

**CITY OF FRANKLIN, OHIO
ORDINANCE 2019-15**

**AMENDING SECTIONS 533.20 AND 533.21 OF THE CITY OF FRANKLIN
CODIFIED ORDINANCES**

WHEREAS, pursuant to Ohio Revised Code Section 715.55(B), the Ohio Attorney General has provided legal guidance concerning the regulation of sexually oriented businesses.

WHEREAS, sexually oriented businesses require special supervision from the City of Franklin public safety agencies in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of the City of Franklin; and

WHEREAS, sexually oriented businesses are frequently found to be used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, sexually transmitted diseases are a legitimate health concern of the City of Franklin that demands reasonable regulation of sexually oriented businesses by the City of Franklin in order to protect the health and well-being of the citizens of the City of Franklin; and

WHEREAS, the 126th Ohio General Assembly adopted findings under Section 3 of House Bill 23 concerning adverse secondary effects of sexually oriented businesses on local communities and the City of Franklin similarly finds:

1. Sexually oriented businesses, as a category of commercial uses, are often 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, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
2. Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths, or cubicles for viewing films, videos, or live performances.
3. Each of the foregoing negative secondary effects constitutes a harm which the City of Franklin has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City of Franklin's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City of Franklin'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 City of Franklin. The City of Franklin finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.
4. The enactment of this Ordinance will promote the general welfare, health, morals, and safety of the citizens of the City of Franklin; and

WHEREAS, documented evidence convincingly demonstrates that sexually oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the

surrounding residential areas adjacent to them, and further demonstrates that sexually oriented businesses cause increased crime, particularly in the overnight hours, and downgrade property values; and

WHEREAS, it is in the City of Franklin's best interest to minimize and control these adverse effects by regulating sexually oriented businesses, to protect the health, safety, and welfare of the citizens of the City of Franklin, to protect the citizens of the City of Franklin from increased crime, to preserve the quality of life, to preserve property values and character of surrounding neighborhoods, and to deter the spread of urban blight; and

WHEREAS, current City of Franklin zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the citizens of the City of Franklin from the adverse effects of sexually oriented businesses; and

WHEREAS, it is not the City of Franklin's intent to suppress or authorize the suppression of any speech activities protected by the First Amendment. It is not the City of Franklin's intent to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials; and

WHEREAS, it is not the City of Franklin's intent to condone or legitimize the distribution of obscene material, and the City of Franklin recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state; and

WHEREAS, it is the City of Franklin's intent to enact content-neutral codified ordinances addressing the secondary effects of sexually oriented businesses; and

WHEREAS, it is the City of Franklin's intent by enacting this Ordinance to regulate sexually oriented businesses in a specified manner to promote the health, safety, morals, and general welfare of the citizens of the City of Franklin and establish reasonable regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City of Franklin.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Franklin, Ohio, a majority of the members of the Council present concurring, that:

Section 1. Section 533.20 of the City of Franklin Codified Ordinances, captioned *Juveniles on the Premises of Adult Entertainment Establishments Prohibited*, is hereby amended as set forth in Exhibit A, attached hereto.

Section 2. Section 533.21 of the City of Franklin Codified Ordinances, captioned *Sexually Oriented Businesses; Illegal Operation and Activity*, is hereby amended set forth in Exhibit A, attached hereto.

Section 3. All other City of Franklin Codified Ordinances, in whole or in part, that conflict with this Ordinance are hereby repealed.

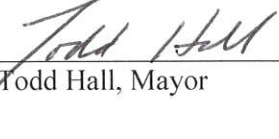
Section 4. It is found that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code, and the Rules of Council.

Section 5. This Ordinance shall become effective on November 6, 2019.

INTRODUCED: September 16, 2019

ADOPTED: October 7, 2019

ATTEST: 
Jane McGee, Clerk of Council

APPROVED: 
Todd Hall, Mayor

CERTIFICATE

I, the undersigned Clerk of Council for the Franklin City Council, do hereby certify that the foregoing is a true and correct copy of Ordinance 2019-15 passed by that body on October 7, 2019 and published in the Middletown Journal on October 11, 2019.


Jane McGee, Clerk of Council

APPROVED AS TO FORM:


Lynnette Dinkler, Law Director

CHAPTER 533
Obscenity and Sex Offenders

533.01	Definitions	533.12	(Reserved)
533.02	Presumption of knowledge; Actual notice and defense	533.13	Deception to obtain matter harmful to juveniles
533.03	Unlawful sexual conduct with a minor	533.14	Massage parlors
533.04	Sexual imposition	533.15	Body painting studios
533.05	Public indecency	533.16	(Reserved)
533.06	Voyeurism	533.17	Activity constituting a nuisance
533.07	Polygraph examinations for victims: Restrictions on use	533.18	Injunction
533.08	Procuring	533.19	Unlawful operation of viewing booths depicting sexual conduct
533.09	Soliciting; Loitering to engage in	533.20	Juveniles on the premises of adult entertainment establishments prohibited
533.10	Prostitution	533.21	Sexually oriented businesses; Illegal operation and activity
533.11	Disseminating matter harmful to juveniles	533.99	Sentencing for sexually oriented offenses; Sexual predators; Registration

CROSS REFERENCES

See sectional histories for similar State law

Complicity – see GEN. OFF. 501.10

Sentencing generally – see GEN. OFF. 501.99

Offensive conduct – see GEN. OFF. 509.03

Telephone harassment – see GEN. OFF. 537.10

Criminal trespass – see GEN. OFF. 541.05

**Licensing and Regulation of Sexually Oriented Businesses and Employees – see BUS.
REG. 740**

533.20 JUVENILES ON THE PREMISES OF ADULT ENTERTAINMENT
ESTABLISHMENTS PROHIBITED

(a) As used in this section:

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- (1) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.
- (2) "Adult bookstore," "adult novelty store," or "adult video store"
 - (A) Means a commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:
 - (i) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;
 - (ii) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.
 - (B) Includes a commercial establishment as defined in Ohio R.C. 2907.38. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.
- (3) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:
 - (A) Persons who appear in a state of nudity or semi-nudity;
 - (B) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;
 - (C) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
- (4) "Adult entertainment" means the sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

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- (5) "Adult entertainment establishment" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or seminude model studio, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to Ohio R.C. 4731.15, is not an "adult entertainment establishment."
- (6) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.
- (7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.
- (8) "Distinguished or characterized by their emphasis upon" means the dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films "that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.
- (9) "Nude or seminude model studio" means any place where a person, who regularly appears in a state of nudity or semi-nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:
 - (A) By a college or university supported entirely or partly by taxation;
 - (B) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;
 - (C) In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi-nudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.
- (10) "Nudity," "nude," or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.
- (11) "Regularly features" or "regularly shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

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- (12) "Seminude" or "state of semi-nudity" means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.
- (13) "Sexual encounter establishment"
- (A) Means a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:
- (i) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.
- (ii) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.
- (B) An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to Ohio R.C. 4731.15, is not a "sexual encounter establishment."
- (14) **"Sexually Oriented Business" means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by Section 533.20, sub-section (a)(13) of this Chapter, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.**
- (15) "Specified anatomical areas" means the cleft of the buttocks, anus, male or female genitals, or the female breast.
- (16) "Specified sexual activity" means any of the following:
- (A) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;
- (B) Excretory functions as a part of or in connection with any of the activities described in division (A) of this definition.
- (b) No person knowingly shall allow an individual, including, but not limited to, a patron, customer, or employee, who is under eighteen (18) years of age on the premises of an adult entertainment establishment **or on the premises of a sexually oriented business.**
- (c) No individual who is under eighteen (18) years of age knowingly shall show or give false information concerning the individual's name or age, or other false identification, for the purpose of gaining entrance to an adult entertainment establishment **or a sexually oriented business.**
- (d) A person shall not be found guilty of a violation of division (b) of this section if the person raises as an affirmative defense and if the jury or, in a nonjury trial, the court finds the person has established by a preponderance of the evidence, all of the following:
- (1) The individual gaining entrance to the adult entertainment establishment **or sexually oriented business** exhibited to an operator, employee, agent, or independent contractor of the adult entertainment establishment a driver's or commercial driver's license or an identification card issued under Ohio R.C. 4507.50 and 4507.52 showing that the individual was then at least eighteen (18) years of age.

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- (2) The operator, employee, agent, or independent contractor made a bona fide effort to ascertain the true age of the individual gaining entrance to the adult entertainment establishment **or sexually oriented business** by checking the identification presented, at the time of entrance, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way.
 - (3) The operator, employee, agent, or independent contractor had reason to believe that the individual gaining entrance to the adult entertainment establishment **or sexually oriented business** was at least eighteen (18) years of age.
- (e) In any criminal action in which the affirmative defense described in division (d) of this section is raised, the Registrar of Motor Vehicles or the Deputy Registrar who issued a driver's or commercial driver's license or an identification card under Ohio R.C. 4507.50 and 4507.52 shall be permitted to submit certified copies of the records, in the Registrar's or Deputy Registrar's possession, of the issuance of the license or identification card in question, in lieu of the testimony of the personnel of the Bureau of Motor Vehicles in the action.
- (f)
 - (1) Whoever violates division (b) of this section is guilty of permitting a juvenile on the premises of an adult entertainment establishment **or a sexually oriented business**, a misdemeanor of the first degree. Each day a person violates this division constitutes a separate offense.
 - (2) Whoever violates division (c) of this section is guilty of use by a juvenile of false information to enter an adult entertainment establishment **or a sexually oriented business**, a delinquent act that would be a misdemeanor of the fourth degree if committed by an adult.
(ORC 2907.39)

533.21 SEXUALLY ORIENTED BUSINESSES; ILLEGAL OPERATION AND ACTIVITY

- (a) As used in this section:
 - (1) "Adult bookstore" or "adult video store" means a commercial establishment that has as a significant or substantial portion of its stock in trade or inventory in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
 - (2) "Adult cabaret" has the same meaning as in Ohio R.C. 2907.39.
 - (3) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.
 - (4) "Characterized by" means describing the essential character or quality of an item.
 - (5) "Employee" means any individual who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does

not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

- (6) "Nudity," "nude," or "state of nudity" has the same meaning as in Ohio R.C. 2907.39-, **which defines "nudity," "nude," or "state of nudity" as the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.**
- (7) "Operator" means any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises.
- (8) "Patron" means any individual on the premises of a sexually oriented business except for any of the following:
 - (A) An operator or an employee of the sexually oriented business;
 - (B) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;
 - (C) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer.
- (9) "Premises" means the real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited, to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.
- (10) "Regularly" means consistently or repeatedly.
- (11) "Seminude" or "state of semi-nudity" has the same meaning as in Ohio R.C. 2907.39-, **which defines "seminude" or "state of semi-nudity" as a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.**
- (12) "Sexual device" means any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- (13) "Sexual device shop" means a commercial establishment that regularly features sexual devices, but not including any pharmacy, drug store, medical clinic, or establishment primarily dedicated to providing medical or healthcare products or services, and not including any commercial establishment that does not restrict access to its premises by reason of age.
- (14) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between individuals of the opposite sex when one or more of the individuals is nude or seminude.
- (15) ~~"Sexually oriented business" means an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, or sexual encounter center, but does not include a~~

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~~business solely by reason of its showing, selling, or renting materials that may depict sex.~~
“Sexually Oriented Business” means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by Section 533.20, sub-section (a)(13) of this Chapter, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

- (16) “Specified anatomical areas” includes human genitals, pubic region, and buttocks and the human female breast below a point immediately above the top of the areola.
- (17) “Specified sexual activity” means sexual intercourse, oral copulation, masturbation, or sodomy, or excretory functions as a part of or in connection with any of these activities.
- (b) No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business that holds a liquor permit pursuant to Ohio R.C. Chapter 4303 may remain open until the hour specified in that permit if it does not conduct, offer, or allow sexually oriented entertainment activity in which the performers appear nude.
- (c) **Nothing contained in this Chapter is intended, or shall be construed, to permit or authorize activities, which are unlawful under state law or City of Franklin ordinance. It is unlawful and a violation of this Chapter for an operator to knowingly or intentionally violate the provisions of this Chapter or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this Chapter. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.**
- (d) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.
- (e) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least seventy-two (72) inches from all patrons and on a fixed stage at least twenty-four (24) inches from the floor and at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.
- (f)
 - (1) No patron who is not a member of the employee’s immediate family shall knowingly touch any employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or seminude.
 - (2) No employee who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee’s immediate family or another employee who is not a member of the employee’s immediate family or the clothing of a patron who is not a member of the employee’s immediate family or another employee who is not a member of the employee’s immediate family or allow a patron who is not a member

of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.

- (f) The provisions of Section 533.21, *Sexually Oriented Businesses; Illegal Operation and Activity*, shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to employees, and live performances in which the patron and employee are separated by an impenetrable barrier such as, but not limited to, glass or Plexiglas.
- (g) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the operator's stations. The view required in this paragraph must be by direct line of eyesight from the operator's station. It is the duty of the operator to ensure that at least one (1) employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- ~~(d) Whoever violates division (b) of this section is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.~~
- ~~(e) Whoever violates division (e) of this section is guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (e) of this section is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (e) of this section is a misdemeanor of the fourth degree.~~
- (h) **Scienter required to prove violation or business liability:**

This Chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of Section 533.21 of this Chapter. Notwithstanding anything to the contrary, for the purposes of Section 533.21, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this Section 533.21, only if an officer, director, general partner or licensee, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.
- (i) **Penalty; Equitable Remedies:**

- (1) Any person, business, or entity violating or refusing to comply with any provisions of this Chapter, (except for violations of Section 533.21, sub-sections (b) and (f)), shall, upon conviction, be deemed guilty of a first degree misdemeanor and shall be fined not more than one thousand dollars (\$1,000.00). Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises in which a sexually oriented business, as defined in Section 533.21, sub-section (a)(15), is repeatedly operated or maintained in violation of the provisions of this Chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City of Franklin in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.**
- (2) Whoever violates Section 533.21, sub-section (b) is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.**
- (3) Whoever violates division ~~(e)~~ (f) of this section is guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division ~~(e)~~ (f) of this section is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division ~~(e)~~ (f) of this section is a misdemeanor of the fourth degree.**
- (4) Notwithstanding Section 533.21, sub-section (i), the City of Franklin may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this Chapter.**

(ORC 2907.40)