of the grounds and a hearing as provided in this article.
Secs. 6-122 – 6-125. - Reserved.

Article V. - BODY ART STUDIOS

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Sec. 6-126. Authority.

The legal authority for these rules is Section 16-5-71, Section 16-5-71.1, Section 16-12-5, Section 31-3-4, and Chapters 5 and 40 of Title 31 of the Official Code of Georgia Annotated.

Sec. 6-127. Purpose.

The Body Art Studios and Body Artist Rules are adopted for the purpose of establishing reasonable standards for individuals performing body art procedures and the facilities from which the procedures are provided. Such standards are designed to promote the health and safety of all individuals performing and receiving body art services.

Sec. 6-128. Exemptions.

These rules shall not apply to a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct on-site supervision of such licensed physician or osteopath.

Sec. 6-129. Definitions.

The following definitions shall apply to these rules. Any word or phrase not defined below but otherwise defined in these rules shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

Antibacterial solution means any solution used to retard the growth of bacteria which is approved for application to human skin and includes all products labeled accordingly as approved by FDA.

Biohazard means any infectious agent(s) or parts thereof presenting a real or potential risk to the well-being of humans or other species, directly through infection or indirectly through disruption of the environment.

Body art means the practice of physical body alteration by permitted establishments and by licensed operators using techniques including, but not limited to, the following: body piercing, tattooing, and cosmetic tattooing. Body art does not include practices that are considered medical procedures by the Georgia State Medical Board, which shall not be performed in a body art studio. Body art does not include the painting of the skin with tempura or temporary, non-indelible inks, paints, or dyes. Body art does not include piercing of the outer perimeter or lobe of the ear with pre-sterilized, single-use stud and clasp ear piercing systems.

Body art studio means any permanent building or structure in a planned commercial center on a permanent foundation, holding a valid city or county business permit or license, wherein a Body Artist performs body art.

Body art studio permit means the authorization granted by the Fayette County Board of Health to the Owner to operate a Body Art Studio. Such permit is the property of the Fayette County Board of Health.

Body artist means any person who performs body art.

Body piercing means puncturing or penetration of the skin or mucosa of a person with any sharp instrument and/or the insertion of jewelry or other adornment thereto in the opening.

Cosmetic tattooing means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa. Cosmetic tattooing shall include permanent cosmetics, micro-pigmentation, permanent color technology, and micro-pigment implantation.

Board of Health means the Fayette County Board of Health or its duly authorized representatives.

Currently licensed health care professional means those professionals licensed by the state of Georgia to perform health care services and includes, but is not limited to,

licensed physicians, registered nurses (RN), licensed practical nurse (LPN), and licensed emergency medical technicians.

Department means the Department of Public Health of the State of Georgia.

Disinfection means a process that eliminates many or all pathogenic microorganisms, with the exception of bacterial spores, from inanimate objects. High level disinfection can be expected to destroy all microorganisms, with the exception of high numbers of bacterial spores. Intermediate level disinfection inactivates Mycobacterium tuberculosis, vegetative bacterial, most viruses, and most fungi. Low level disinfection can kill most bacteria, some viruses, and some fungi. *Guideline for Environmental Infection Control in Healthcare Facilities: Recommendation of CDC and the Healthcare Injection Control Practices Advisory Committee* (HICPAC); U.S. Department of Health and Human Services Center for Disease Control and Prevention (CDC) (2003).

Easily cleanable means composed of readily accessible, non-absorbent material, and of such constitution, finish, and fabrication that residue may be completely removed by non-mechanical low friction methods.

EPA means the Environmental Protection Agency.

Instrument means any hand piece, needle, needle bar, sharp, device, or other object that is used or may come into contact with a client or may be exposed to bodily fluids during a body art procedure.

Owner means the person, partnership, corporation, association, or any other form of business organization that owns, maintains, or controls a Body Art Studio and who is responsible for the operation of the studio.

Parlor means the actual room of the Body Art Studio where the Body Artist performs procedures.

Sanitary means free of visible debris, residue, or contamination, and with reduced microbial contaminants.

Sanitized means an effective antimicrobial treatment by a process that provides sufficient concentration of chemicals or other suitable method on surfaces for enough time to reduce the microbial count to a sanitary level.

Scarification means the act of creating designs out of scar tissue by cutting the skin or branding it with heated metal.

Sharps means any discarded article that may cause punctures or cuts to the skin or tissue.

Single-use means an instrument or article which is reasonably anticipated to come into direct contact with blood and compromised tissue surfaces during its intended use. Such articles are not to be used on more than one customer or client for any reason and

must be disposed of after use as soon as possible, without posing risk of contamination or exposure to the body artist, the client, or the surrounding environment.

Standard precautions means a set of guidelines and controls, published by the Center for Disease Control and Prevention (CDC) as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health Care and Public Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23,1989, Vol. 38, Bi.S-6; "Recommendation for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure- Prone Invasive Procedures," in MMWR, July 12, 1991, Vo1.40, No. RR-8; and "Recommendations for Prevention and Control of HCV Infection and HCV Related Chronic Disease" in MMWR, October 16, 1998, Vol. 47, No. RR-19. These methods of infection control require the employer and the employee to assume that all human blood and specified human body fluids are infectious for human immunodeficiency virus (HIV) and other blood borne pathogens. Precautions include, but are not limited to, hand washing, gloving, masks, protective eye wear and/or other protective equipment, injury prevention, and proper handling and disposal of needles and other sharp instruments when contact with blood or bodily fluids containing blood is anticipated. Standard Precautions apply to blood, all body fluids, secretions, and excretions, excluding sweat, regardless of whether or not they contain visible blood, non-intact skin, and mucous membranes. Standard Precautions include Universal Precautions. In the event that the CDC or other primary reference or regulatory authority publishes materials or amends regulations applicable to this definition, this definition shall be deemed amended to include the latest versions of these documents, regulations, and recommendations.

Sterilization means the reduction of microbial life at an order of 10 log 6 using equipment capable of delivering full efficacy to all surfaces within the unit chamber, including tubes, lumens, cracks, or other obscured surfaces, including those inside packaging.

Sterilizer means an autoclave certified to meet medical standards and which performs the act of sterilization as defined herein.

Sterilizer indicator means a device designed to give visual verification that sterilization temperature has been achieved during the sterilization process.

Suspension means the piercing of human tissue or skin with hooks or other piercing apparatuses for supporting or bearing weight, either human or object.

Tattoo means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa and includes the definition of tattoo as defined in O.C.G.A. § 31-40-1(1) and as may hereafter be amended. The term "tattoo" also includes all forms of cosmetic tattooing.

Wash means cleansing the skin with warm water and antibacterial soap and drying with single-use towels.

Sec. 6-130. Scope of rules.

(a) All permits issued under this Article shall constitute a mere privilege to conduct the business so authorized during the term of the permit only and subject to all terms and conditions imposed by the Board of Health, the Department, and state law.

(b) 'The requirements of these rules shall be in addition to all other licensing, taxing, and regulatory provisions of local, state, or federal law and shall not authorize violations of said other applicable laws.

Sec. 6-131. Body art studio owner.

(a) The Owner shall be responsible for compliance with the requirements in Chapter 40 of Title 31 of the Official Code of Georgia Annotated, along with any applicable administrative rules and regulations of the Department, and along with the applicable rules of the Fayette County Board of Health, including, but not limited to, all applicable statutes and rules and regulations regarding disclosure of ownership.

(b) Prior to being granted a Body Art Studio Permit, the Body Art Studio Owner shall adopt and submit to the local health authority a written statement of policies and procedures of the Body Art Studio showing compliance with the following:

1. No person under the age of eighteen (18) shall perform body art procedures on individuals unless under the direct on-site supervision of a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

2. Body Artists shall not be under the influence of alcohol and/or drugs while performing body art procedures.

3. No person shall perform body art procedures on an individual who is or reasonably appears to be under the influence of alcohol, drugs, or other stimulants or depressants, or is of unsound mind or body.

4. No animals of any kind shall be allowed in a Body Art Studio.

5. No tattoo procedure shall be performed on a person under the age of eighteen (18) except by a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct supervision of such physician or osteopath with the written consent of a parent or guardian.

6. No body piercing procedure shall be performed on a person under the age of eighteen (18) without written consent and proof of valid state issued identification of a parent or guardian. A copy of the consent form and proof of identification shall be maintained in the client's record. The parent or guardian must be present when the piercing procedure is performed.

7. No tattoo procedure shall be performed on any person within one (1) inch of any part of the eye socket of such person.

Sec. 6-132. Body art studio permit.

(a) The Owner of each Body Art Studio shall obtain a valid Body Art Studio Permit from the Fayette County Board of Health prior to beginning operation. Body Art Studios shall renew their Permit annually in accordance with Section 16-67 and Section 16-68 herein.

(b) The Permit is the property of the Fayette County Board of Health.

(c) To be eligible for a new Body Art Studio Permit or a renewal permit, a Body Art Studio must be in compliance with all of the requirements of these rules.

(d) It shall be unlawful for any person to practice body art procedures unless such procedures are performed in a Body Art Studio operating under a valid Body Art Studio Permit issued by the Fayette County Board of Health.

(e) The holder of a Body Art Studio Permit shall only hire, employ, or use individuals to perform body art who have complied with the applicable requirements of this Article.

(f) The Body Art Studio Permit shall be displayed on the premises and conspicuously displayed in public view. Permits shall not be defaced or altered in any manner. A Body Art Studio shall not post a reproduction of a Permit unless the Board of Health has marked it "Duplicate."

(g) All Body Art Studio permits issued pursuant to these rules are nontransferable.

(h) The Body Art Studio Permit shall be returned to the Fayette County Board of Health Environmental Health Section if it is suspended or revoked within seven (7) days.

Sec. 6-133. Application for body art studio permit.

(a) The application for a Body Art Studio Permit or for the renewal of a Body Art Studio Permit shall be made on forms provided by the Fayette County Board of Health.

(b) Any application for a new Body Art Studio Permit or for the renewal of a Body Art Studio Permit shall be sworn to by the applicant as true and correct.

(c) At least thirty (30) days prior to the anticipated date of opening, the Owner of a new Body Art Studio shall submit an application to the Fayette County Board of Health for a Body Art Studio Permit to operate under these rules.

(d) The Application for a Body Art Studio shall include:

1. A scaled drawing of the Studio, including the location of all furnishings and equipment;

2. A zoning certification obtained from the appropriate jurisdiction (the applicant shall comply with all applicable zoning, building, safety, fire, and other local codes and requirements);

3. A copy of the Certificate of Occupancy for the Studio;

4. A complete description of all body art services which will be provided in the Body Art Studio;

5. The full or legal name under which the Body Art Studio is conducted;

6. The address of the Body Art Studio;

7. If the Owner leases the location, the name and current address of the landlord;

8. The name and home address of the Owner; if the Owner of the Body Art Studio is a partnership, the names and addresses of all partners; if the Owner is a corporation, the date and place of incorporation and the name and address of its registered agent in the state; or if the Owner is any other type of association, the names of the principals of the association;

9. A list containing the full names and home addresses of all employees and staff who will be working in the Body Art Studio;

10. A copy of the written statement and policies and procedures of the Body Art Studio in accordance with Section 16-65 of these rules;

11. An acknowledgement signed by the Owner acknowledging that the Owner has read and understands these rules; and

12. Such other information as may be deemed necessary by the Board of Health.

(e) The applicant shall submit a non-refundable plan review fee as set by the Fayette County Board of Health and approved by the Board of Commissioners of Fayette County. The plan review fee shall be waived for any Body Art Studio that is open for operation prior to the adoption of these rules.

Sec. 6-134. Application for renewal.

(a) At least thirty (30) days prior to the expiration of a Body Art Studio Permit, the Owner shall submit an application to the Fayette County Board of Health Environmental Health Section for a renewal of the Body Art Studio Permit.

(b) The application shall include an updated drawing of the Body Art Studio according to Section 16-67(d)(l).

(c) The application shall also include all information as described in Section 16-67(d)(5-13).

Sec. 6-135. Issuance of body art studio permits and fees.

(a) The Fayette County Board of Health may issue a Body Art Studio Permit to an Owner after determining that the Studio is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable

administrative rules and regulations of the Department, and with these rules.

(b) A Body Art Studio shall submit an application for a new Body Art Studio Permit when any of the following conditions exist:

1. The Studio is remodeled, renovated, or expanded;

2. There is a change in the legal ownership of the Body Art Studio; or

3. An existing facility is moved or relocated.

(c) Body Art Studio Permits shall automatically expire on December 31st of each year.

(d) Prior to the issuance of a Body Art Studio Permit, the Owner must pay the applicable permit fee. Body Art Studio Permit fees shall not be prorated.

(e) No permit shall be issued to any owner to perform body art procedures in any area of the unincorporated portion of the County that is zoned for any type of residential use by the County's zoning ordinances.

Sec. 6-136. Denial, suspension, or revocation of body art studio permit.

(a) Upon recommendation or official action of the Board of Health, a Body Art Studio Permit issued pursuant to any provision of this article may be denied, suspended, or revoked by the Board of Health, and considered null and void, if:

1. The application for a Body Art Studio Permit contains false or misleading information, or if the applicant omitted material facts in the application;

2. The premises covered by the permit are found to be in violation of any applicable provision of this Code, or other state or federal law;

3. The Studio is determined to be a threat or nuisance to public health, safety, or welfare;

4. The Owner or Body Artist violated the provision of this Code; or

5. Violations of the conditions of the permit are committed.

(b) After a Body Art Studio Permit has been revoked, a valid permit shall not be issued until all violations have ceased and all changes, alteration, additions, or improvements comply with all requirements of this Code as determined by the Fayette County Board of Health.

(c) No Body Art Studio Permit shall be issued pursuant to any provision of this article to any applicant if within twelve (12) months immediately preceding the filing of any application under this article, the same applicant requesting a permit has been denied a permit based in whole or in part upon having furnished fraudulent or untruthful

information in any application or having omitted any material fact in any application.

(d) As required by Chapter 40 of Title 31 Section 4 of The Official Code of Georgia Annotated, any person substantially affected by any final order of the Board of Health denying, suspending, revoking, or refusing to grant or renew any permit provided under this Code may secure review by appeal to the Fayette County Board of Health in accordance with the hearing requirements of Chapter 5 of Title 31 Section I of the Official Code of Georgia Annotated, and as may hereafter be amended.

Sec. 6-137. Application to existing businesses.

The provisions of these rules shall be applicable to all Body Art Studios whether the Studios were established before or after the effective date of these rules. Any Body Art Studio in business on the effective date of these rules shall comply with all requirements of these rules within six (6) months of the effective date.

Sec. 6-138. Body art not allowed in mobile, transitory facilities.

Body Art shall not be allowed to occur in automobiles, mobile, transitory, or other non-fixed facilities. Such non-fixed facilities include mobile homes, tents, recreational vehicles, and trailers.

Sec. 6-139. Body art studio minimum floor plan requirements.

(a) The Body Art Studio shall be constructed, arranged, and maintained so as to provide adequately for the health and safety of its customers and staff.

(b) The Body Art Studio shall be constructed in a manner to allow the customer receiving the procedure adequate privacy from observers. The Parlor shall be separate from the waiting room.

(c) Insects, vermin, and/or rodents shall not be present in any part of the Body Art Studio. Effective measures shall be taken by the Body Art Studio Owner to prevent the breeding or presence of insects, vermin, and/or rodents on the premises.

(d) The Body Art Studio shall have adequate mechanical ventilation in compliance with current state and local building codes.

(e) Walls and ceilings of parlors and equipment storage rooms shall be painted or covered in a manner to ensure that the surface is easily cleanable. All paint and coverings shall be light in color.

(f) Parlor floors and equipment storage room floors shall be constructed of nonabsorbent material to ensure that the surface is easily cleanable. Floors in the parlor and equipment storage room shall not be covered by carpet or wood.

(g) A clean and sanitary toilet and hand washing facility with a self-closing door and exhaust fan shall be made accessible to customers. Such facilities shall be separate from the parlor.

(h) The Body Art Studio shall be equipped with facilities to enable effective hand hygiene. This sink or sinks must be easily accessible, at the discretion of the Board of Health, to all body artists and shall be separate from the restroom. It shall also provide hot and cold water under pressure through a mixing valve with no aerator, and with foot or wrist actuated controls. These facilities shall be for the use of the body artist for sanitizing his or her hands and preparing the customers for Body Art procedures. This area shall be supplied with dispensed soap, an antibacterial solution, single use towels, and a clean and maintained fingernail brush.

(i) An equipment washing sink shall be provided in the Studio, distinct from the hand sinks and shall be located in the equipment handling and assembly area. This sink shall meet National Safety Foundation (NSF) standards.

(j) Parlors, equipment storage areas, and equipment handling and assembly areas shall have sufficient light to enable the Body Artist to properly do work and see all contamination. This shall be approved by the Fayette County Board of Health.

(k) Parlors shall not be used as corridors for access to other rooms.

(l) A water heater capable of heating water to one hundred degrees Fahrenheit (100° F) shall be provided. The size and capacity of such water heater shall be approved by the Fayette County Board of Health.

Sec. 6-140. Body art studio furnishings and fixtures.

(a) Furnishing of the Body Art Studio shall be maintained in a sanitary condition and shall be intact and functional. The Studio shall be kept clean, neat, and free of litter and rubbish.

(b) Cabinets for the storage of instruments, dyes, pigments, single-use articles, carbon, stencils, jewelry, studs, and other supplies shall be provided for each Body Artist and shall be designed, manufactured, and maintained in a sanitary manner so as to protect contents from contamination, such as blood and bodily fluids.

(c) Appropriate furnishings shall be provided for each parlor.

(d) Surfaces of all worktables, chairs, and furnishings shall be constructed of material that is smooth, non-absorbent, easily cleanable, and corrosion resistant.

(e) Furnishings shall be sanitized with an anti-bacterial solution after each procedure.

(f) Eating or drinking by anyone is prohibited in the parlor where a body art procedure is performed, except as required to ensure the health and safety of the body artist and/or client.

(g) Smoking is prohibited in the Body Art Studio.

Sec. 6-141. Body art studio supplies.

(a) Single-use sterile supplies shall be in an uncompromised, sterilized condition at the time of their use, either by processing in a unit that meets the requirements for a sterilizer as defined herein, or be commercially packaged and handled to protect them from contamination. These supplies shall be stored in an area separate from chemical supplies and toilet facilities.

(b) All materials applied to human skin including, but not limited to, ink, stencils, and single-use piercing needles shall be from single-use containers and shall be disposed of after each use, except those instruments approved for sterilization by the Board of Health.

(c) Jewelry supplies used in a Body Art Studio shall consist of a material rated by the American Society for Testing Materials or the International Standards Organization as being suitable for permanent surgical implant, such as stainless steel, gold, platinum, titanium, niobium, or dense, low porosity plastic such as Tygon or PTFE. Copies of the jewelry manufacturer's documentation, which verify compliance with standards must be available for inspection on request of the Board of Health. The jewelry shall also be smooth surfaced and scratch free.

(d) Only single-use sterile gauze shall be used.

(e) Antibacterial ointment shall be dispensed in a manner that prevents contamination of the antibacterial ointment container. For example, a single use tongue depressor may be used to dispense the ointment and then discarded.

(f) Single-use articles shall not be used on more than one client or customer for any reason. These articles must be disposed of after use, or as soon as possible, without posing risk of contamination or exposure to the body artist, the client, or the surrounding environment.

Sec. 6-142. Dyes and pigments.

(a) Dyes and pigments shall be dispensed into single-use containers.

(b) All dyes and pigments shall be used according to the manufacturer's instructions.

(c) After tattooing each individual, the remaining unused dye or pigment in the single-use container shall be discarded, along with the container, into a covered trash receptacle that can be operated without the use hands. This container shall be lined with a bag that is leak resistant.

(d) In preparing dyes and pigments to be used by a Body Artist, only non-toxic sterile single-use materials shall be used.

Sec. 6-143. Sterilization.

(a) *Instrument cleaning.*

1. All non-disposable instruments shall be sterilized after each use according to the

manufacturer's recommendation.

2. Employees shall wear heavy-duty, multi-use, waterproof gloves while cleaning instruments.

3. Used instruments shall be soaked in an EPA approved disinfectant until cleaning can be performed. The solution shall be changed as recommended by the solution manufacturer.

4. Instruments shall be disassembled for cleaning.

5. All instrument components shall be cleaned, either manually or in an ultrasonic cleaner, using the appropriate cleaning agent specific to the type of cleaning performed.

(b) *Instrument packaging.*

1. Employees shall properly wash hands and don clean gloves before packaging or wrapping instruments.

2. Instruments shall be wrapped or packaged with a sterilizer indicator on each package.

3. All packages shall be labeled with the time and date of sterilization. Packages shall no longer be considered sterile if the integrity of the package is damaged or if the date of sterilization exceeds six (6) months.

(c) *Instrument sterilization.*

1. The sterilizer shall be designed and labeled as a medical instrument sterilizer.

2. The operator's manual for the sterilizer shall be available on the premises and the sterilizer shall be operated according to the manufacturer's recommendation.

3. The sterilizer shall be cleaned and maintained according to the manufacturer's recommendation.

4. A sterilizer log shall be maintained for the Studio and made available for inspection by the Fayette County Board of Health and the customer. The log shall be kept for a minimum of one (1) year. The log shall contain the following documentation for each load:

i. A description of instruments contained in the load;

ii. The date of sterilization and time, if more than one load is processed in a single day;

iii. The sterilizer cycle time and temperature;

iv. Indication of proper sterilization of instruments, as indicated by the appropriate

color change of the sterilizer indicator on each package. The indicator used shall be compatible with the sterilization process being used;

v. Any action taken when appropriate color indicator change did not occur; and

vi. Maintenance log, including:

(a) Date of service;

(b) Sterilizer model and serial number;

(c) Sterilizer location;

(d) Name of person requesting service;

(e) Description of malfunctions;

(f) Name of person performing maintenance;

(g) Description of services and parts replaced;

(h) Results of biologic validation and testing; and

(i) Signature and title of person acknowledging completed work.

(d) *Sterilization monitoring.*

1. Sterilizer monitoring shall be performed at least once a month, unless more frequent monitoring is specified by the manufacturer, or after forty (40) hours of usage, whichever comes first, by using a commercial biological monitoring (spore) system.

2. All biological indicators shall be analyzed by a laboratory that operates under FDA guidelines and is independent of the Studio, with reports sent to the Studio.

3. Biological indicator test results shall be maintained on the premises for a minimum of one (1) year and must be available for inspection by Fayette County Board of Health. Upon notification of a positive microbiological monitoring report, the sterilizer shall be immediately checked for proper use and function. The Owner shall cease use of the sterilizer immediately upon receipt of the positive report and notify the Fayette County Board of Health with written documentation explaining corrective actions. If this sterilizer is the only means of sterilization of equipment, then the Studio will cease operations immediately. The Studio shall be allowed to re-open when a biological indicator test has three (3) consecutive negative results. The Studio shall have the option to purchase and install a new sterilizer in order to re-open prior to the receipt of the test results on the previous sterilizer or use all single-use items.

(e) *Instrument storage.*

1. Hands shall be washed and gloved prior to handling sterilized instruments.

2. After sterilization, the instruments shall be stored in a dry, clean area, reserved for storage of sterilized instruments.

(f) *Single-use items.*

1. If the Body Art Studio operates using only pre-sterilized, single-use instruments and supplies, a sterilizer is not required.

Sec. 6-144. Disinfection of the body art studio.

(a) Each Body Art Studio shall be kept clean and sanitary.

(b) The Owner shall develop and implement a cleaning schedule that includes appropriate methods of decontamination, plus any tasks or procedures to be performed daily. This written schedule shall be based on the types of surfaces to be cleaned, the types of possible contamination present, the tasks or procedures to be performed, and their location within the Body Art Studio. Adherence to the schedule must be documented on a weekly basis to be appended to a maintenance log. This log shall be available for review by the Fayette County Board of Health during normal hours of operation and to the general public upon request. Violation of proper maintenance and documentation thereof will be grounds for immediate closure or suspension of the Owner's Body Art Studio Permit.

(c) All work surfaces shall be disinfected with an EPA approved disinfectant at the beginning of each work day, after completion of body art procedures on each individual, and at the end of each work day.

(d) All protective coverings such as plastic wrap, barrier films, and aluminum foil shall be removed after each body art procedure and shall be placed in a covered trash receptacle that can be operated without the use of hands. These barriers shall be replaced with unused protective coverings. These barriers shall also be considered single-use products.

(e) Reusable receptacles such as bins, pails, and cans that have the likelihood of becoming contaminated shall be decontaminated on a daily basis with a current EPA approved disinfectant. When contamination is visible, receptacles shall be cleaned and decontaminated immediately.

Sec. 6-145. Disposal of wastes.

(a) All disposable instruments are considered bio-hazardous and must be disposed of as bio-hazardous material. All bio-hazardous waste must be disposed of in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste. Needles, razors, and other sharp instruments shall be placed in puncture resistant, closed containers immediately after use and shall be stored in closed cabinets or drawers at the end of each workday.

(b) Contaminated needles shall not be bent, broken, or their structure otherwise

compromised.

(c) Sharps waste shall be safely discarded in a rigid and puncture resistant waste container that is leak proof on the sides and bottom with a self-closing lid. These containers shall be labeled with the international biohazard symbol and the word "BIOHAZARD." All sharps waste shall be removed and disposed of by a company that will dispose of it in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste.

(d) Bio-hazardous non-sharps waste shall be discarded in a biohazard bag. Waste shall be removed and disposed of in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste.

(e) All other non-hazardous disposable waste shall be placed in lined, easily cleanable containers with tight fitting lids to prevent leakage or spillage.

(f) All other non-hazardous disposable waste shall be handled, stored, and disposed of so as to minimize direct exposure of personnel to waste material.

(g) Self-closing waste containers designed to be operated without the use of hands and lined with plastic bags manufactured specifically for waste containers shall be located within each Parlor and restroom and shall be emptied at least once per day into a commercially approved dumpster. This dumpster must be picked up and emptied by a commercial contractor at least once per week.

(h) All sewage, including liquid waste, shall be disposed of by a public sewage system or by a sewage system constructed and operated according to the applicable provisions of the Code or state law.

Sec. 6-146. Client records.

(a) The owner shall maintain a written detailed client record that describes the body art procedure(s) administered on each client. These records shall be kept on file for three (3) years after the procedure. Client records shall be immediately made available for inspection within seven (7) days of request.

(b) The client records shall be created prior to any body art procedure being performed and shall reflect the client's name, signature, address, proof of age, body art procedure performed, date, design, its precise location upon the body, and the name of the Body Artist(s) performing or assisting in the procedure. The client record shall also describe whether any complications or incidents arose during the procedure and detail what action was taken to resolve the incident. A copy of a valid state issued photo ID (a driver's license, U.S. Military ID card) must be obtained from the client and maintained with the client's record.

(c) Each client shall be provided with an informed consent statement that fully explains the procedure and each client shall be required to sign the informed consent statement prior to receiving any body art procedure. The informed consent statement signed by the client shall be maintained by the Owner in the client record, with a copy

given to the customer.

(d) A "disclaimer of liability" form promulgated by the Owner shall also be signed by the client prior to receiving any body art procedure. A copy of the "disclaimer of liability" signed by the client shall be maintained by the Owner in the client's record, with a copy given to the client.

(e) The client record shall contain a signed and dated statement by the client attesting that he or she is not under the influence of alcohol and/or drugs at the time the body art procedure is performed.

(f) The client record shall also contain a signed and dated statement by the client attesting that he or she has received, read, and understood a copy of an after-care procedures form.

(g) The client has the right to request and receive their entire client record. If the client's record is available on the premises of the Body Art Studio, then the record shall be made available immediately upon request. If the record is not available on the premises, then the client's request for the client record must be fulfilled 'within five (5) business days.

(h) Client records shall not be accessible to anyone except authorized employees of the Body Art Studio.

(i) Client records shall be disposed of in a manner that will not disclose any personal information of the client. For example, client records may be shredded then discarded in a waste receptacle.

Sec. 6-147. Body art studio inspection.

(a) The premises of any Body Art Studio and all records required to be maintained under these regulations shall be available for review and examination by the Board of Health and properly identified representatives of the County at any time during normal business hours for the purpose of making inspections to determine compliance with these rules.

(b) The Owner shall be responsible for having an employee with knowledge of the Studio’s records on duty at the Body Art Studio during all hours of operation.

(c) Studio inspections shall be performed at least two (2) times annually. Additional Studio inspections shall be performed as often as necessary for the enforcement of these rules. Each inspection will carry an inspection fee to be set by and approved by the Fayette County Board of Health.

(d) A copy of the most recent inspection report shall be posted in public view, in an un-obscure manner, within fifteen (15) feet of the main door, five to seven (5-7) feet off the floor, and shall be approachable within one (1) foot.

(e) If an individual becomes aware of a licensed Body Art Studio that is in violation

of the Code, or other state or federal law, they may contact the Fayette County Board of Health. The alleged violation will be investigated at the discretion of the Board. The name, address, telephone number, and all other identifying information of the reporting individual will remain confidential, unless required to be disclosed by law.

(f) If an individual becomes aware of an unlicensed individual or facility that performs, or has performed Body Art procedures, they may contact the Board of Health. The alleged unlicensed individual or facility will be investigated at the discretion of the Board of Health. The name, address, telephone number, and all other identifying information of the reporting individual will remain confidential, unless required to be disclosed by law.

Sec. 6-148. Access.

(a) Representatives of the Board of Health, after proper identification, shall be permitted to enter any Body Art Studio at any reasonable time for the purpose of making inspections and review of pertinent records to determine compliance with this Code.

(b) If a person denies access to the Board of Health, the Board of Health shall:

1. Inform the person that:

i. The permit holder is required to allow access to the Board of Health;

ii. Access is a condition of the acceptance and retention of a Body Art Studio Permit to operate; and

iii. If access is denied, an inspection warrant, issued by the appropriate authority to order access, may be obtained according to law; and

2. Make a final request for access.

Sec. 6-149. Body art studio personnel.

(a) All persons performing body art in the unincorporated portion of the County shall only perform such body art procedures in a validly permitted Body Art Studio.

(b) Body Artist shall obtain and maintain current certifications in emergency first-aid, CPR, and blood-borne pathogen or infection control training except where the Body Artist is a currently licensed health care professional. All certifications must be renewed at a minimum of every two (2) years unless a more frequent time period is specified by the licensing agencies.

(c) The above certifications must be obtained within sixty (60) days of the Body Artist's employment.

(d) The Body Artist must obtain a physical examination by a licensed physician within thirty (30) days prior to employment or the initial application for a Body Artist Permit. Each Body Artist must obtain from the physician a certificate certifying that the

Body Artist is free of any communicable disease. This examination must be conducted yearly.

(e) All Body Artists and any employee that has the potential to come in contact with any bodily fluids shall be required to obtain the Hepatitis B vaccination.

(f) The Owner shall maintain a file on all employees who perform body art procedures. Such files shall be available for inspection by properly identified representatives of the Board of Health during normal hours of operation. The file shall contain:

1. Report of physical examination;

2. Evidence of current emergency first-aid; CPR, and blood-borne pathogen or infection control training; and

3. The home address and home telephone number of each employee.

(g) The Owner of a Body Art Studio shall only hire, employ, or use individuals who have complied with these rules.

Sec. 6-150. Body artist permit.

(a) No person may perform body art without first obtaining a Body Artist Permit. Body Artist shall renew their permit annually.

(b) A Body Artist Permit shall not be eligible for renewal unless all requirements of these rules are met.

(c) The Body Artist Permit shall be displayed in the Body Artist's Parlor.

(d) All Body Artist Permits issued pursuant to these rules are nontransferable.

(e) A Body Artist Permit shall be returned to the Board of Health Environmental Health Section if it is suspended or revoked.

(f) Proof of current certification in emergency first-aid, CPR, and blood-borne pathogen or infection control training shall be required within sixty (60) days of issuance of a Body Artist Permit. Otherwise, the Body Artist Permit will be suspended until this training is completed, not to exceed sixty (60) days. If the requirements are not met within this sixty day suspension, the
Body Artist Permit will be revoked.

Sec. 6-151. Application for a body artist permit.

(a) Each Body Artist shall submit to the Board of Health Environmental Health Section an application for a Body Artist Permit.

(b) The application for a Body Artist Permit shall be made on forms provided by the

Board of Health and shall not be considered accepted unless complete in all respects, including the payment of any fees required. Application fees shall be set by the Fayette County Board of Health.

(c) Application for a Body Artist Permit shall include the following information concerning the Body Artist:

1. Full legal name;

2. All aliases;

3. Copy of a valid driver's license or valid state issued photo identification;

4. Home address;

5. Gender;

6. Mailing address;

7. Home phone number;

8. Training and/or experience;

9. Evidence of current certifications; and

10. Physician report of physical examination and Hepatitis B Vaccination.

Sec. 6-152. Issuance of body artist permit and fees.

(a) The Fayette County Board of Health Environmental Health Section may issue a Body Artist Permit to an individual after determining that the individual is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable administrative rules and regulations of the Department, and with these rules.

(b) Body Artist Permits shall automatically expire on December 3151 of each year.

(c) Prior to the issuance of a Body Artist Permit, the Body Artist must pay the applicable permit fee. Body Artist Permit fees shall not be prorated.

(d) At least thirty (30) days prior to the expiration of a Body Artist Permit, the Body Artist shall submit an application for the renewal to the Fayette County Environmental Health Section.

Sec. 6-153. Application to existing body artist.

The provisions of these rules shall be applicable to all Body Artists, whether the Body Artist began performing body art before or after the effective date of these rules. Any Body Artist established on the effective date of these rules shall comply with all requirements of these rules within six (6) months of the effective date.

Sec. 6-154. Denial, suspension, or revocation of body artist permit.

(a) Upon recommendation or official action of the Board of Health, a Body Artist Permit issued pursuant to any provision of this article may be denied, suspended, or revoked by the Board of Health, and considered null and void, if:

1. The application for a Body Artist Permit contains false or misleading information, or if the applicant omitted material facts in the application;

2. The Body Artist violated the conditions of the permit; or

3. The Body Artist committed any violation of this article.

(b) After a Body Artist Permit has been revoked, a valid permit shall not be issued until all violations have ceased and the Body Artist complies with all requirements of this article as determined by the Board of Health.

(c) No Body Artist Permit shall be issued pursuant to any provision of this article to any applicant if within twelve (12) months immediately preceding the filing of any application under this article, the same applicant requesting a permit has been denied a permit based in whole or in part upon having furnished fraudulent or untruthful information in any application or having omitted any material fact in any application.

(d) As required by Chapter 40 of Title 31 Section 4 of The Official Code of Georgia Annotated, any person substantially affected by any final order of the Board of Health denying, suspending, revoking, or refusing to grant or renew any permit provided under this Code may secure review by appeal to the Fayette County Board of Health in accordance with the hearing requirements of Chapter 5 of Title 31 Section I of the Official Code of Georgia Annotated, and as may hereafter be amended.

Sec. 6-155. Body artist temporary permits.

(a) No person may perform body art without first obtaining a Body Artist Permit.

(b) The Body Artist Permit shall be displayed in the Body Artist's Parlor or in public view.

(c) A Body Artist Permit shall be returned to the Board of Health Environmental Health Section if it is suspended or revoked.

(d) Proof of current certification in emergency first-aid, CPR, and blood-borne pathogen or infection control training shall be submitted in conjunction with a Body Artist Temporary Permit application.

(e) Application for a Body Artist Temporary Permit shall include the following information concerning the Body Artist:

1. Full legal name;

2. All aliases;

3. Copy of a valid driver's license or valid state-issued photo identification;

4. Home address;

5. Gender;

6. Mailing address;

7. Home phone number;

8. Training and/or experience;

9. Evidence of current certifications; and

10. Physician report of physical examination and Hepatitis B Vaccination.

Sec. 6-156. Issuance of body artist temporary permit and fees.

(a) The Fayette County Board of Health Environmental Health Section may issue a Body Artist Permit to an individual after determining that the individual is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable administrative rules and regulations of the Department, and with these rules.

(b) Prior to the issuance of a Body Artist Permit, the Body Artist must pay the applicable permit fee.

(c) A temporary permit for a Body Artist will be valid seven (7) days from the issuance date.

(d) This permit is transferable, with the exception that, the Body Artist will notify the Fayette County Board of Health when a location change from one Body Art Studio is made to another Body Art Studio.

(e) A Body Artist that obtains a Body Artist Temporary Permit shall comply with Sections 16-87 and 16-88 of this Article.

Sec. 6-157. Prohibited acts.

(a) No person shall tattoo the body of an individual who is under eighteen (18) years of age, unless the person performing the tattoo procedure is a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct supervision of such licensed physician or osteopath in compliance with Chapter 9 of Title 31 of the Official Code of Georgia Annotated.

(b) No person shall pierce the body, with the exception of ear lobes, of any person under the age of eighteen (18) for the purpose of allowing the insertion of earrings,

jewelry, or similar objects into the body, unless the minor's legal parent, custodian, or guardian with proper identification is present and signs a written consent form provided by the Body Art Studio. The consent form must indicate the methods and part(s) of the minor's body upon which the body art procedure is performed.

(c) No person shall tattoo the body of any person within one (1) inch of the nearest part of the eye socket of such person.

(d) No person shall perform body art procedures on an individual who is, or reasonably appears to be under the influence of alcohol, drugs, or other stimulants or depressants, or is of unsound mind or body.

(e) No person shall obtain the services provided in a Body Art Studio by misrepresentation of age in any place where body art procedures are performed.

(f) It shall be unlawful for any Body Artist to perform any acts of scarification and/or acts of suspension in the Body Art Studio.

Sec. 6-158. Violations.

(a) It shall be unlawful for any person, firm, or entity to violate any of the provisions of this article or any other applicable provisions of this Code.

(b) No person shall be allowed to perform body art procedures unless that person is employed by a Body Art Studio and holds a current body Artist Permit. No person shall be allowed to perform body art procedures outside the confines of a validly permitted Body Art Studio.

(c) It shall be unlawful for a Body Artist to be under the influence of any alcohol and/or drugs while performing body art procedures.

(d) Except as specified in paragraph 1 of this subsection, no animals of any kind shall be allowed inside a Body Art Studio.

1. Live animals may be allowed in the following situations if the contamination of clean equipment, parlors, single-use articles, or any other items that may be used in a body art procedure cannot result:

i. Decorative fish in aquariums;

ii. Patrol dogs accompanying police or security officers;

iii. In areas that are not used for any equipment storage or equipment cleaning and preparing areas;

iv. Service animals that are controlled by the disabled employee, person, or trainer of such animal, if a health or safety hazard will not result from the presence or activities of the service animal.

(e) An Owner of a Body Art Studio shall be deemed responsible for any act, omission, or violation of this article committed by any Body Artist in said Studio, working upon Studio premises, or performing body art procedures for the owner as an independent contractor.

Sec. 6-159. Sanitation.

(a) Body Artists shall follow Standard Precautions.

(b) All hand and/or arm jewelry worn by a Body Artist that may impede in the procedure or have sharp edges that may compromise the integrity of the gloves shall be removed prior to the start of the body art procedure.

(c) Prior to performing body art on each client, the Body Artist shall ensure that his/her fingernails are closely trimmed and shall perform proper hand washing. This includes thoroughly washing and scrubbing hands with warm water and antibacterial soap, using an individual hand brush that is clean and in good repair. The hands shall then be dried by single-use towels.

(d) Prior to the start of the body art procedure, the Body Artist shall inspect his/her hands for hangnails, small cuts, sores, and abrasions. If a cut, sore, or abrasion is detected, a bandage should be applied for added protection before gloving. Single-use medical gloves shall be worn during the body art procedure. They shall be donned in such a fashion that their integrity is not compromised. The gloves shall be changed and properly disposed of each time there is an interruption in the procedure, if the gloves become soiled, torn, punctured, or the integrity of the glove is compromised. The Body Artist shall perform hand hygiene before donning and after removing each set of gloves.

(e) Each Body Artist shall wear a clean outer garment, apron, or smock.

(f) Body Artists who are experiencing symptoms of illness including, but not limited to, diarrhea, vomiting, fever, rash, or skin infections shall refrain from performing body art procedures.

(g) Adequate numbers of sterilized needles and tubes must be on hand for each Body Artist for the entire day and/or night operation.

(h) Only single-use disposable razors shall be used to shave the area of the body where the body art procedure will be performed.

(i) All items that come in contact with a client's skin shall be single-use and disposed of after the procedure.

(j) All sharps used in body art procedures shall be sterile at the time of the procedure.

(k) All fixtures and equipment contaminated with blood shall be cleaned with an approved sanitizer, for example, a ten (10) percent bleach solution made fresh daily or as often as needed to maintain appropriate sanitizer concentration.

Sec. 6-160. Tattoo preparation.

(a) Prior to placing a tattoo design on the client's skin, any jewelry worn by the client that might impede the body art procedure shall be removed.

(b) The Body Artist shall apply an antibacterial solution to the skin in the involved area.

(c) If a paper stencil is used by a Body Artist for transferring the design to the skin, the stencil shall be single-use and disposable.

(d) If the design is drawn directly onto the skin, it shall be applied with a single-use sterile instrument only.

(e) The completed tattoo shall be washed with a single-use towel saturated with an antibacterial solution.

(f) After the area has dried, a layer of antibacterial ointment from a collapsible or plastic tube shall be applied.

(g) After the application of the antibacterial ointment, a bandage or other protective barrier shall be applied to the tattoo.

(h) The client shall be given written and oral instructions on how to care for the tattoo during the healing process.

Sec. 6-161. Procedures specific to body piercing.

(a) Before piercing the skin of a client, any jewelry worn by the client that might impede the procedure shall be removed.

(b) The Body Artist shall apply an antibacterial solution to the skin in the involved area prior to the procedure being performed.

(c) The client shall then be given both written and oral instructions on how to care for the piercing during the healing process.

(d) A facility that limits its piercing practice to the piercing of the lobe of the ear with pre-sterilized, single-use stud and clasp piercing systems shall be exempt from regulatory requirements of this article. Compliance with the requirements for this exemption may be verified by inspection at the option of the Board of Health.

Sec. 6-162. Compliance.

(a) A Body Art Studio shall operate in compliance with these rules and with a valid Body Art Studio Permit issued by the Fayette County Board of Health.

(b) A Body Artist shall perform body art procedures in compliance with these rules and with a valid Body Artist Permit issued by the Fayette County Board of Health.

Sec. 6-163. Enforcement and penalties.

(a) Enforcement of these rules and regulations shall be in accordance with Chapter 5 of Title 31 of the Official Code of Georgia Annotated.

(b) The Board of Health may refuse to grant a permit for the operation of any Body Art Studio which does not fulfill the minimum requirements of the rules and regulations and may revoke a permit which has been issued and invoke other sanctions if a studio violates any of these rules and regulations. Before any order is entered refusing a permit applied for or revoking a permit, the applicant or permit holder shall be offered an opportunity for a hearing before the County Board of Health as provided in Article 1 of Chapter 5 of Title 31 of the Official Code of Georgia Annotated. The notice of refusal or revocation shall contain directions on how a hearing may be requested.

(c) The Board of Health is empowered to institute proceedings in a court of competent jurisdiction for the purpose of enjoining violations of an applicable provision of Title 31 of the Official Code of Georgia Annotated or of these rules and regulations.

(d) Any person or entity violating any provision of this regulation shall, upon conviction thereof, or upon entering a plea of guilty or nolo contendere thereto, shall be punished by a fine, not exceeding one thousand dollars ($1000) or by imprisonment for a term not more than sixty (60) days, or by both fine and imprisonment.

(e) Owners shall be responsible for ensuring agents and employees fully comply with the provisions of these regulations and shall be liable for any violation hereof.

A. *Membership and Appointments.*

1. The Planning Commission shall consist of five (5) members residing within the County and shall be appointed by the Board of Commissioners of Fayette County. None of the Planning Commission members shall hold any other public office, except that one (1) member may also be a member of the Zoning Board of Appeals. The Planning Commission members shall be removed by the Board of Commissioners for cause, upon written charges, and after public hearing. Any member of the Planning Commission shall be disqualified to act upon a matter before the Planning Commission with respect to property in which the member has an interest. It may be deemed cause for removal should any Planning Commission member fail, without proper reason, to attend three (3) consecutive meetings.

Section 2. That the preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. . a. It is hereby declared to be the intention of the Board of Commissioners that all Sections, paragraphs, sentences, clauses and phrases of this Article are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this

Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no Section, paragraph, sentence, clause or phrase of this Article is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Article.

c. In the event that any phrase, clause, sentence, paragraph or section of this Article shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or Sections of the Article and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and Sections of the Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 4. All ordinances or resolutions and parts of ordinances or resolutions in conflict herewith are hereby expressly repealed except those provided for herein.

Section 5. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

So ordained this 24th day of October, 2013, by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
STEVE BROWN, CHAIRMAN

ATTEST:

_____
CLERK/DEPUTY CLERK

CHAPTER 6. ~~BUSINESSES~~ ~~LICENSES,~~ REGULATION OF SPECIFIC OCCUPATIONS

ARTICLE I. IN GENERAL.

Sec. 6-1. Authority.

The regulation and regulatory fees provided for in this chapter are imposed pursuant to the general police powers granted to Fayette County, Georgia, and allowed by O.C.G.A. title 48, ch. 13, art. 5 (O.C.G.A. § 48-13-2 et seq.).
(Code 1992, § 6-1; Ord. No. 2010-01, § 1, 5-13-2010)

~~Sec. 6-2. Licenses generally.~~

~~Any License granted pursuant to this Chapter shall be a mere grant or privilege to carry on such business during the term of the License subject to all the terms and conditions imposed by this Chapter and related laws, applicable provisions of this Code and other Ordinances and resolutions of the County relating to such business. All Licenses are subject to be suspended or revoked under the provisions of the Ordinances of the County now in effect or which hereafter may be enacted.~~
~~(Code 1992, § 6-2; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-3. License required.~~

~~(a) No person, group, unincorporated association, firm, partnership, corporation or other entity may operate or conduct any business which requires a business license under this Chapter or offer any services of any business that requires a license under this Chapter, whether or not for profit, without a valid and current License for said business having first been issued by the marshal. A License shall be valid only if the information contained in the Application therefore is true, correct and complete.~~

~~(b) A License to operate any business under this Chapter must be applied for and held in the name of the person, group, unincorporated association, firm, partnership, limited liability company or corporation that actually operates the Business.~~

~~(c) A separate License shall be required for each business location.~~
~~(Code 1992, § 6-3; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-4. License; fee; expiration and renewal.~~

~~(a) The regulatory fee shall be paid with the license application.~~

~~(b) All licenses granted hereunder shall expire on December 31 of each year. Licensees who desire to renew their license shall file application, with the requisite fee herein provided, with the marshal on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after~~

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Comment [P1]: Delete these code sections as obsolete. The county no longer issues "business licenses." The county is permitted to regulate certain businesses and charge a regulatory fee for the cost of doing so, but (with certain exceptions) it does not grant licenses to conduct businesses in general. Any provisions pertaining to applications for permits, criteria for issuance, revocation, etc. should be tailored to the particular kind of business being regulated.

~~November 30 but before January 31, shall pay in addition to said annual fee, a late charge of twenty percent (20%).~~

~~(c) If a license application is received after January 31, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Any business that fails to file its renewal application prior to January 31 shall cease operations until such time as a new license is issued. A new license for any business or licensee fails to timely file a renewal application as provided in subsection (b) above, shall also pay a thirty percent (30%) late fee.~~

~~(d) All licenses granted hereunder shall be for the calendar year and the full regulatory fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full regulatory fee shall be paid for a license application filed after July 1 of the license year.~~
~~(Code 1992, § 6-4; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-5. License non-transferable.~~

~~Any regulatory license required by this chapter shall not be transferable to another person, firm or corporation. The business license may be transferred from one business location to another provided the ownership of the business remains the same and the new location meets all of the requirements provided for herein, inclusive of all inspections.~~
~~(Code 1992, § 6-5; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-6. Business license application; investigation; action by marshal; restrictions.~~

~~(a) All applications for a business license shall be on forms prepared by the marshal.~~

~~(b) In addition to any other information required in this chapter for specific types of businesses, the application shall include:~~

~~1. The name of the business;~~

~~2. The location of the business;~~

~~3. The mailing address of the business;~~

~~4. The name and address of the owner of the business, and, if a corporation, the name of the person responsible for corporate affairs in unincorporated Fayette County;~~

~~5. The name of the manager at the business location;~~

~~6. The nature of the business or businesses;~~

~~7. The number of employees;~~

~~8. Such other information as may be required to carry out the provisions of this chapter.~~

~~(c) Upon completion of the application and the payment of the fees, the marshal shall make such investigations and require such reports and inspections as necessary to carry out this chapter. Upon receipt of the necessary reports and investigations, the marshal shall either issue the business license or deny the business license. Such issuance or denial shall be in writing to the applicant within ninety (90) days of receipt of the completed application.~~

~~(d) The limited hours of operation, restrictions and other special circumstances pertaining to the operation of a business licensed by the county shall be entered directly onto the business license before the same is issued and delivered over to the business license applicant.~~

~~(e) All business owners must be a citizen of the United States or a legal alien. In the case of a legal alien, the owner must furnish current alien registration card or picture identification and documentation from the United States Immigration and Naturalization Service authorizing the legal alien to work in the United States.~~

~~(f) All business owners must be 18 years of age when applying for a business license.~~

~~(g) All sole proprietor business owners must show a photo ID when applying for a business license If the ownership of the business is a partnership, then photo ID must be provided on all partners associated with the business. If the ownership of the business is a corporation or LLC, then ID must be provided for the president, CEO, or managing member of the business, as is indicated by the Georgia Secretary of State's office. Businesses who indicate ownership by a corporation or LLC must additionally provide evidence that the corporation is registered with the Georgia Secretary of State's office, and that the corporation is current and in compliance with the Georgia Secretary of State's office. All foreign corporations must also register with the Georgia Secretary of State's office.~~

~~(h) All delinquent and current state and county ad valorem taxes assessed against the business, whether such business is a proprietorship, general partnership, limited partnership, limited liability/limited partnership, limited liability company or corporation, shall be paid prior to the issuance or renewal of a business license.~~
~~(Code 1992, § 6-6; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-7. Grounds for denial of business license.~~

~~(a) The marshal shall deny a business license application which is incomplete or fails to comply with the requirements of this chapter.~~

~~(b) The marshal shall deny a business license to any person who has been convicted of a crime of moral turpitude within the past five (5) years.~~

~~(c) The marshal shall deny a business license to any person or entity that has had a business license revoked by any other governmental entity in the previous twelve (12) months.~~

~~(d) The marshal shall deny a business license to any person or business engaged in an unlawful activity or operated in such a manner as to violate the laws of the State of Georgia, federal laws, federal or state rules and regulations, or ordinances or resolutions adopted by the board of commissioners of the county. Unlawful activity shall include, but not be limited to, activities in violation of the zoning regulations and the electrical, health, building and fire codes of the county, or any non-compliance with the provision of any county codes.~~

~~(e) If an applicant is dissatisfied with the decision of the marshal, the applicant may request a hearing before the county administrator by filing a written request within five (5) business days of the denial. A hearing will be scheduled within two (2) weeks of the written request for a hearing wherein the applicant and the marshal may present their case before the county administrator. After the hearing, the county administrator may uphold the decision of the marshal or issue the license.~~

~~(f) The decision of the county administrator may be immediately reviewed as a matter of right upon the filing by the applicant of a petition for writ of certiorari in the superior court pursuant to O.C.G.A. title 5, ch. 4 (O.C.G.A. § 5-4-1 et seq.). The decision of the county administrator shall be final if the applicant does not file a petition for writ of certiorari within thirty (30) days of the date of the decision.~~
~~(Code 1992, § 6-7; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-8. Preliminary investigation on revocation of business license.~~

~~Where it is reported to the marshal that a holder of a county business license is engaged in any activity which could form the basis for a revocation of said business license, a preliminary investigation shall be conducted by the marshal in order to determine whether or not there is a basis for the reports. If the marshal's preliminary investigation reveals that there may be a basis for revocation or suspension of the business license, the business license holder will be notified to appear before the county administrator for a hearing under the provisions of section 6-9.~~
~~(Code 1992, § 6-8; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-9. Grounds for revocation of business license; hearing.~~

~~(a) A license granted under this division shall be subject to revocation for cause. Whenever, in the opinion of the county, there is cause to revoke this license, the marshal shall provide a written notice of intention to revoke the license to the holder of the license.~~

~~(b) The county administrator shall have the right, after notice and hearing, to revoke any business license issued hereunder on the following grounds:~~

~~1. Violation of this chapter.~~

~~2. Violation of other laws and resolutions of the county pertaining to the carrying on of such business as would affect the health, safety, and welfare of the public or the county.~~

~~3. Violation of a law of the United States or the State of Georgia, which affects the public health, welfare and safety.~~

~~4. Fraudulent business practices.~~

~~5. Loss of qualifications by the licensee.~~

~~6. Conviction of the licensee of a crime of moral turpitude.~~

~~(c) After a matter is transmitted by the marshal to the county administrator for possible suspension or revocation, the county administrator shall schedule a hearing within thirty (30) days of receipt of the transmittal.~~

~~(d) The licensee shall be notified in person or by mail at his business address of the date and time of the hearing at least ten (10) days prior to the hearing. The licensee may appear in person or be represented by counsel and shall be afforded an opportunity to present evidence or testimony regarding the revocation of the license.~~

~~(e) At the conclusion of the hearing, the county administrator, based upon evidence submitted at the hearing, shall enter an order making a finding of fact and then;~~

~~1. Find that the evidence does not authorize revocation or suspension; or~~

~~2. Issue a warning to the licensee; or~~

~~3. Suspend the business license and probate the suspension; or~~

~~4. Revoke the business license and probate the revocation; or~~

~~5. Suspend the business license; or~~

~~6. Revoke the business license; or~~

~~7. Take any other appropriate action regarding the license.~~

~~(f) If the county administrator revokes or suspends a License, the licensee shall immediately cease all operations covered by the License.~~

~~(g) The decision of the county administrator may be immediately reviewed as a matter of right upon the filing by the applicant of a petition for writ of certiorari in the superior court pursuant to O.C.G.A. § 5-4-1 et seq. The decision of the county administrator shall be final if the Licensee does not file a petition for writ of certiorari within thirty (30) days of the date of the decision.~~

~~(h) Upon the revocation of a license, the licensee, nor any other person who has an ownership interest in the business, shall be issued a business license for a minimum period of one (1) year.~~
~~(Code 1992, § 6-9; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-10. Inspections.~~

~~(a) Whenever inspections of the premises are reasonably necessary to secure compliance with this chapter or to detect violations thereof, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit thereto for the purpose of making the inspection any officer or employee of the county who is authorized or directed to make such inspection at any reasonable time that admission is requested.~~

~~(b) When any inspection is required for compliance with this chapter, the business owner shall pay all such fees for said inspections in addition to the license fees provided for herein.~~

~~(c) In addition to any other penalty which may be provided, the county administrator may revoke the license of any proprietor of a licensed business who refuses to permit any officer or employee who is authorized to make such inspection, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided, that no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the county, stating that such inspection or sample is desired at the time it is sought to make the inspection.~~
~~(Code 1992, § 6-10; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-11. Compliance with standard building and fire codes.~~

~~(a) Every new business requiring a license in this chapter must complete a bureau of fire prevention inspection. No business license will be issued until a copy of the bureau of fire prevention certificate of fire safety compliance is received in the marshal's office.~~

~~(b) No license shall be issued to any applicant whose place of business is not in full compliance with all minimum standard codes, all applicable county ordinances, and the zoning ordinances adopted by the county, nor to any applicant who has not complied with all applicable statutes and codes of the state.~~
~~(Code 1992, § 6-11; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-12. Fee exemptions.~~

~~(a) The following persons shall be exempt from the payment of the fees provided for herein but shall comply in all other respects with this Chapter:~~

~~1. Veterans with a ten percent (10%) or greater disability. Such veterans have the burden of proving their eligibility.~~

~~2. blind persons who provide satisfactory proof of their blindness.~~

~~(b) Even though a person may be exempt from paying a license fee imposed by this chapter, he shall apply to marshal for a free license to engage in or carry on any business, occupation or use for which a license is required by this chapter and shall submit proper and lawful credentials exempting the applicant from paying the license fee, and the applicant shall comply with all county rules and regulations pertaining to or governing such business, occupation or use; otherwise, the person shall be subject to the penalties prescribed by this chapter.~~

~~(c) The exemption of the business license fee shall not exempt the applicant from paying all inspection fees provided for herein.~~

~~(d) Any person aggrieved by the decision of the marshal to not allow an exemption to the regulatory fees provided for in this chapter may appeal that decision to the county administrator by providing a written notice requesting a hearing within five (5) business days from the decision of the marshal. A hearing will be scheduled within two (2) weeks of the written request for a hearing wherein the applicant and the marshal may present their case before the county administrator. After the hearing, the county administrator may uphold the decision of the marshal or grant an exemption to the applicant.~~
~~(Code 1992, § 6-12; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-13. Violation.~~

~~Operating or conducting any business which requires a business license under this Chapter or the offering of any services of any business that requires a license under this Chapter, whether or not for profit, without a valid and current License for said business shall constitute a violation of this Chapter. Each day that such a violation occurs shall constitute a separate offense.~~
~~(Code 1992, § 6-13; Ord. No. 2010-01, § 1, 5-13-2010)~~

Secs. 6-~~14~~ 2 - 6-25. Reserved.

~~ARTICLE II. MASSAGE PARLORS.~~

~~Sec. 6-26. Purpose.~~

~~The provisions herein are adopted in order to manage and control the proliferation of businesses, claiming to be operating as legal massage businesses, but actually serving as subterfuge for the performance of illegal acts of a sexual nature where such acts are believed to cause and studies have shown can cause public disorder and the spread of disease. These provisions are also enacted in order to provide for the licensure and regulation of those individuals claiming to provide massage therapy services, as well as licensure and regulation of massage therapy businesses which will serve to protect the public from the harms caused by untrained practitioners in this field. The provisions are also enacted in order to prevent the entrance of minors into any establishment in which exposure to illicit sexual activity is possible and to promote the public health, safety, and welfare and for other purposes.~~
~~(Code 1992, § 6-26; Ord. No. 2010-01, § 1, 5-13-2010)~~

Comment [PF2]: This section added to sexually oriented businesses

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~~**Sec. 6-27. Definitions.**~~

~~The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Massage parlor* means any business where one or more persons perform massage.~~

~~*Massage* is the manipulation of soft tissue and includes but is not limited to effleurage (stroking skin without going deep), petrissage (kneading movement by lifting and grasping), tapotement (brisk blows in rapid alternating fashion), compression, vibration, friction, nerve strokes, and other movements, whether by hand or with mechanical or electrical apparatus, for the purpose of muscular massage. This may include the use of oil, salt glows, hot and cold packs, and other recognized forms of massage therapy. "Massage therapy" shall not include a diagnosis, service, or procedure normally provided by a doctor of medicine, doctor of chiropractic, or doctor of podiatry, nor shall it apply to athletic trainers, technicians or physical therapists who act by a prescription or under the supervision of an authorized licensee to practice medicine or surgery. Massage shall not include any "massage therapy" performed by a licensed "massage therapist" pursuant to the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1, et seq.).~~
~~(Code 1992, § 6 ; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~**Sec. 6-28. Prohibition.**~~

~~Massage parlors shall be prohibited.~~
(Code 1992, § 6-27; Ord. No. 2010-01, § 1, 5-13-2010)

Secs. 6-29 - 6-45. Reserved.

~~**ARTICLE III. TATTOOING.**~~

Comment [P3]: I have included the new body art studio regulations as a new article at the end of this chapter. These regulations will eventually be moved to a new "Health" chapter.

~~**Sec. 6-46. Definitions.**~~

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Tattoo* or *tattooing* means to mark or color the skin of any person with an indelible mark or figure fixed upon the body by pricking in, inserting, or implanting pigments under the skin or by production of scats.~~

~~*Tattoo parlor* means any business wherein one or more tattooers perform tattooing, and where such tattooing comprises over fifty (50) percent of the services rendered by such business.~~

~~*Tattooer* means any person qualified to perform tattooing.~~
~~(Code 1992, § 6-46; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~**Sec. 6-47. Prohibition.**~~

~~(a) It shall be unlawful for any person to tattoo the body of any human being, except that tattooing may be performed by a person licensed to practice medicine or osteopathy under O.C.G.A. title 43, ch. 34 (O.C.G.A. § 43-34-1 et seq.), or by a technician acting under the direct supervision of such licensed professional.~~

~~(b) Tattoo parlors shall be prohibited.~~
~~(Code 1992, § 6-47; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~**Sec. 6-48. Tattooing by non-qualified persons.**~~

~~Any person violating this division shall be guilty of a misdemeanor, and shall be punished as provided in section 1-8, in addition to any other penalties provided in this chapter.~~
~~(Code 1992, § 6-48; Ord. No. 2010-01, § 1, 5-13-2010)~~

Secs. 6-~~49~~ 46 - 6-60. Reserved.

ARTICLE ~~IV~~III. AMUSEMENT ACTIVITIES.

Sec. 6-61. Definition.

Amusement activity includes any fair, ~~concer~~t, carnival, ~~or~~ sideshow, circus, tent show, amusement ride and migratory entertainment and those activities, rides and games normally associated with such amusements wherein the general public is allowed to view or participate for a price.
(Code 1992, § 6-61; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-62. ~~License~~ Permit period.

(a) No ~~license~~ permit for amusement activity shall be valid for more than fourteen (14) days from the date that the amusement activity begins.

(b) No person or entity shall receive more than two (2) ~~licenses~~ permits within any 12 month period.
(Code 1992, § 6-62; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-63. Application for permit.

(a) All applications for a permit pursuant to this article shall be on forms prepared by the County Administrator or his or her designee.

(b) An application must be submitted to the County at least fourteen (14) days prior to the date that the amusement activity is to begin.

(c) The application shall include the following:

Comment [P4]: I have incorporated some of the changes proposed by Code Enforcement. However, state law prevents the county from regulating the operation of amusement rides, therefore the focus of our regulatory activity should be on the business, not the rides themselves. Therefore I have not included provisions that require liability insurance for amusement rides (although they are required to have insurance per state law and the application language I have included requires proof of insurance) and provisions that adopt the Standard Amusement Device Code (which I don't believe we have the authority to enforce). I also did not incorporate the language requiring a deposit for removal of litter and refuse. If these activities are taking place on private property, it is not the responsibility of the county to ensure that the property is cleaned up afterwards (although we can cite the property for a code violation if it is not cleaned up). Finally, I don't have any objections to parking requirements, but the ones proposed seem to focus too much on the number of seats on rides, which doesn't seem like a good measure of how many parking spots they will need, particularly if the amusement activity has no rides or very few rides.

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Comment [P5]: Definition of "amusement activity" expanded to include more types of businesses.

Comment [P6]: Throughout this article, I have replaced the term "license" with "permit".

Comment [P7]: Incorporated proposed language pertaining to content of application.

1. The name, address and phone number of the business operating the amusement activity;

2. The name of the business owner;

3. The name of the business manager if different from the owner;

4. Proof of any required state permits, proof of liability insurance, Fire Marshal inspection approval, Environmental Health inspection approval, zoning approval, current state insurance inspection report and other required approvals;

5. Proper photo identification of the owner and/or manager;

6. Payment of any regulatory fees required by this article; and

7. Any other documents required pursuant to state law.

Sec. 6-~~63~~64. Criteria for granting of ~~license~~permit.

(a) ~~In addition to the other requirements for obtaining a business licensean occupation tax certificate,~~ no application for any ~~license~~ permit for amusement activities shall be granted where the application or any evidence, shows any of the following conditions to exist:

1. The applicant has had any ~~license~~ permit issued under the police powers of any county or other governmental subdivision previously suspended or revoked.

2. The applicant, as a previous holder of a ~~license~~ permit for the business or business activity for which he now seeks a ~~license~~permit, has violated any law, regulation or ordinance pertaining to such business within a five-year period immediately preceding the date of application.

3. The applicant and/or the owner of the business operating the amusement activity has been convicted of a felony or crime of moral turpitude within the last five (5) years.

(b) In addition to the conditions listed in subsection (a) of this section, in determining whether or not any ~~license~~ permit applied for shall be granted, the following shall be considered in the public interest and welfare:

1. If the applicant is a previous holder of a ~~license~~permit, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

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Comment [K8]: Can we not ask for photo identification of all personnel working so we can verify the names from the Sexual predator site?

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Comment [P9]: Added criteria related to convictions for crimes of moral turpitude.

Comment [K10]: Can we add Felony 5 years

2. The location for which the ~~license~~ permit is sought, as to traffic congestion~~, general character of the neighborhood and the effect the business would have on the adjacent and surrounding property values.~~

3. The number of ~~licenses~~ permits already granted for similar businesses in the trading area of and the place for which the ~~license~~ permit is sought.

4. ~~Whether the applicant's spouse is able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or dummy to obtain a license~~permit~~.~~

(Code 1992, § 6-63; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-~~64~~65. Temporary carnival or amusement rides.

Applicants intending to operate a temporary carnival or amusement ride(s) must provide proof ~~of licensure~~that they hold a valid permit from the State of Georgia to operate said rides.~~,~~
(Code 1992, § 6-64; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-~~65~~66. ~~License~~ Permit issuance or denial; Fees.

(a) The ~~marshal~~ County Administrator or his or her designee shall issue a ~~license~~ permit to an individual who is operating ~~a temporary carnival or amusement ride(s)~~an amusement activity, after the applicant meets the qualifications listed in this chapter and upon the applicant's payment of a fee ~~of two hundred dollars ($200.00)~~to be set by the Board of Commissioners.

(b) The ~~marshal~~ County Administrator or his or her designee shall deny the issuance of a ~~license~~ permit if the applicant submits an incomplete application or if the applicant does not meet the requirements provided for herein.
(Code 1992, § 6-65; Ord. No. 2010-01, § 1, 5-13-2010)

Secs. 6-~~66~~ 67 - 6-70. Reserved.

ARTICLE ~~V~~IV. CANVASSERS AND SOLICITORS.

~~**Sec. 6-71. License required.**~~

~~It shall be unlawful for any person to engage in business as a canvasser or solicitor, calling on the residences within the unincorporated areas of the county for the purpose of soliciting orders, sales, subscriptions, or business of any kind, without first obtaining a license from the county and paying a regulatory fee. Each applicant shall furnish the nature of products sold or displayed, and the proposed method of operation within the county. Each applicant shall be fingerprinted and photographed by an employee of the county.~~
~~(Code 1992, § 6-71; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~**Sec. 6-72. Regulatory fee; identity cards.**~~

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Comment [P11]: For the most part, I have simply replaced the current regulations pertaining to canvassers and solicitors with those proposed by Code Enforcement. In doing so, I did make changes to terminology to ensure that we are being consistent throughout the ordinance (for example: using the exact phrase "canvassers, peddlers and solicitors" throughout the ordinance rather than variations on it such as "canvassers, solicitors and peddlers" or "peddlers and solicitors" or simply just "peddlers").

~~The marshal shall collect a fee of thirty dollars ($30.00) for each applicant. Upon approval, a license will be issued showing the name of the firm or corporation and the name of the representative. Such license shall be valid for ninety (90) days from the date of issuance. The license may be renewed during the same calendar year for one additional ninety-day period for the same fee of thirty dollars ($30.00).~~

~~Each applicant shall be issued an identity card bearing his/her name and photograph, the company name, and the expiration date of the registration. Each solicitor must carry such identity card at all times while soliciting or canvassing within the county.~~
~~(Code 1992, § 6-72; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-73. Hours of operation; other requirements.~~

~~(a) Soliciting or canvassing or calling from house to house within the unincorporated areas of the county shall be conducted only between the hours of 9:00 a.m. and 6:00 p.m.~~

~~(b) The number of solicitors or canvassers in the county for any single firm, corporation, or organization shall not exceed twenty-five (25) in number at any one (1) time.~~

~~(c) Prior to any solicitation of funds within the county, each canvasser or solicitor shall identify the organization which he represents. Additionally, each canvasser or solicitor must inform each person solicited of any minimum payment, deposit, or donation required for the acceptance of any merchandise, wares, goods, or any similar items provided by each canvasser or solicitor prior to such acceptance by each person solicited.~~

~~(d) It shall be unlawful for a canvasser or solicitor to perform any of the following acts:~~

~~1. Falsely represent, either directly or by implication, that funds being solicited are on behalf of any person other than the person registered with the business license division;~~

~~2. Without the express prior permission of an occupant or property owner, to solicit at any residence, apartment complex, or shopping center, other than areas open to public parking, where a sign has been posted prohibiting such solicitation; or~~

~~3. To remain on private premises after being asked to leave the premises or to continue solicitation after being refused upon the public streets, areas, or parks; such action shall constitute harassment.~~
~~(Code 1992, § 6-73; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-74. Special requirements for religions or charitable soliciting.~~

~~(a) Any person desiring to solicit or canvass upon the public streets, areas, or parks, or call from house to house within the unincorporated areas of the county for the purpose of raising funds or seeking donations for any religious, charitable, or eleemosynary organization shall register with and obtain a license from the county. Such person shall furnish the following information to the business license division:~~

~~1. Applicant's name and permanent address;~~

~~2. Name, address, and telephone number of the firm, corporation, or organization represented;~~

~~3. Names and addresses of all persons canvassing or soliciting within the county;~~

~~4. The nature of any merchandise or goods to be sold or offered for sale in conjunction with such solicitation; and~~

~~5. Proof of tax-exempt status shall be required when registering with the business license division.~~

~~(b) The business license division shall collect a fee of one dollar ($1.00) from each applicant to cover costs of processing the license. Each applicant shall be issued an identity card bearing his name, the organization's name, and the expiration date of the license. Each applicant does not have to be fingerprinted or photographed.~~

~~(c) The license shall be valid for ninety (90) days from the date of issuance.~~
~~(Code 1992, § 6-74; Ord. No. 2010-01, § 1, 5-13-2010)~~

Sec. 71. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Canvasser, peddler, or solicitor means any person who sells or solicits for sale in the unincorporated county any new or used goods, wares, merchandise, services, produce or other things of value and goes about from place to place within the unincorporated county selling or offering for sale any of such things to either merchants or customers. This definition shall include door-to-door salespersons. Excluded from this definition are persons who sell or solicit for sale goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

Charitable organization means any benevolent, philanthropic, patriotic, or eleemosynary (of, relating to, or supported by charity or alms) corporation, partnership, limited liability company, association, joint-stock company, trust, governmental agency or entity, unincorporated organization or individual who solicits or obtains contributions solicited from, or conducts the sale of merchandise to, the general public, which contributions are used for charitable purposes or governmental purposes.

Charitable purpose means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose for religion, health, education, social welfare, arts and humanities, environment, civic or public interest.

Door-to-door salesperson means any person who shall solicit orders on behalf of a firm, corporation, company, association, partnership or individual of any goods, wares or merchandise, or other things of value from house to house. Any person who obtains orders for merchandise or other things of value shall be deemed a door-to-door salesperson. Excluded from this definition are persons who solicit orders for goods, wares or merchandise, or other things of value from house to house for charitable organizations or purposes or on behalf of religious organizations, political organizations and political candidates.

Vehicle means motorized conveyance fully functioning and moving under its own power with valid vehicle tag. A vehicle shall include a trailer or anything pulled by the vehicle. Vehicles shall not be in excess of 20 feet in length, ten feet in width, and eight feet in height.

Sec. 6-72. Registration required.

It shall be unlawful for any person to engage in business as a canvasser, peddler, or solicitor, without first having registered with the County Administrator or his or her designee. Each registrant shall be required to fill out a registration form giving complete identification, signature, name of employer, products sold, name of manufacturer of products, name of organization he or she is representing, time of operation in the county and proposed method of operation within the county and to provide such other identification or information as may be required. Any person selling or peddling any objects or goods shall, before being issued a permit, file with the county proof that the applicant or their business proposed to be conducted pursuant to the license or permit possesses a valid state sales tax number issued by the commissioner of revenue of the state.

Sec. 6-73. Registration fee prescribed; application for permit.

Each registrant shall pay a nonprorated, nonrefundable regulatory fee as set by the board of commissioners. Each registrant shall make application with the county for authorization to canvass, peddle or solicit and be issued a permit which shall expire December 31 of each year. Permits will be renewed annually prior to the expiration date.

Sec. 6-74. Evidence of good character; issuance of permit; possession; display.

(a) No canvasser, peddler, or solicitor shall be authorized to sell or to solicit orders until a signed application has been filed with the county in accordance with the provisions of this chapter. The County Administrator or his or her designee shall make an investigation, including but not limited to a background investigation of the applicant. The applicant will submit an annual administrative processing fee set by the board of commissioners to the County Administrator or his or her designee for a thorough background check to be completed. No permit shall be given to any applicant who, based on the information obtained by the county, shall have either a pending charge or a conviction for a crime of moral turpitude or an offense involving the elements of assault and battery, or evidence of any other action by the applicant evidencing actions which would constitute fraud and deceit under the laws of the state.

(b) Each person, while canvassing, peddling, or soliciting within the limits of the unincorporated county, shall have the permit available for inspection by any person being solicited or to Code Enforcement officers or Sheriff's Deputies. Possession of this permit shall not in any way represent an endorsement or approval of any product or project by the County.

(c) It shall be unlawful for any person to canvass, peddle, or solicit without having first registered with the county in accordance with this chapter and obtained a permit from the county in accordance with this section, or to canvass, peddle, or solicit without having the permit available in accordance with this section.

Sec. 6-75. Applicability of provisions; exceptions.

Except for the regulations set forth in this section, nothing in this article shall apply to the following:

1. Officers or employees of any city, county, state or federal government or the school system, or any subdivisions thereof, when on official business;

2. Any local nonprofit organization such as the boy scouts, girl scouts, civic clubs, religious, charitable, political, or educational organizations and the like, when the membership of such club or organization does the soliciting itself; but it shall apply when the soliciting is done by a paid solicitor or by a solicitor on contract with an individual with only a percentage or portion of any sales or collections to go to the benefit of such nonprofit club or organization;

3. Any person selling only agricultural or forestry products or selling food for immediate consumption at an approved location;

4. Any person who conducts business at any industry or association trade show;

5. Any person selling items at a rummage, garage, antique or similar sale when such person, firm, corporation or other legal entity is a resident of this state or has a permanent place of business within this state and such sale is not part of the regular business activity of such person, firm, corporation or legal entity or when the net proceeds of such sale are to be used for charitable purposes; or

6. Any person selling such items at a county-sponsored festival or event, provided that such person has obtained the necessary approvals from the county to operate at said festival or event.

Sec. 6-76. Revocation of permit.

Any permit may be revoked by County Administrator or his or her designee due to any violation by the registrant (or any one of a group of registrants) of these regulations, or of any ordinance of the county, or of any state or federal law, or whenever the registrant shall cease to possess the qualifications and good character required in this article for the original registration.

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Sec. 6-77. Regulations for canvasses, peddlers and solicitors; operating on public lands or from vehicle.

(a) No person shall stand on or adjacent to a street, road, or highway or on rights-of-way within the unincorporated county for the purpose of soliciting employment, business or contributions from the occupant of any vehicle, nor shall any person obstruct any street, road, or highway or right-of-way within the unincorporated county.

(b) No person shall locate and/or conduct a business from a mobile vehicle or upon the public sidewalks, streets, alleys, walkways, parks, parking lots, rights-of-way, or other public lands of the county or upon state rights-of-way within the unincorporated county.

(c) The provisions of the county zoning ordinance, pertaining to outside displays, shall be applicable to any canvasser, peddler or solicitor.

(d) The provisions of the county environment ordinance, pertaining to stormwater and illicit discharges, shall be applicable to any canvasser, peddler, or solicitor.

(e) No canvasser, peddler, or solicitor shall:

1. Call at residences, offices or businesses clearly displaying a sign stating "No Solicitors or Peddlers Invited," "No Solicitation," or using similar language;

2. Engage in door-to-door soliciting at residences on Sundays or between the hours of 6:00 p.m. and 9:00 a.m.;

3. Enter any private dwelling without the consent of the owner or occupant, or to remain there after being requested or directed to leave;

4. Fail to register and carry or produce for inspection a permit when required under this article; or

5. Make any false or deceptive statement on any registration hereunder.

(f) A person who is soliciting or selling on behalf of a nonprofit organization shall be required to verify the nonprofit status of such organization.

Sec. 6-78. Applicability of provisions to farm products and food products.

The legal right of the local farmer and producer to sell the products of his own farm, orchard, poultry yard, etc. is recognized. No permit shall be required from any bona fide farmer who is selling the products of his own farm, orchard, poultry yard, etc.; provided, however, that no such sales shall occur door-to-door.

Sec. 6-79. Exemption for disabled or indigent veterans of armed forces.

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Comment [P12]: This issue has already been brought up by Municode in their review of our Code. They state that case law under the US Constitution holds that we cannot unreasonably restrict the ability of people to solicit door to door. In their view, requiring door-to-door solicitation to cease at 6:00 pm is unreasonable. I don't necessarily agree with this position, but we do need to consider whether we want to extend the hours to 9:00 pm, as suggested by Municode.

Comment [K13]: Maybe we could set if by EST and DST. I don't think it would be unreasonable to request no soliciting after sunset. Example of 6:30 pm EST and 8:30 DST.

(a) *Scope of exemption.* It shall be lawful for any disabled or indigent veteran of the armed forces, as such veteran is defined in O.C.G.A. § 43-12-1, to peddle without obtaining a permit for the privilege of so doing, and a certificate from the probate court of the county stating the fact of his being such disabled or indigent veteran shall be sufficient proof thereof; provided, that this section shall not authorize peddling ardent spirits. The privileges hereby granted shall not be transferred to or used by any other person.

(b) *Effect of exemption.* All such persons are authorized to peddle in the unincorporated county without first obtaining a license therefor from the county and without being subject to any tax therefor.

(c) *Affidavit required.* Before any such person shall avail himself of the privilege conferred by this section, he shall go before the judge of the probate court of the county and make oath in writing that he served as a soldier and that the business which he proposes to carry on (stating what he proposes to peddle) is his own, and that he will not sell or offer to sell any article for another, directly or indirectly.

(d) *Issuance of certificate.* Upon making and filing the affidavit provided for in subsection (a), the judge of the probate court shall issue a certificate stating that such person has taken the oath prescribed, which certificate shall authorize such person making such affidavit and holding such certificate to peddle in the unincorporated county without procuring a license or being subject to any tax therefor.

Secs. 6-75-6-85. Reserved.

~~ARTICLE~~ ~~VIV. PERSONAL CARE HOMES~~.

~~Sec. 6-86. Purpose~~.

Article V Personal Care homes, and Community Living Arrangements

SEC 6-86 Purpose

(a) Regulated as required by O.C.G.A 31-2-4; 31-2-7; 31-2-8 and 31-7-1 and as regulated by State of Georgia Healthcare Facility Regulation division 111-8-60-01 thru 111-8-62-34 ASPEN State Regulation Set Personal Care Homes. This section updates as necessary by updates to State Law and DCH Regulations

(b) Community Living Arrangements legal authority 31-2-4: Licensing requirements Chapter 290-9-37.01 thru 290-9-37.25 and Enforcement of licensing requirements Chapter 111-8-5 as required. This section updates as necessary by updates to State Law and DCH Regulations~~The provisions herein are adopted in order to manage and control the proliferation of businesses, claiming to be operating as legal personal care homes, but actually serving as subterfuge for the conversion of single family houses to boarding houses. These illegal acts alter and degrade the character of single family neighborhoods in the county. The county is equally concerned that the elderly and disabled have an opportunity to reside in a clean and well~~

Comment [P14]: I think that, before going further with changes to this article, I need to have a better understanding of what it is that the county does with respect to regulating personal care homes. These types of establishments are already heavily regulated by the state, which does not necessarily prevent us from regulating them. I do know that a number of jurisdictions do not regulate these kinds of establishments and simply rely on provisions in their zoning ordinance.

Comment [K15]: The citizens of Fayette county actually petitioned for this regulation. I can tell you that the State does not Heavily regulate physically only on paper. They also do not verify the safety issues in the home and allow any documentation presented for housing standards. We require the county departments to inspect. Also the state added Community Living Arrangements

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~~maintained residential setting. These provisions are enacted in order to provide for the licensure and regulation of those individuals claiming to provide personal care services, as well as licensure and regulation of personal care homes which will serve to protect the public from the harms caused by unlawful uses of residential homes. The provisions are enacted to promote the public health, safety, and welfare and for other purposes. (Code 1992, § 6-86; Ord. No. 2010-01, § 1, 5-13-2010)~~

Sec. 6-87. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the manager recognized by the State of Georgia as responsible for the day-to-day management, administration and supervision of the Personal Care Home, who may also serve as on-site manager and responsible staff person except during periods of his or her own absence.

Licensee means any person holding a license issued under this division.

Personal Care Home means any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage.

Personal Care Services includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting.
(Code 1992, § 6-87; Ord. No. 2010-01, § 1, 5-13-2010)

Comment [K16]: add definition of Community living arragements

Sec. 6-88. License; application; information to be given.

Any person desiring to operate a personal care home in a residential zoning district shall, before engaging in this activity or practice, file a letter of applicable for a license addressed to ~~Fayette County Marshal~~Code Enforcement. This application shall be typewritten and shall contain the following as appendices:

1. Personal data concerning administrator, including:

    i. Name and address.

    ii. Date of birth.

    iii. Social security number.

    iv. Sex.

2. Digital Fingerprints. Applicant must be fingerprinted by the county ~~marshal's office~~Sheriff's office. Fingerprints must be made prior to issuance of license to allow for investigation of applicant.

3. Character witnesses. Applicant must furnish a list of at least three (3) character witnesses by name, address and telephone number.

4. References. Applicant shall furnish the name and address of any person having previously employed the applicant in any position at any time during the two (2) years immediately preceding the application.

5. A copy of an approved inspection report from the Fayette County Fire Marshal that the place where the personal care home is to be operated complies with all applicable fire codes.

6. A copy of an approved inspection from the Fayette County Building Official that the place where the personal care home is to be operated complies with all applicable building codes.

7. A copy of an approved inspection from the Fayette County Environmental Health Department that the place where the personal care home is to be operated has adequate water and sewer availability.

8. A floor plan of the place where the personal care home is to be operated indicating where residents will be housed, i.e., the location of bedrooms for residents.

9. A description of the types of personal services to be offered at the personal care homes and the maximum number of residents to be housed at the location.

10. A copy of any and all brochures, pamphlets, advertisements, or other representations made to residents or potential residents which claim or state any activities, services or other incentives offered to residents.

11. A copy of the license application submitted to the State of Georgia, inclusive of all reports, diagrams and all other documents required to be submitted with such application, and a copy of the license issued by the State of Georgia.

12. An affidavit of the Administrator stating that the personal care home serves as the Administrator's principle place of residence.

(Code 1992, § 6-88; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-89. License issuance or denial; Fees; Scope of license.

(a) ~~The marshal~~Code Enforcement shall issue a license for the operation of a personal care home, after the applicant has successfully provided all of the documentation required for an

application and upon the applicant's payment of a fee ~~of two hundred dollars~~to be set by the Fayette County Board of commissioners ~~($200.00)~~.

(b) Licenses shall be issued for each calendar year. Renewal licenses fees shall be ~~granted for the same fee of two hundred dollars~~set by the Fayette County Board of commissioners ~~($200.00) per year~~ and shall be subject to an investigation by ~~the~~ ~~county marshal's office~~Code Enforcement to determine continued compliance with this division.

(c) ~~The marshal~~ Code enforcement shall deny the issuance of a license if the applicant submits an incomplete application or if the applicant does not meet the requirements provided for herein.
(Code 1992, § 6-89; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-90. Information concerning employees to be filed with marshal's office.

It shall be the duty of all persons holding a license under this division to file with ~~the marshal~~Code Enforcement the home address, home telephone number and place of employment of each employee of the licensee. Changes in such information shall be filed with ~~the marshal~~ Code Enforcement within ten (10) days from the date the change becomes effective.
(Code 1992, § 6-90; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-91. Record of treatment to be kept.

It shall be the duty of any person granted a license under this division to maintain correct and accurate records of the names and addresses of any and all persons living in the home, the type of personal services delivered, and the name of the person administering said services. These records shall be subject to inspection by ~~the~~ ~~county marshal's office~~Code Enforcement or any duly sworn law enforcement officer at any time during the normal operating hours of the business. Records shall be kept for a minimum of three (3) years.
(Code 1992, § 6-91; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-92. Size.

(a) No personal care home shall have more ~~than four (~~than 4~~(3))~~ residents receiving Personal Care Services. Plus one administrator who must live on site

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(b) All occupants of the Personal Care Home, who are not residents receiving Personal Care Services, must be related to the Administrator by blood, marriage, or adoption.

(c) Every occupant of a personal care, regardless of whether they receive Personal Care Service, shall have the minimum square footage and bed space for residents receiving Personal Care Service.
(Code 1992, § 6-92; Ord. No. 2010-01, § 1, 5-13-2010)

Sec. 6-93. Denial or revocation of license.

In addition to other reasons for denial or revocation stated in this chapter, the license of a personal care home may be revoked upon grounds including, but not limited to, the following:

1. The licensee is guilty of fraud in the rendering of services or fraud or deceit in obtaining a license to operate a personal care home.

2. The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person or to the extent that he is unable to perform his duties.

3. The licensee is guilty of fraudulent, false, misleading, or deceptive advertising or practices.

4. The original application, or renewal thereof, contains materially false information, or the applicant has deliberately sought to falsify information contained therein.

5. The licensee or his/her employees commit any criminal act at the premises of the licensee.

(Code 1992, § 6-93; Ord. No. 2010-01, § 1, 5-13-2010)

Secs. 6-94 - 6-99. Reserved.

ARTICLE ~~VII~~VI. COIN OPERATED MACHINES.

Comment [P17]: State law with respect to coin operated machines was changed in 2013. I have removed our current provisions pertaining to these devices and replaced them with language from a model ordinance promulgated by the Georgia Municipal Association (but which is also applicable to counties). The county is allowed to regulate certain aspects of these businesses, such as the number of machines at a location. The county can also suspend or revoke a business's license (including alcohol or other licenses) if it violates this section. The county is not, however, authorized to collect a regulatory fee.

Please review these provisions and let me know if you have any questions or concerns.

~~**Sec. 6-100. Definitions.**~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Amusement center* means any establishment where three (3) or more coin-operated video and amusement machines are maintained which occupy less than twenty-five (25) percent of the available floor space.~~

~~*Amusement center proprietor* means a proprietor of an amusement center. The terms "proprietor" and "amusement center proprietor", but not "arcade room proprietor" and "amusement center proprietor", shall be synonymous unless specifically provided otherwise.~~

~~*Arcade room* means any establishment where more than three (3) coin-operated video and amusement machines are maintained.~~

~~*Arcade room proprietor* means any proprietor of an arcade room. As used herein, the terms "proprietor" and "arcade room proprietor" shall be synonymous unless specifically provided otherwise.~~

~~*Available floor space* means all that space necessary for the placement, operation and use of the machines licensed under this article and shall not be solely limited to the space occupied by the machines themselves.~~

~~*Coin-operated video and amusement machine* means any machine or device operated by means of the insertion of a coin, token, or similar object for the purpose of receiving the temporary services of the machine for recreation or a game of skill and for the playing of which a fee is charged. The term does not include vending machines in which are not incorporated recreation features, nor does the term include any coin-operated mechanical musical devices or kiddie rides.~~

~~*Distributor* means any person who sets up for operation by another and leases or rents for the purpose of operation by another any machine herein regulated, whether such leasing or renting be for a fixed charge or rental, or on the basis of a division of the income derived from such device, or otherwise.~~

~~*Proprietor* means any person who, as the owner or lessee, has under his control any establishment, place or premises in or at which coin-operated video and amusement machines are placed or kept for use or play, or on exhibition for the purpose of use or play by the general public.~~
~~(Code 1992, § 6-101; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-101. Operation regulations.~~

~~(a) All businesses licensed under this article shall be subject to the following regulations:~~

~~1. Machines to be kept in plain view. All such machines shall at all times be kept and placed in plain view of and open and accessible to any person who may frequent or be in any place of business where such devices are kept or used. However, no machine shall be placed within five (5) feet of any public entrance or exit, and no proprietor, except arcade room proprietors or amusement center proprietors, may keep or maintain a machine between any public entrance or exit and any cash register.~~

~~2. Gambling prohibited. Nothing in this article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.~~

~~3. Inspection. The business license department shall have the right to inspect or cause the inspection of any place or building in which any such machine or machines are operated or set up for operation and to inspect, investigate and test such machines as needed.~~

~~4. Attendant required. It shall be unlawful for any proprietor to open his business to the public unless an attendant is present. Such attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Such attendant shall not be less than eighteen (18) years of age.~~

~~5. Refunds and adjustments. Refunds and adjustments to all customers shall be the responsibility of the proprietor of the machine in question.~~

~~6. Loitering. As used in this section, "loitering" shall mean remaining idle in essentially one (1) location and shall include the concepts of spending time idly, loafing, or walking about aimlessly, and shall also include the colloquial expression "hanging around". It shall be unlawful for any person to loiter within the immediate vicinity of any machine or business premises regulated hereunder or for any person licensed to operate a game room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:~~

~~i. Create or cause to be created a danger of a breach of the peace.~~

~~ii. Create or cause to be created any disturbance or annoyance to the comfort and repose of any person.~~

~~iii. Obstruct the free passage of pedestrians or vehicles.~~

~~iv. Obstruct, molest, or interfere with any person lawfully in any public place.~~

~~7. Persons under eighteen. Proprietors shall not allow any unaccompanied person under the age of eighteen (18) years to frequent or remain on their premises during the following hours:~~

~~i. Sunday through Thursday during normal public school terms, after 11:00 p.m.~~

~~ii. Monday through Friday during normal public school terms, unaccompanied individuals under eighteen (18) years of age shall not be allowed on the premises until after 3:00 p.m.~~

~~8. Sunday operation. No proprietor shall allow the operation of machines on Sunday prior to 1:00 p.m.~~

~~9. Shirts and shoes required. All proprietors shall require shirts and shoes to be worn at all times by any person frequenting their premises.~~

~~10. Pool tables. No proprietor, except amusement center proprietors, shall maintain pool tables or bumper pool tables on the premises.~~

~~11. Alcoholic beverages. No proprietor shall allow alcoholic beverages to be brought onto their premises by any person.~~

~~(b) Violation of any of the above provisions shall be sufficient grounds for revocation of a license issued hereunder.~~
~~(Code 1992, § 6-101; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-102. License required.~~

~~No person shall engage in the business of a distributor or proprietor of coin-operated video and amusement machines without first having obtained the proper license.~~

~~(Code 1992, § 6-102; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-103. License issuance or denial; fees; scope of license.~~

~~(a) The marshal shall issue a license for the operation of coin-operated machines, after the applicant has successfully provided all of the documentation required for an application and upon the applicant's payment of a fee of two hundred dollars ($200.00).~~

~~(b) Licenses shall be issued for each calendar year. Renewal licenses shall be granted for the same fee of two hundred dollars ($200.00) per year and shall be subject to an investigation by the county marshal's office to determine continued compliance with this division.~~

~~(c) The marshal shall deny the issuance of a license if the applicant submits an incomplete application or if the applicant does not meet the requirements provided for herein.~~
~~(Code 1992, § 6-103; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-104. Application for license; display.~~

~~(a) Application for license under this division shall be filed in writing with the business license department on a form to be provided by the county and shall specify:~~

~~1. The name and address of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof and their addresses.~~

~~2. Proprietors shall list the address of the premises where the licensed machine or machines are to be operated, together with the character of the business as carried on at such place.~~

~~3. Proprietors shall list the number of machines to be maintained on the premises.~~

~~4. The name and address of the owner of the machine or machines, if other than the proprietor. This information shall not be released to the general public without the consent of the licensee.~~

~~5. Whether or not the person having the management of or supervision over the applicant's business has been convicted of a crime, misdemeanor or the violation of any county ordinance, the nature of such offense, and the punishment assessed therefor.~~

~~(b) The proper license fee shall accompany such application. The license shall be posted in a conspicuous place in the establishment of the licensee. Such license shall be non-assignable and nontransferable, and in the case of a proprietor shall apply only to the premises for which such license is issued. In addition, each machine shall have placed upon it by the licensee a sticker showing the license number of its distributor and/or proprietor.~~
~~(Code 1992, § 6-104; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-105. Character qualifications.~~

~~No license shall be issued to or renewed for any person who has, or employs a person who has, within five (5) years of issuance or renewal, been convicted of, or pled guilty or *nolo contendere* to, any felony involving any federal or state offense or any federal or state misdemeanor involving drug-related offenses or offenses involving moral turpitude. The licensee will submit the identity of all owners and employees to the business license department on a continuing basis as changes occur. This information is to be forwarded to the county sheriff's department for the purpose of allowing a complete check in order that these character qualifications be fulfilled prior to the issuance or renewal of any license or permit issued hereunder.~~
~~(Code 1992, § 6-105; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-106. Increasing number of machines.~~

~~In case a proprietor licensed under the provisions of this division desires, after the expiration of any portion of any license year, to increase the number of machines to be used or played or exhibited for use or play in his establishment, so that he then has three (3) or more machines, he shall surrender his license to the business license department, which shall issue a new arcade room proprietor license or amusement center proprietor license upon payment of the proper license fee with any applicable credit for the previously paid license fee.~~
~~(Code 1992, § 6-106; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-107. Denial or revocation of license.~~

~~In addition to other reasons for denial or revocation stated in this chapter, the license of a personal care home may be revoked upon grounds including, but not limited to, the following:~~

~~1. The licensee is guilty of fraud in the rendering of services or fraud or deceit in obtaining a license to operate coin operated machines.~~

~~2. The licensee is addicted to the habitual use of intoxicating liquors, narcotics, or stimulants to such an extent as to incapacitate such person or to the extent that he is unable to perform his duties.~~

~~3. The licensee is guilty of fraudulent, false, misleading, or deceptive advertising or practices.~~

~~4. The original application, or renewal thereof, contains materially false information, or the applicant has deliberately sought to falsify information contained therein.~~

~~5. The licensee or his/her employees commit any criminal act at the premises of the licensee.~~
~~(Code 1992, § 6-107; Ord. No. 2010-01, § 1, 5-13-2010)~~

~~Sec. 6-100. Gambling devices prohibited.~~

~~Gambling Devices, as that term is defined in O.C.G.A. §-16-12-20(2) are prohibited in the unincorporated portion of the county, and the ownership, use, or transport thereof shall be a~~

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~~misdemeanor pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35(a) through (k).~~

~~Sec. 6-101. Gambling places prohibited.~~

~~Gambling Places, as that term is defined in O.C.G.A. §-16-12-20(3) are prohibited in the unincorporated portion of the county, and the operation thereof shall be a misdemeanor pursuant to state law.~~

~~Sec. 6-102. Definitions.~~

~~The following words, terms, or phrases, when used in this article, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:~~

~~*Amusement game room* means any location as provided in O.C.G.A. §-16-12-35(b), (c) or (d) where one or more Bona Fide Coin Operated Amusement Machines are operated that permit non-cash redemption as provided in O.C.G.A. §-16-12-35(d)(1)(B), (C), or a combination thereof.~~

~~*Bona fide coin operated amusement machine* means the same as this term is defined in O.C.G.A. §-50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of Bona Fide Coin Operated Amusement Machines include, but are expressly not limited to, the following:~~

~~1. Pinball machines;~~

~~2. Console machines;~~

~~3. Video games;~~

~~4. Crane machines;~~

~~5. Claw machines;~~

~~6. Pusher machines;~~

~~7. Bowling machines;~~

~~8. Novelty arcade games;~~

~~9. Foosball or table soccer machines;~~

~~10. Miniature racetrack, football or golf machines;~~

~~11. Target or shooting gallery machines;~~

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12. Basketball machines;

13. Shuffleboard machines;

14. Kiddie ride games;

15. Skee-Ball® machines;

16. Air hockey machines;

17. Roll down machines;

18. Trivia machines;

19. Laser games;

20. Simulator games;

21. Virtual reality machines;

22. Maze games;

23. Racing games;

24. Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and

25. Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

1. Coin operated washing machines or dryers;

2. Vending machines which for payment of money dispense products or services;

3. Gas and electric meters;

4. Pay telephones;

5. Pay toilets;

6. Cigarette vending machines;

7. Coin operated vending machines;

8. Coin operated scales;

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9. Coin operated gumball machines;

10. Coin operated television sets which provide cable or network programming;

11. Coin operated massage beds; and

12. Machines which are not legally permitted to be operated in Georgia.

Location means a business within the unincorporated portion of the county that has complied with the provisions of the ordinances of the county relating to occupation taxes and business licenses and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the Lessor or Lessors allow the space to be used for business purposes.

Location owner or location operator means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public, or shall have the same definition as found in the Official Code of Georgia, Annotated, Section 50-27-70, should that definition differ.

Sec. 6-103. License required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an Amusement Game Room, as the term is herein defined, without first having obtained an Amusement Game Room license, without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this article. A separate Amusement Game Room license must be obtained for each location in the jurisdiction in which bona fide coin operated amusement machines are operated.

Sec. 6-104. Issuance of license.

Application for a license for operating an Amusement Game Room within the unincorporated portion of the county shall be made to the County Administrator or his or her designee upon a form to be supplied by the County Administrator or his or her designee for this purpose. The license application shall include the following information:

1. Name, address, and age of the applicant and the date of the application;

2. Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;

3. Name and address of the owner of the machine or machines and a copy of the owner's master license;

Comment [P18]: This section permits the county to require a license for an amusement game room, but it does not permit the county to charge any fee beyond the occupation tax.

Comment [K19]: Unless this is a stand alone Amusement Center we really don't want to regulate locations with coin operated machines. Only adopting state laws. I spoke with the Sheriff office and they agreed. Since the state now regulates the locations and charge a fee along with a required contract/.

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4. Name and address of any other business owned or operated by applicant within the unincorporated portion of the County; and

5. List of any other licenses or permits from the county held by the applicant.

Upon issuing a license for an Amusement Game Room, the County Administrator or his or her designee shall provide the license with a copy of this article. The county shall not require a fee for an Amusement Game Room license or registration. A license issued in accordance with this Ordinance shall be valid until December 31st of the year in which the license was issued. The owner or operator of an Amusement Game Room shall be required to pay occupation taxes in accordance with Chapter 11 of the Code of Ordinances of the county.

Sec. 6-105. Occupation tax required.

No person, firm or corporation shall engage in the business of an owner or proprietor of Amusement Game Room, as the term is herein defined, without first having completed the occupation tax certificate application form, paid the required occupational tax and obtained an occupational tax certificate.

Sec. 6-106. Minimum distance requirements.

(a) Every Amusement Game Room in the unincorporated portion of the county shall comply with the proximity provision for business licensed to sell alcohol set out in O.C.G.A. §-3-3-21. At a public meeting, the Board of Commissioners may waive the application of this provision to an individual location if no alcohol is served or sold at such Location.

(b) Every Amusement Game Room in the unincorporated portion of the county shall comply with the proximity provision for businesses licensed to sell alcohol as set out in Section 3-13 of the Code of Ordinances of the county. At a public meeting, the Board of Commissioners may waive the applicability of this provision to an individual Location if no alcohol is served at such Location.

Sec. 6-107. Number of bona fide coin operated amusement machines at a location.

No Amusement Game Room in the City shall offer to the public more than six (6) Class B Bona Fide Coin Operated Amusement Machines offering non-cash redemption in accordance with O.C.G.A. §-16-12-35(c) and (d)(1)(2), or both at the same Location. At a public meeting, the Board of Commissioners may, after consideration of the nature and character of the business, waive the applicability of this provision to an individual Location.

Sec. 6-108. Gross receipts from bona fide coin operated amusement machines and from business.

(a) Every Amusement Game Room shall keep records available for inspection by county officials that set out separately annual gross receipts for the Class B amusement games and the other products and services sold at the Location.

Comment [P20]: State law permits the county to set distance requirements for these kinds of businesses, but they must be the same as those for alcohol.

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Comment [P21]: State law limits the number of machines at a location to 9, however the county is authorized to limit this number further to as low as 6.

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~~(b) Any location owner or location operator subject to Official Code of Georgia, Section 50-27-84(b)(1) is hereby required to provide a monthly report to the County Administrator or his or her designee. Such report shall indicate the monthly gross retail receipts for each business location located within the unincorporated portion of the county and shall be due by the twentieth day of each month, subsequent to the month in which the sales have taken place. In addition, each owner or operator must allow the local government an annual audit of the reports from the owner or operator to the Lottery Corporation.~~

~~(c) No location owner or location operator may derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for this business location in which the Class B machines are situated from such Class B machines and any location owner or location operator found in violation of such provision may be fined and may have any county issued license suspended or revoked as allowed under this article. Compliance with this section requires both the availability of records for inspection and compliance with the fifty (50%) percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.~~

~~Sec. 6-109. Notice requirements.~~

~~(a) Every Amusement Game Room shall post a conspicuous sign with the following or substantially similar language:~~

~~'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING $5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.'~~

~~(b) Every Amusement Game Room shall post the license issued by the county conspicuously and permanently.~~

~~(c) The owner or proprietor of each Amusement Game Room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this article, and of the penalties for violation of O.C.G.A. § 16-12-35 and this article.~~

~~Sec. 6-110. Compliance with state law provisions relating to master licenses, location licenses, and stickers for individual machines.~~

~~Bona Fide Coin Operated Amusement Machines may be used in an Amusement Game Room within the unincorporated portion of the county only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a~~

~~location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The County Administrator or his or her designee shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71or § 50-27-78.~~

~~Sec. 6-111. License suspension and revocation.~~

~~(a) The county may suspend or revoke the county issued license of any location owner or location operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).~~

~~(b) The county may suspend or revoke the license of any location owner or location operator of any other license granted by the county as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).~~

~~(c) The suspension or revocation of licenses under this Code section shall be in accordance with the following guidelines of due process:~~

~~1. Within three days following a court appearance of a licensee in state court for violation of this article, Code Enforcement shall submit to the County Administrator an investigation report of the violation. The report will include the details of the violation and the specific section of this chapter and/or other county ordinance, or state laws that have been violated and the sentence imposed by the court.~~

~~2. The County Administrator shall review the investigation report and the official records of the licensee and recommend to Code Enforcement to either probate, suspend and/or probate, or revoke the licenses of the violator based on the penalty schedule in this section; except that no license shall be placed on probation, suspended or revoked unless there is due cause.~~

~~3. The County Administrator shall not be required to strictly adhere to the progressive penalties in the penalty schedule and is authorized to invoke a more or less severe penalty based on the circumstances of the violation, to include forwarding the violation directly to the Board of Commissioners for an administrative hearing. The County Administrator shall schedule the penalty period not earlier than 14 days following written notification of the penalty to the licensee.~~

~~Penalty Schedule:~~

~~First violation — Six-month probation~~
~~Second violation — Suspension of up to three months of a license to offer any amusement game at the Location and/or a~~

Comment [P22]: The process for suspension and revocation of licenses detailed here mirrors that for alcohol licenses. State law requires the same due process requirements that is required for alcohol licenses, therefore the two processes should be similar. Furthermore, violations of this article can lead to suspension or revocation of a business's alcohol license.

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	seven-day suspension of any other licenses and a one-year probation for all licenses
Third violation	As determined by the Board of Commissioners at a public hearing

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Notwithstanding anything stated in this section, the County Administrator may, if the circumstances of any violation or potential violation warrant immediate action, refer that violation or potential violation to the Board of Commissioners for a hearing.

4. If there is a violation during a probation period, the licensee shall be penalized as designated in the next step of the penalty schedule plus an additional seven-day penalty period. Exception: Should a licensee not incur a violation during a 24-month period, the next violation shall be subject to the first violation penalty.

5. The term "due cause" for the purposes of this section shall include, but not be limited to:

i. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws.

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ii. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense when the licensed business is for on-premises consumption.

iii. Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.

iv. Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this article shall be deemed a violation of the requirement attempted to be circumvented.

v. Failure to meet or maintain any standard prescribed by this article as a condition or qualification for holding a license.

vi. Any other factor known to or discovered by the county whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or

~~narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.~~

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~~6. A licensee may appeal within ten days the action of Code Enforcement or the County Administrator to the Board of Commissioners and request a public hearing on the violation. Such hearing shall be held within 30 days following receipt of a written request from the licensee. Upon receipt of an appeal requesting a public hearing, Code Enforcement shall delay the penalty pending the outcome of the public hearing.~~

~~7. When a hearing or an appeal of a decision by the County Administrator is to be heard by the Board of Commissioners, notice shall be sent to either the licensee or license representative personally or by certified mail at least 15 days, but not more than 45 days prior to hearing date. Notice shall state the time, place and purpose of the hearing. The times shall be counted from the date of receipt of notice by the licensee or license representative. The licensee shall be entitled to have counsel present at any hearing brought to inquire into suspension, revocation or probation of a license, and shall have the right to cross examine witnesses against him, and to produce evidence in his own behalf.~~

~~Sec. 6-112. Criminal penalties for violations by owners or operators of amusement game rooms.~~

~~(a) Penalties for violation of the provisions of this article by the owner or operator of an Amusement Game Room, after conviction in the State Court of Fayette County, or other court of competent jurisdiction are as follows:~~

~~1. First Offense: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.~~

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~~2. Second Offense: Fine not to exceed Seven Hundred Fifty ($750.00) Dollars for each violation.~~

~~3. Third Offense: Fine not to exceed One Thousand ($1,000.00) Dollars for each violation, suspension or permanent revocation of the owner or operator's license for offering any amusement game at the Location.~~

~~(b) The fines listed in the penalties for violation of this article may be imposed by the Judge of the State Court of Fayette County, or the judge of any other court of competent jurisdiction.~~

~~Said fines shall be in addition to any penalties assessed by the County Administrator and/or Board of Commissioners pursuant to Section 6-111 of this article.~~

~~(c) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of a decision suspending or revoking the license for the offering of any amusement game at the Location is punishable, after conviction in the State Court of Fayette County, by a fine not to exceed One Thousand ($1,000.00) Dollars, imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.~~

~~Sec. 6-113. Penalties for violations by those who play bona fide coin operated machines in violation of law or ordinance.~~

~~The State Court of Fayette County, or any other court of competent jurisdiction is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any Bona Fide Coin Operated Amusement Machine from any person owning, possessing, controlling or overseeing such Bona Fide Coin Operated Amusement Machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a Bona Fide Coin Operated Amusement Machines:~~

~~1. First Offense: Fine not to exceed Two Hundred Fifty ($250.00) Dollars for each violation.~~

~~2. Second and Subsequent Offense: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.~~

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~~Sec. 6-114. Operating regulations.~~

~~All businesses operating as an Amusement Game Room hereunder shall be subject to the following regulations:~~

~~(a) *Devices to Be Kept in Plain View; Gambling Devices Prohibited.* All bona fide coin operated amusement machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.~~

~~(b) *Inspection.* The County Administrator or his or her designee may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up for operating, and may inspect, investigate and test such machines as needed.~~

~~(c) *Attendant Required.* It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.~~

~~(d) *Loitering*. As used in this section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate an Amusement Game Room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:~~

~~1. Create or cause to be created a danger of a breach of the peace;~~

~~2. Create or cause to be created any disturbance of the peace, as defined by law;~~

~~3. Obstruct the free passage of pedestrians or vehicles; or~~

~~4. Obstruct, molest or interfere with any person lawfully in a public place.~~

~~(e) *Shirt and shoes required.* All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.~~

~~Sec. 6-115. Licenses and permits nontransferable.~~

~~(a) Licenses required in this article are nontransferable. All businesses that have bona fide coin-operated amusement machines on the premises shall display, in plain view, the current Amusement Game Room license and occupational tax certificate issued by the county.~~

~~(b) The issued license shall not be transferred to another owner at the same site within the unincorporated portion of the county. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in the unincorporated portion of the county.~~

~~Sec. 6-116. Enforcing officer.~~

~~The City Administrator or his or her designee is hereby designated as the enforcement officer and shall execute all requirements of this article.~~

~~Sec. 6-117 through 6-129. Reserved.~~

ARTICLE VII. PAWNSHOPS. [Sections 6-130 through 6-179]

ARTICLE VIII. SEXUALLY-ORIENTED BUSINESSES. [Sections 6-180 through 6-229]

ARTICLE IX. BODY ART STUDIOS.

Sec. 6-230. Authority.

The legal authority for these rules is Section 16-5-71, Section 16-5-71.1, Section 16-12-5, Section 31-3-4, and Chapters 5 and 40 of Title 31 of the Official Code of Georgia Annotated.

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Comment [P23]: The provisions pertaining to pawnshops should be inserted here. I have placed my comments in a separate document.

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Comment [P24]: The provisions pertaining to sexually-oriented businesses should be inserted here. I have placed my comments in a separate document. Also, I do not believe that the new sexually-oriented business ordinance should be adopted as part of the same agenda as the rest of this Chapter. It should be adopted as part of its own agenda item.

Comment [P25]: This Article, which replaces our current provisions pertaining to Tattooing, should be moved to a new Chapter pertaining to "Health" as part of the Municode documents that will be approved at a later time.

Comment [K26]: agreed

Sec. 6-231. Purpose.

The Body Art Studios and Body Artist Rules are adopted for the purpose of establishing reasonable standards for individuals performing body art procedures and the facilities from which the procedures are provided. Such standards are designed to promote the health and safety of all individuals performing and receiving body art services.

Sec. 6-232. Exemptions.

These rules shall not apply to a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct on-site supervision of such licensed physician or osteopath.

Sec. 6-233. Definitions.

The following definitions shall apply to these rules. Any word or phrase not defined below but otherwise defined in these rules shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context clearly requires otherwise.

Antibacterial solution means any solution used to retard the growth of bacteria which is approved for application to human skin and includes all products labeled accordingly as approved by FDA.

Biohazard means any infectious agent(s) or parts thereof presenting a real or potential risk to the well-being of humans or other species, directly through infection or indirectly through disruption of the environment.

Body art means the practice of physical body alteration by permitted establishments and by licensed operators using techniques including, but not limited to, the following: body piercing, tattooing, and cosmetic tattooing. Body art does not include practices that are considered medical procedures by the Georgia State Medical Board, which shall not be performed in a body art studio. Body art does not include the painting of the skin with tempura or temporary, non-indelible inks, paints, or dyes. Body art does not include piercing of the outer perimeter or lobe of the ear with pre-sterilized, single-use stud and clasp ear piercing systems.

Body art studio means any permanent building or structure in a planned commercial center on a permanent foundation, holding a valid city or county business permit or license, wherein a Body Artist performs body art.

Body art studio permit means the authorization granted by the Fayette County Board of Health to the Owner to operate a Body Art Studio. Such permit is the property of the Fayette County Board of Health.

Body artist means any person who performs body art.

Body piercing means puncturing or penetration of the skin or mucosa of a person with any sharp instrument and/or the insertion of jewelry or other adornment thereto in the opening.

Cosmetic tattooing means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa. Cosmetic tattooing shall include permanent cosmetics, micro-pigmentation, permanent color technology, and micro-pigment implantation.

Board of Health means the Fayette County Board of Health or its duly authorized representatives.

Currently licensed health care professional means those professionals licensed by the state of Georgia to perform health care services and includes, but is not limited to, licensed physicians, registered nurses (RN), licensed practical nurse (LPN), and licensed emergency medical technicians.

Department means the Department of Public Health of the State of Georgia.

Disinfection means a process that eliminates many or all pathogenic microorganisms, with the exception of bacterial spores, from inanimate objects. High level disinfection can be expected to destroy all microorganisms, with the exception of high numbers of bacterial spores. Intermediate level disinfection inactivates Mycobacterium tuberculosis, vegetative bacterial, most viruses, and most fungi. Low level disinfection can kill most bacteria, some viruses, and some fungi. *Guideline for Environmental Infection Control in Healthcare Facilities: Recommendation of CDC and the Healthcare Injection Control Practices Advisory Committee* (HICPAC); U.S. Department of Health and Human Services Center for Disease Control and Prevention (CDC) (2003).

Easily cleanable means composed of readily accessible, non-absorbent material, and of such constitution, finish, and fabrication that residue may be completely removed by non-mechanical low friction methods.

EPA means the Environmental Protection Agency.

Instrument means any hand piece, needle, needle bar, sharp, device, or other object that is used or may come into contact with a client or may be exposed to bodily fluids during a body art procedure.

Owner means the person, partnership, corporation, association, or any other form of business organization that owns, maintains, or controls a Body Art Studio and who is responsible for the operation of the studio.

Parlor means the actual room of the Body Art Studio where the Body Artist performs procedures.

Sanitary means free of visible debris, residue, or contamination, and with reduced microbial contaminants.

Sanitized means an effective antimicrobial treatment by a process that provides sufficient concentration of chemicals or other suitable method on surfaces for enough time to reduce the microbial count to a sanitary level.

Scarification means the act of creating designs out of scar tissue by cutting the skin or branding it with heated metal.

Sharps means any discarded article that may cause punctures or cuts to the skin or tissue.

Single-use means an instrument or article which is reasonably anticipated to come into direct contact with blood and compromised tissue surfaces during its intended use. Such articles are not to be used on more than one customer or client for any reason and must be disposed of after use as soon as possible, without posing risk of contamination or exposure to the body artist, the client, or the surrounding environment.

Standard precautions means a set of guidelines and controls, published by the Center for Disease Control and Prevention (CDC) as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Health Care and Public Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23,1989, Vol. 38, Bi.S-6; "Recommendation for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure- Prone Invasive Procedures," in MMWR, July 12, 1991, Vo1.40, No. RR-8; and "Recommendations for Prevention and Control of HCV Infection and HCV Related Chronic Disease" in MMWR, October 16, 1998, Vol. 47, No. RR-19. These methods of infection control require the employer and the employee to assume that all human blood and specified human body fluids are infectious for human immunodeficiency virus (HIV) and other blood borne pathogens. Precautions include, but are not limited to, hand washing, gloving, masks, protective eye wear and/or other protective equipment, injury prevention, and proper handling and disposal of needles and other sharp instruments when contact with blood or bodily fluids containing blood is anticipated. Standard Precautions apply to blood, all body fluids, secretions, and excretions, excluding sweat, regardless of whether or not they contain visible blood, non-intact skin, and mucous membranes. Standard Precautions include Universal Precautions. In the event that the CDC or other primary reference or regulatory authority publishes materials or amends regulations applicable to this definition, this definition shall be deemed amended to include the latest versions of these documents, regulations, and recommendations.

Sterilization means the reduction of microbial life at an order of 10 log 6 using equipment capable of delivering full efficacy to all surfaces within the unit chamber, including tubes, lumens, cracks, or other obscured surfaces, including those inside packaging.

Sterilizer means an autoclave certified to meet medical standards and which performs the act of sterilization as defined herein.

Sterilizer indicator means a device designed to give visual verification that sterilization temperature has been achieved during the sterilization process.

Suspension means the piercing of human tissue or skin with hooks or other piercing apparatuses for supporting or bearing weight, either human or object.

Tattoo means to mark or color the skin by pricking in, piercing, or implanting indelible pigments or dyes under the skin or mucosa and includes the definition of tattoo as defined in O.C.G.A. § 31-40-1(1) and as may hereafter be amended. The term "tattoo" also includes all forms of cosmetic tattooing.

Wash means cleansing the skin with warm water and antibacterial soap and drying with single-use towels.

Sec. 6-234. Scope of rules.

(a) All permits issued under this Article shall constitute a mere privilege to conduct the business so authorized during the term of the permit only and subject to all terms and conditions imposed by the Board of Health, the Department, and state law.

(b) 'The requirements of these rules shall be in addition to all other licensing, taxing, and regulatory provisions of local, state, or federal law and shall not authorize violations of said other applicable laws.

Sec. 6-235. Body art studio owner.

(a) The Owner shall be responsible for compliance with the requirements in Chapter 40 of Title 31 of the Official Code of Georgia Annotated, along with any applicable administrative rules and regulations of the Department, and along with the applicable rules of the Fayette County Board of Health, including, but not limited to, all applicable statutes and rules and regulations regarding disclosure of ownership.

(b) Prior to being granted a Body Art Studio Permit, the Body Art Studio Owner shall adopt and submit to the local health authority a written statement of policies and procedures of the Body Art Studio showing compliance with the following:

1. No person under the age of eighteen (18) shall perform body art procedures on individuals unless under the direct on-site supervision of a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated.

2. Body Artists shall not be under the influence of alcohol and/or drugs while performing body art procedures.

3. No person shall perform body art procedures on an individual who is or reasonably appears to be under the influence of alcohol, drugs, or other stimulants or depressants, or is of unsound mind or body.

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4. No animals of any kind shall be allowed in a Body Art Studio.

5. No tattoo procedure shall be performed on a person under the age of eighteen (18) except by a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct supervision of such physician or osteopath with the written consent of a parent or guardian.

6. No body piercing procedure shall be performed on a person under the age of eighteen (18) without written consent and proof of valid state issued identification of a parent or guardian. A copy of the consent form and proof of identification shall be maintained in the client's record. The parent or guardian must be present when the piercing procedure is performed.

7. No tattoo procedure shall be performed on any person within one (1) inch of any part of the eye socket of such person.

Sec. 6-236. Body art studio permit.

(a) The Owner of each Body Art Studio shall obtain a valid Body Art Studio Permit from the Fayette County Board of Health prior to beginning operation. Body Art Studios shall renew their Permit annually in accordance with Section 16-67 and Section 16-68 herein.

(b) The Permit is the property of the Fayette County Board of Health.

(c) To be eligible for a new Body Art Studio Permit or a renewal permit, a Body Art Studio must be in compliance with all of the requirements of these rules.

(d) It shall be unlawful for any person to practice body art procedures unless such procedures are performed in a Body Art Studio operating under a valid Body Art Studio Permit issued by the Fayette County Board of Health.

(e) The holder of a Body Art Studio Permit shall only hire, employ, or use individuals to perform body art who have complied with the applicable requirements of this Article.

(f) The Body Art Studio Permit shall be displayed on the premises and conspicuously displayed in public view. Permits shall not be defaced or altered in any manner. A Body Art Studio shall not post a reproduction of a Permit unless the Board of Health has marked it "Duplicate."

(g) All Body Art Studio permits issued pursuant to these rules are nontransferable.

(h) The Body Art Studio Permit shall be returned to the Fayette County Board of Health Environmental Health Section if it is suspended or revoked within seven (7) days.

Sec. 6-237. Application for body art studio permit.

(a) The application for a Body Art Studio Permit or for the renewal of a Body Art Studio Permit shall be made on forms provided by the Fayette County Board of Health.

(b) Any application for a new Body Art Studio Permit or for the renewal of a Body Art Studio Permit shall be sworn to by the applicant as true and correct.

(c) At least thirty (30) days prior to the anticipated date of opening, the Owner of a new Body Art Studio shall submit an application to the Fayette County Board of Health for a Body Art Studio Permit to operate under these rules.

(d) The Application for a Body Art Studio shall include:

1. A scaled drawing of the Studio, including the location of all furnishings and equipment;

2. A zoning certification obtained from the appropriate jurisdiction (the applicant shall comply with all applicable zoning, building, safety, fire, and other local codes and requirements);

3. A copy of the Certificate of Occupancy for the Studio;

4. A complete description of all body art services which will be provided in the Body Art Studio;

5. The full or legal name under which the Body Art Studio is conducted;

6. The address of the Body Art Studio;

7. If the Owner leases the location, the name and current address of the landlord;

8. The name and home address of the Owner; if the Owner of the Body Art Studio is a partnership, the names and addresses of all partners; if the Owner is a corporation, the date and place of incorporation and the name and address of its registered agent in the state; or if the Owner is any other type of association, the names of the principals of the association;

9. A list containing the full names and home addresses of all employees and staff who will be working in the Body Art Studio;

10. A copy of the written statement and policies and procedures of the Body Art Studio in accordance with Section 16-65 of these rules;

11. An acknowledgement signed by the Owner acknowledging that the Owner has read and understands these rules; and

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12. Such other information as may be deemed necessary by the Board of Health.

(e) The applicant shall submit a non-refundable plan review fee as set by the Fayette County Board of Health and approved by the Board of Commissioners of Fayette County. The plan review fee shall be waived for any Body Art Studio that is open for operation prior to the adoption of these rules.

Sec. 6-238. Application for renewal.

(a) At least thirty (30) days prior to the expiration of a Body Art Studio Permit, the Owner shall submit an application to the Fayette County Board of Health Environmental Health Section for a renewal of the Body Art Studio Permit.

(b) The application shall include an updated drawing of the Body Art Studio according to Section 16-67(d)(l).

(c) The application shall also include all information as described in Section 16-67(d)(5-13).

Sec. 6-239. Issuance of body art studio permits and fees.

(a) The Fayette County Board of Health may issue a Body Art Studio Permit to an Owner after determining that the Studio is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable administrative rules and regulations of the Department, and with these rules.

(b) A Body Art Studio shall submit an application for a new Body Art Studio Permit when any of the following conditions exist:

1. The Studio is remodeled, renovated, or expanded;

2. There is a change in the legal ownership of the Body Art Studio; or

3. An existing facility is moved or relocated.

(c) Body Art Studio Permits shall automatically expire on December 31st of each year.

(d) Prior to the issuance of a Body Art Studio Permit, the Owner must pay the applicable permit fee. Body Art Studio Permit fees shall not be prorated.

(e) No permit shall be issued to any owner to perform body art procedures in any area of the unincorporated portion of the County that is zoned for any type of residential use by the County's zoning ordinances.

Sec. 6-240. Denial, suspension, or revocation of body art studio permit.

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(a) Upon recommendation or official action of the Board of Health, a Body Art Studio Permit issued pursuant to any provision of this article may be denied, suspended, or revoked by the Board of Health, and considered null and void, if:

1. The application for a Body Art Studio Permit contains false or misleading information, or if the applicant omitted material facts in the application;

2. The premises covered by the permit are found to be in violation of any applicable provision of this Code, or other state or federal law;

3. The Studio is determined to be a threat or nuisance to public health, safety, or welfare;

4. The Owner or Body Artist violated the provision of this Code; or

5. Violations of the conditions of the permit are committed.

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(b) After a Body Art Studio Permit has been revoked, a valid permit shall not be issued until all violations have ceased and all changes, alteration, additions, or improvements comply with all requirements of this Code as determined by the Fayette County Board of Health.

(c) No Body Art Studio Permit shall be issued pursuant to any provision of this article to any applicant if within twelve (12) months immediately preceding the filing of any application under this article, the same applicant requesting a permit has been denied a permit based in whole or in part upon having furnished fraudulent or untruthful information in any application or having omitted any material fact in any application.

(d) As required by Chapter 40 of Title 31 Section 4 of The Official Code of Georgia Annotated, any person substantially affected by any final order of the Board of Health denying, suspending, revoking, or refusing to grant or renew any permit provided under this Code may secure review by appeal to the Fayette County Board of Health in accordance with the hearing requirements of Chapter 5 of Title 31 Section I of the Official Code of Georgia Annotated, and as may hereafter be amended.

Sec. 6-241. Application to existing businesses.

The provisions of these rules shall be applicable to all Body Art Studios whether the Studios were established before or after the effective date of these rules. Any Body Art Studio in business on the effective date of these rules shall comply with all requirements of these rules within six (6) months of the effective date.

Sec. 6-242. Body art not allowed in mobile, transitory facilities.

Body Art shall not be allowed to occur in automobiles, mobile, transitory, or other non-fixed facilities. Such non-fixed facilities include mobile homes, tents, recreational vehicles, and trailers.

Sec. 6-243. Body art studio minimum floor plan requirements.

(a) The Body Art Studio shall be constructed, arranged, and maintained so as to provide adequately for the health and safety of its customers and staff.

(b) The Body Art Studio shall be constructed in a manner to allow the customer receiving the procedure adequate privacy from observers. The Parlor shall be separate from the waiting room.

(c) Insects, vermin, and/or rodents shall not be present in any part of the Body Art Studio. Effective measures shall be taken by the Body Art Studio Owner to prevent the breeding or presence of insects, vermin, and/or rodents on the premises.

(d) The Body Art Studio shall have adequate mechanical ventilation in compliance with current state and local building codes.

(e) Walls and ceilings of parlors and equipment storage rooms shall be painted or covered in a manner to ensure that the surface is easily cleanable. All paint and coverings shall be light in color.

(f) Parlor floors and equipment storage room floors shall be constructed of nonabsorbent material to ensure that the surface is easily cleanable. Floors in the parlor and equipment storage room shall not be covered by carpet or wood.

(g) A clean and sanitary toilet and hand washing facility with a self-closing door and exhaust fan shall be made accessible to customers. Such facilities shall be separate from the parlor.

(h) The Body Art Studio shall be equipped with facilities to enable effective hand hygiene. This sink or sinks must be easily accessible, at the discretion of the Board of Health, to all body artists and shall be separate from the restroom. It shall also provide hot and cold water under pressure through a mixing valve with no aerator, and with foot or wrist actuated controls. These facilities shall be for the use of the body artist for sanitizing his or her hands and preparing the customers for Body Art procedures. This area shall be supplied with dispensed soap, an antibacterial solution, single use towels, and a clean and maintained fingernail brush.

(i) An equipment washing sink shall be provided in the Studio, distinct from the hand sinks and shall be located in the equipment handling and assembly area. This sink shall meet National Safety Foundation (NSF) standards.

(j) Parlors, equipment storage areas, and equipment handling and assembly areas shall have sufficient light to enable the Body Artist to properly do work and see all contamination. This shall be approved by the Fayette County Board of Health.

(k) Parlors shall not be used as corridors for access to other rooms.

(l) A water heater capable of heating water to one hundred degrees Fahrenheit (100° F) shall be provided. The size and capacity of such water heater shall be approved by the Fayette County Board of Health.

Sec. 6-244. Body art studio furnishings and fixtures.

(a) Furnishing of the Body Art Studio shall be maintained in a sanitary condition and shall be intact and functional. The Studio shall be kept clean, neat, and free of litter and rubbish.

(b) Cabinets for the storage of instruments, dyes, pigments, single-use articles, carbon, stencils, jewelry, studs, and other supplies shall be provided for each Body Artist and shall be designed, manufactured, and maintained in a sanitary manner so as to protect contents from contamination, such as blood and bodily fluids.

(c) Appropriate furnishings shall be provided for each parlor.

(d) Surfaces of all worktables, chairs, and furnishings shall be constructed of material that is smooth, non-absorbent, easily cleanable, and corrosion resistant.

(e) Furnishings shall be sanitized with an anti-bacterial solution after each procedure.

(f) Eating or drinking by anyone is prohibited in the parlor where a body art procedure is performed, except as required to ensure the health and safety of the body artist and/or client.

(g) Smoking is prohibited in the Body Art Studio.

Sec. 6-245. Body art studio supplies.

(a) Single-use sterile supplies shall be in an uncompromised, sterilized condition at the time of their use, either by processing in a unit that meets the requirements for a sterilizer as defined herein, or be commercially packaged and handled to protect them from contamination. These supplies shall be stored in an area separate from chemical supplies and toilet facilities.

(b) All materials applied to human skin including, but not limited to, ink, stencils, and single-use piercing needles shall be from single-use containers and shall be disposed of after each use, except those instruments approved for sterilization by the Board of Health.

(c) Jewelry supplies used in a Body Art Studio shall consist of a material rated by the American Society for Testing Materials or the International Standards Organization as being suitable for permanent surgical implant, such as stainless steel, gold, platinum, titanium, niobium, or dense, low porosity plastic such as Tygon or PTFE. Copies of the jewelry manufacturer's documentation, which verify compliance with standards must be available for inspection on request of the Board of Health. The jewelry shall also be smooth surfaced and scratch free.

(d) Only single-use sterile gauze shall be used.

(e) Antibacterial ointment shall be dispensed in a manner that prevents contamination of the antibacterial ointment container. For example, a single use tongue depressor may be used to dispense the ointment and then discarded.

(f) Single-use articles shall not be used on more than one client or customer for any reason. These articles must be disposed of after use, or as soon as possible, without posing risk of contamination or exposure to the body artist, the client, or the surrounding environment.

Sec. 6-246. Dyes and pigments.

(a) Dyes and pigments shall be dispensed into single-use containers.

(b) All dyes and pigments shall be used according to the manufacturer's instructions.

(c) After tattooing each individual, the remaining unused dye or pigment in the single-use container shall be discarded, along with the container, into a covered trash receptacle that can be operated without the use hands. This container shall be lined with a bag that is leak resistant.

(d) In preparing dyes and pigments to be used by a Body Artist, only non-toxic sterile single-use materials shall be used.

Sec. 6-247. Sterilization.

(a) *Instrument cleaning.*

1. All non-disposable instruments shall be sterilized after each use according to the manufacturer's recommendation.

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2. Employees shall wear heavy-duty, multi-use, waterproof gloves while cleaning instruments.

3. Used instruments shall be soaked in an EPA approved disinfectant until cleaning can be performed. The solution shall be changed as recommended by the solution manufacturer.

4. Instruments shall be disassembled for cleaning.

5. All instrument components shall be cleaned, either manually or in an ultrasonic cleaner, using the appropriate cleaning agent specific to the type of cleaning performed.

(b) *Instrument packaging.*

1. Employees shall properly wash hands and don clean gloves before packaging or wrapping instruments.

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2. Instruments shall be wrapped or packaged with a sterilizer indicator on each package.

3. All packages shall be labeled with the time and date of sterilization. Packages shall no longer be considered sterile if the integrity of the package is damaged or if the date of sterilization exceeds six (6) months.

(c) *Instrument sterilization.*

1. The sterilizer shall be designed and labeled as a medical instrument sterilizer.

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2. The operator's manual for the sterilizer shall be available on the premises and the sterilizer shall be operated according to the manufacturer's recommendation.

3. The sterilizer shall be cleaned and maintained according to the manufacturer's recommendation.

4. A sterilizer log shall be maintained for the Studio and made available for inspection by the Fayette County Board of Health and the customer. The log shall be kept for a minimum of one (1) year. The log shall contain the following documentation for each load:

i. A description of instruments contained in the load;

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ii. The date of sterilization and time, if more than one load is processed in a single day;

iii. The sterilizer cycle time and temperature;

iv. Indication of proper sterilization of instruments, as indicated by the appropriate color change of the sterilizer indicator on each package. The indicator used shall be compatible with the sterilization process being used;

v. Any action taken when appropriate color indicator change did not occur; and

vi. Maintenance log, including:

(a) Date of service;

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(b) Sterilizer model and serial number;

(c) Sterilizer location;

(d) Name of person requesting service;

(e) Description of malfunctions;

(f) Name of person performing maintenance;

(g) Description of services and parts replaced;

(h) Results of biologic validation and testing; and

(i) Signature and title of person acknowledging completed work.

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(d) *Sterilization monitoring.*

1. Sterilizer monitoring shall be performed at least once a month, unless more frequent monitoring is specified by the manufacturer, or after forty (40) hours of usage, whichever comes first, by using a commercial biological monitoring (spore) system.

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2. All biological indicators shall be analyzed by a laboratory that operates under FDA guidelines and is independent of the Studio, with reports sent to the Studio.

3. Biological indicator test results shall be maintained on the premises for a minimum of one (1) year and must be available for inspection by Fayette County Board of Health. Upon notification of a positive microbiological monitoring report, the sterilizer shall be immediately checked for proper use and function. The Owner shall cease use of the sterilizer immediately upon receipt of the positive report and notify the Fayette County Board of Health with written documentation explaining corrective actions. If this sterilizer is the only means of sterilization of equipment, then the Studio will cease operations immediately. The Studio shall be allowed to re-open when a biological indicator test has three (3) consecutive negative results. The Studio shall have the option to purchase and install a new sterilizer in order to re-open prior to the receipt of the test results on the previous sterilizer or use all single-use items.

(e) *Instrument storage.*

1. Hands shall be washed and gloved prior to handling sterilized instruments.

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2. After sterilization, the instruments shall be stored in a dry, clean area, reserved for storage of sterilized instruments.

(f) *Single-use items.*

1. If the Body Art Studio operates using only pre-sterilized, single-use instruments and supplies, a sterilizer is not required.

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Sec. 6-248. Disinfection of the body art studio.

(a) Each Body Art Studio shall be kept clean and sanitary.

(b) The Owner shall develop and implement a cleaning schedule that includes appropriate methods of decontamination, plus any tasks or procedures to be performed daily. This written schedule shall be based on the types of surfaces to be cleaned, the types of possible contamination present, the tasks or procedures to be performed, and their location within the Body Art Studio. Adherence to the schedule must be documented on a weekly basis to be appended to a maintenance log. This log shall be available for review by the Fayette County Board of Health during normal hours of operation and to the general public upon request. Violation of proper maintenance and documentation thereof will be grounds for immediate closure or suspension of the Owner's Body Art Studio Permit.

(c) All work surfaces shall be disinfected with an EPA approved disinfectant at the beginning of each work day, after completion of body art procedures on each individual, and at the end of each work day.

(d) All protective coverings such as plastic wrap, barrier films, and aluminum foil shall be removed after each body art procedure and shall be placed in a covered trash receptacle that can be operated without the use of hands. These barriers shall be replaced with unused protective coverings. These barriers shall also be considered single-use products.

(e) Reusable receptacles such as bins, pails, and cans that have the likelihood of becoming contaminated shall be decontaminated on a daily basis with a current EPA approved disinfectant. When contamination is visible, receptacles shall be cleaned and decontaminated immediately.

Sec. 6-249. Disposal of wastes.

(a) All disposable instruments are considered bio-hazardous and must be disposed of as bio-hazardous material. All bio-hazardous waste must be disposed of in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste. Needles, razors, and other sharp instruments shall be placed in puncture resistant, closed containers immediately after use and shall be stored in closed cabinets or drawers at the end of each workday.

(b) Contaminated needles shall not be bent, broken, or their structure otherwise compromised.

(c) Sharps waste shall be safely discarded in a rigid and puncture resistant waste container that is leak proof on the sides and bottom with a self-closing lid. These containers shall be labeled with the international biohazard symbol and the word "BIOHAZARD." All sharps waste shall be removed and disposed of by a company that will dispose of it in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste.

(d) Bio-hazardous non-sharps waste shall be discarded in a biohazard bag. Waste shall be removed and disposed of in accordance with all applicable local, state, and federal laws, rules, and ordinances regarding bio-hazardous waste.

(e) All other non-hazardous disposable waste shall be placed in lined, easily cleanable containers with tight fitting lids to prevent leakage or spillage.

(f) All other non-hazardous disposable waste shall be handled, stored, and disposed of so as to minimize direct exposure of personnel to waste material.

(g) Self-closing waste containers designed to be operated without the use of hands and lined with plastic bags manufactured specifically for waste containers shall be located within each Parlor and restroom and shall be emptied at least once per day into a commercially approved dumpster. This dumpster must be picked up and emptied by a commercial contractor at least once per week.

(h) All sewage, including liquid waste, shall be disposed of by a public sewage system or by a sewage system constructed and operated according to the applicable provisions of the Code or state law.

Sec. 6-250. Client records.

(a) The owner shall maintain a written detailed client record that describes the body art procedure(s) administered on each client. These records shall be kept on file for three (3) years after the procedure. Client records shall be immediately made available for inspection within seven (7) days of request.

(b) The client records shall be created prior to any body art procedure being performed and shall reflect the client's name, signature, address, proof of age, body art procedure performed, date, design, its precise location upon the body, and the name of the Body Artist(s) performing or assisting in the procedure. The client record shall also describe whether any complications or incidents arose during the procedure and detail what action was taken to resolve the incident. A copy of a valid state issued photo ID (a driver's license, U.S. Military ID card) must be obtained from the client and maintained with the client's record.

(c) Each client shall be provided with an informed consent statement that fully explains the procedure and each client shall be required to sign the informed consent statement prior to receiving any body art procedure. The informed consent statement signed by the client shall be maintained by the Owner in the client record, with a copy given to the customer.

(d) A "disclaimer of liability" form promulgated by the Owner shall also be signed by the client prior to receiving any body art procedure. A copy of the "disclaimer of liability" signed by the client shall be maintained by the Owner in the client's record, with a copy given to the client.

(e) The client record shall contain a signed and dated statement by the client attesting that he or she is not under the influence of alcohol and/or drugs at the time the body art procedure is performed.

(f) The client record shall also contain a signed and dated statement by the client attesting that he or she has received, read, and understood a copy of an after-care procedures form.

(g) The client has the right to request and receive their entire client record. If the client's record is available on the premises of the Body Art Studio, then the record shall be made available immediately upon request. If the record is not available on the premises, then the client's request for the client record must be fulfilled 'within five (5) business days.

(h) Client records shall not be accessible to anyone except authorized employees of the Body Art Studio.

(i) Client records shall be disposed of in a manner that will not disclose any personal information of the client. For example, client records may be shredded then discarded in a waste receptacle.

Sec. 6-251. Body art studio inspection.

(a) The premises of any Body Art Studio and all records required to be maintained under these regulations shall be available for review and examination by the Board of Health and properly identified representatives of the County at any time during normal business hours for the purpose of making inspections to determine compliance with these rules.

(b) The Owner shall be responsible for having an employee with knowledge of the Studio's records on duty at the Body Art Studio during all hours of operation.

(c) Studio inspections shall be performed at least two (2) times annually. Additional Studio inspections shall be performed as often as necessary for the enforcement of these rules. Each inspection will carry an inspection fee to be set by and approved by the Fayette County Board of Health.

(d) A copy of the most recent inspection report shall be posted in public view, in an un-obscure manner, within fifteen (15) feet of the main door, five to seven (5-7) feet off the floor, and shall be approachable within one (1) foot.

(e) If an individual becomes aware of a licensed Body Art Studio that is in violation of the Code, or other state or federal law, they may contact the Fayette County Board of Health. The alleged violation will be investigated at the discretion of the Board. The name, address, telephone number, and all other identifying information of the reporting individual will remain confidential, unless required to be disclosed by law.

(f) If an individual becomes aware of an unlicensed individual or facility that performs, or has performed Body Art procedures, they may contact the Board of Health. The alleged

unlicensed individual or facility will be investigated at the discretion of the Board of Health. The name, address, telephone number, and all other identifying information of the reporting individual will remain confidential, unless required to be disclosed by law.

Sec. 6-252. Access.

(a) Representatives of the Board of Health, after proper identification, shall be permitted to enter any Body Art Studio at any reasonable time for the purpose of making inspections and review of pertinent records to determine compliance with this Code.

(b) If a person denies access to the Board of Health, the Board of Health shall:

1. Inform the person that:

   i. The permit holder is required to allow access to the Board of Health;

   ii. Access is a condition of the acceptance and retention of a Body Art Studio Permit to operate; and

   iii. If access is denied, an inspection warrant, issued by the appropriate authority to order access, may be obtained according to law; and

2. Make a final request for access.

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Sec. 6-253. Body art studio personnel.

(a) All persons performing body art in the unincorporated portion of the County shall only perform such body art procedures in a validly permitted Body Art Studio.

(b) Body Artist shall obtain and maintain current certifications in emergency first-aid, CPR, and blood-borne pathogen or infection control training except where the Body Artist is a currently licensed health care professional. All certifications must be renewed at a minimum of every two (2) years unless a more frequent time period is specified by the licensing agencies.

(c) The above certifications must be obtained within sixty (60) days of the Body Artist's employment.

(d) The Body Artist must obtain a physical examination by a licensed physician within thirty (30) days prior to employment or the initial application for a Body Artist Permit. Each Body Artist must obtain from the physician a certificate certifying that the Body Artist is free of any communicable disease. This examination must be conducted yearly.

(e) All Body Artists and any employee that has the potential to come in contact with any bodily fluids shall be required to obtain the Hepatitis B vaccination.

(f) The Owner shall maintain a file on all employees who perform body art procedures. Such files shall be available for inspection by properly identified representatives of the Board of Health during normal hours of operation. The file shall contain:

1. Report of physical examination;

2. Evidence of current emergency first-aid; CPR, and blood-borne pathogen or infection control training; and

3. The home address and home telephone number of each employee.

(g) The Owner of a Body Art Studio shall only hire, employ, or use individuals who have complied with these rules.

Sec. 6-254. Body artist permit.

(a) No person may perform body art without first obtaining a Body Artist Permit. Body Artist shall renew their permit annually.

(b) A Body Artist Permit shall not be eligible for renewal unless all requirements of these rules are met.

(c) The Body Artist Permit shall be displayed in the Body Artist's Parlor.

(d) All Body Artist Permits issued pursuant to these rules are nontransferable.

(e) A Body Artist Permit shall be returned to the Board of Health Environmental Health Section if it is suspended or revoked.

(f) Proof of current certification in emergency first-aid, CPR, and blood-borne pathogen or infection control training shall be required within sixty (60) days of issuance of a Body Artist Permit. Otherwise, the Body Artist Permit will be suspended until this training is completed, not to exceed sixty (60) days. If the requirements are not met within this sixty day suspension, the Body Artist Permit will be revoked.

Sec. 6-255. Application for a body artist permit.

(a) Each Body Artist shall submit to the Board of Health Environmental Health Section an application for a Body Artist Permit.

(b) The application for a Body Artist Permit shall be made on forms provided by the Board of Health and shall not be considered accepted unless complete in all respects, including the payment of any fees required. Application fees shall be set by the Fayette County Board of Health.

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(c) Application for a Body Artist Permit shall include the following information concerning the Body Artist:

1. Full legal name;

2. All aliases;

3. Copy of a valid driver's license or valid state issued photo identification;

4. Home address;

5. Gender;

6. Mailing address;

7. Home phone number;

8. Training and/or experience;

9. Evidence of current certifications; and

10. Physician report of physical examination and Hepatitis B Vaccination.

Sec. 6-256. Issuance of body artist permit and fees.

(a) The Fayette County Board of Health Environmental Health Section may issue a Body Artist Permit to an individual after determining that the individual is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable administrative rules and regulations of the Department, and with these rules.

(b) Body Artist Permits shall automatically expire on December 3151 of each year.

(c) Prior to the issuance of a Body Artist Permit, the Body Artist must pay the applicable permit fee. Body Artist Permit fees shall not be prorated.

(d) At least thirty (30) days prior to the expiration of a Body Artist Permit, the Body Artist shall submit an application for the renewal to the Fayette County Environmental Health Section.

Sec. 6-257. Application to existing body artist.

The provisions of these rules shall be applicable to all Body Artists, whether the Body Artist began performing body art before or after the effective date of these rules. Any Body Artist established on the effective date of these rules shall comply with all requirements of these rules within six (6) months of the effective date.

Sec. 6-258. Denial, suspension, or revocation of body artist permit.

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(a) Upon recommendation or official action of the Board of Health, a Body Artist Permit issued pursuant to any provision of this article may be denied, suspended, or revoked by the Board of Health, and considered null and void, if:

1. The application for a Body Artist Permit contains false or misleading information, or if the applicant omitted material facts in the application;

2. The Body Artist violated the conditions of the permit; or

3. The Body Artist committed any violation of this article.

(b) After a Body Artist Permit has been revoked, a valid permit shall not be issued until all violations have ceased and the Body Artist complies with all requirements of this article as determined by the Board of Health.

(c) No Body Artist Permit shall be issued pursuant to any provision of this article to any applicant if within twelve (12) months immediately preceding the filing of any application under this article, the same applicant requesting a permit has been denied a permit based in whole or in part upon having furnished fraudulent or untruthful information in any application or having omitted any material fact in any application.

(d) As required by Chapter 40 of Title 31 Section 4 of The Official Code of Georgia Annotated, any person substantially affected by any final order of the Board of Health denying, suspending, revoking, or refusing to grant or renew any permit provided under this Code may secure review by appeal to the Fayette County Board of Health in accordance with the hearing requirements of Chapter 5 of Title 31 Section I of the Official Code of Georgia Annotated, and as may hereafter be amended.

Sec. 6-259. Body artist temporary permits.

(a) No person may perform body art without first obtaining a Body Artist Permit.

(b) The Body Artist Permit shall be displayed in the Body Artist's Parlor or in public view.

(c) A Body Artist Permit shall be returned to the Board of Health Environmental Health Section if it is suspended or revoked.

(d) Proof of current certification in emergency first-aid, CPR, and blood-borne pathogen or infection control training shall be submitted in conjunction with a Body Artist Temporary Permit application.

(e) Application for a Body Artist Temporary Permit shall include the following information concerning the Body Artist:

1. Full legal name;

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2. All aliases;

3. Copy of a valid driver's license or valid state-issued photo identification;

4. Home address;

5. Gender;

6. Mailing address;

7. Home phone number;

8. Training and/or experience;

9. Evidence of current certifications; and

10. Physician report of physical examination and Hepatitis B Vaccination.

Sec. 6-260. Issuance of body artist temporary permit and fees.

(a) The Fayette County Board of Health Environmental Health Section may issue a Body Artist Permit to an individual after determining that the individual is in compliance with the requirements of Chapter 40 of Title 31 of the Official Code of Georgia, with any applicable administrative rules and regulations of the Department, and with these rules.

(b) Prior to the issuance of a Body Artist Permit, the Body Artist must pay the applicable permit fee.

(c) A temporary permit for a Body Artist will be valid seven (7) days from the issuance date.

(d) This permit is transferable, with the exception that, the Body Artist will notify the Fayette County Board of Health when a location change from one Body Art Studio is made to another Body Art Studio.

(e) A Body Artist that obtains a Body Artist Temporary Permit shall comply with Sections 16-87 and 16-88 of this Article.

Sec. 6-261. Prohibited acts.

(a) No person shall tattoo the body of an individual who is under eighteen (18) years of age, unless the person performing the tattoo procedure is a physician or osteopath licensed under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, or a technician acting under the direct supervision of such licensed physician or osteopath in compliance with Chapter 9 of Title 31 of the Official Code of Georgia Annotated.

(b) No person shall pierce the body, with the exception of ear lobes, of any person under the age of eighteen (18) for the purpose of allowing the insertion of earrings, jewelry, or similar objects into the body, unless the minor's legal parent, custodian, or guardian with proper identification is present and signs a written consent form provided by the Body Art Studio. The consent form must indicate the methods and part(s) of the minor's body upon which the body art procedure is performed.

(c) No person shall tattoo the body of any person within one (1) inch of the nearest part of the eye socket of such person.

(d) No person shall perform body art procedures on an individual who is, or reasonably appears to be under the influence of alcohol, drugs, or other stimulants or depressants, or is of unsound mind or body.

(e) No person shall obtain the services provided in a Body Art Studio by misrepresentation of age in any place where body art procedures are performed.

(f) It shall be unlawful for any Body Artist to perform any acts of scarification and/or acts of suspension in the Body Art Studio.

Sec. 6-262. Violations.

(a) It shall be unlawful for any person, firm, or entity to violate any of the provisions of this article or any other applicable provisions of this Code.

(b) No person shall be allowed to perform body art procedures unless that person is employed by a Body Art Studio and holds a current body Artist Permit. No person shall be allowed to perform body art procedures outside the confines of a validly permitted Body Art Studio.

(c) It shall be unlawful for a Body Artist to be under the influence of any alcohol and/or drugs while performing body art procedures.

(d) Except as specified in paragraph 1 of this subsection, no animals of any kind shall be allowed inside a Body Art Studio.

1. Live animals may be allowed in the following situations if the contamination of clean equipment, parlors, single-use articles, or any other items that may be used in a body art procedure cannot result:

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i. Decorative fish in aquariums;

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ii. Patrol dogs accompanying police or security officers;

iii. In areas that are not used for any equipment storage or equipment cleaning and preparing areas;

iv. Service animals that are controlled by the disabled employee, person, or trainer of such animal, if a health or safety hazard will not result from the presence or activities of the service animal.

(e) An Owner of a Body Art Studio shall be deemed responsible for any act, omission, or violation of this article committed by any Body Artist in said Studio, working upon Studio premises, or performing body art procedures for the owner as an independent contractor.

Sec. 6-263. Sanitation.

(a) Body Artists shall follow Standard Precautions.

(b) All hand and/or arm jewelry worn by a Body Artist that may impede in the procedure or have sharp edges that may compromise the integrity of the gloves shall be removed prior to the start of the body art procedure.

(c) Prior to performing body art on each client, the Body Artist shall ensure that his/her fingernails are closely trimmed and shall perform proper hand washing. This includes thoroughly washing and scrubbing hands with warm water and antibacterial soap, using an individual hand brush that is clean and in good repair. The hands shall then be dried by single-use towels.

(d) Prior to the start of the body art procedure, the Body Artist shall inspect his/her hands for hangnails, small cuts, sores, and abrasions. If a cut, sore, or abrasion is detected, a bandage should be applied for added protection before gloving. Single-use medical gloves shall be worn during the body art procedure. They shall be donned in such a fashion that their integrity is not compromised. The gloves shall be changed and properly disposed of each time there is an interruption in the procedure, if the gloves become soiled, torn, punctured, or the integrity of the glove is compromised. The Body Artist shall perform hand hygiene before donning and after removing each set of gloves.

(e) Each Body Artist shall wear a clean outer garment, apron, or smock.

(f) Body Artists who are experiencing symptoms of illness including, but not limited to, diarrhea, vomiting, fever, rash, or skin infections shall refrain from performing body art procedures.

(g) Adequate numbers of sterilized needles and tubes must be on hand for each Body Artist for the entire day and/or night operation.

(h) Only single-use disposable razors shall be used to shave the area of the body where the body art procedure will be performed.

(i) All items that come in contact with a client's skin shall be single-use and disposed of after the procedure.

(j) All sharps used in body art procedures shall be sterile at the time of the procedure.

(k) All fixtures and equipment contaminated with blood shall be cleaned with an approved sanitizer, for example, a ten (10) percent bleach solution made fresh daily or as often as needed to maintain appropriate sanitizer concentration.

Sec. 6-264. Tattoo preparation.

(a) Prior to placing a tattoo design on the client's skin, any jewelry worn by the client that might impede the body art procedure shall be removed.

(b) The Body Artist shall apply an antibacterial solution to the skin in the involved area.

(c) If a paper stencil is used by a Body Artist for transferring the design to the skin, the stencil shall be single-use and disposable.

(d) If the design is drawn directly onto the skin, it shall be applied with a single-use sterile instrument only.

(e) The completed tattoo shall be washed with a single-use towel saturated with an antibacterial solution.

(f) After the area has dried, a layer of antibacterial ointment from a collapsible or plastic tube shall be applied.

(g) After the application of the antibacterial ointment, a bandage or other protective barrier shall be applied to the tattoo.

(h) The client shall be given written and oral instructions on how to care for the tattoo during the healing process.

Sec. 6-265. Procedures specific to body piercing.

(a) Before piercing the skin of a client, any jewelry worn by the client that might impede the procedure shall be removed.

(b) The Body Artist shall apply an antibacterial solution to the skin in the involved area prior to the procedure being performed.

(c) The client shall then be given both written and oral instructions on how to care for the piercing during the healing process.

(d) A facility that limits its piercing practice to the piercing of the lobe of the ear with pre-sterilized, single-use stud and clasp piercing systems shall be exempt from regulatory

requirements of this article. Compliance with the requirements for this exemption may be verified by inspection at the option of the Board of Health.

Sec. 6-266. Compliance.

(a) A Body Art Studio shall operate in compliance with these rules and with a valid Body Art Studio Permit issued by the Fayette County Board of Health.

(b) A Body Artist shall perform body art procedures in compliance with these rules and with a valid Body Artist Permit issued by the Fayette County Board of Health.

Sec. 6-267. Enforcement and penalties.

(a) Enforcement of these rules and regulations shall be in accordance with Chapter 5 of Title 31 of the Official Code of Georgia Annotated.

(b) The Board of Health may refuse to grant a permit for the operation of any Body Art Studio which does not fulfill the minimum requirements of the rules and regulations and may revoke a permit which has been issued and invoke other sanctions if a studio violates any of these rules and regulations. Before any order is entered refusing a permit applied for or revoking a permit, the applicant or permit holder shall be offered an opportunity for a hearing before the County Board of Health as provided in Article 1 of Chapter 5 of Title 31 of the Official Code of Georgia Annotated. The notice of refusal or revocation shall contain directions on how a hearing may be requested.

(c) The Board of Health is empowered to institute proceedings in a court of competent jurisdiction for the purpose of enjoining violations of an applicable provision of Title 31 of the Official Code of Georgia Annotated or of these rules and regulations.

(d) Any person or entity violating any provision of this regulation shall, upon conviction thereof, or upon entering a plea of guilty or nolo contendere thereto, shall be punished by a fine, not exceeding one thousand dollars ($1000) or by imprisonment for a term not more than sixty (60) days, or by both fine and imprisonment.

(e) Owners shall be responsible for ensuring agents and employees fully comply with the provisions of these regulations and shall be liable for any violation hereof.

REGULATION OF SPECIFIC OCCUPATIONS
2013-2014 FEE SCHEDULE

SEXUALLY ORIENTED BUSINESS

Application fee-	$200.00	
Fingerprint fee	44.25	per owner
Criminal History	30.00	each additional owner
Annual fee	$1000.00	
Renewal fee same		
Employee Permit	$50.00	

AMUSEMENT ACTIVITY

Application fee	$75.00	
Fingerprint fee	44.25	per owner
Criminal History	30.00	each additional owner
Fee per event	50.00	1 event = 14 days (Only 2 per 12 months)

CANVASSERS AND SOLICITORS

Application fee	25.00	each individual
Annual fee	75.00	each individual
Renewal annually	same	

PERSONAL CARE HOME/ COMMUNITY LIVING ARRANGEMENTS

Application fee	$75.00
Annual fee	$225.00
Renewal annually	same