

Ordinance No. 16-79

Sexually Oriented Business Ordinance

SECTION 1.	DEFINITIONS	Page 2 – 7
SECTION 2.	APPLICATION REQUIREMENTS	Page 7 – 10
SECTION 3.	ISSUANCE OF A LICENSE	Page 10 – 12
SECTION 4.	INSPECTION	Page 12
SECTION 5.	TRANSFER OF LICENSE	Page 12
SECTION 6.	EXPIRATION OF LICENSE	Page 12
SECTION 7.	REVOCATION OF LICENSE	Page 12 – 13
SECTION 8.	NOTICE, HEARING AND APPEAL	Page 13 – 14
SECTION 9.	HOURS OF OPERATION	Page 14
SECTION 10.	PROHIBITED ACTS	Page 14 – 15
SECTION 11.	LIGHTING	Page 15
SECTION 12.	EXTERIOR PORTIONS OF REGULATED BUSINESS	Page 15
SECTION 13.	SIGNS	Page 15 – 16
SECTION 14.	UNLAWFUL ACTS	Page 16
SECTION 15.	MINIMUM AGE	Page 16
SECTION 16.	ENFORCEMENT	Page 16 – 17
SECTION 17.	SEVERABILITY CLAUSE	Page 17
SECTION 18.	ADOPTION OF ORDINANCE	Page 17

AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS REGULATING SEXUALLY ORIENTED BUSINESSES BY REQUIRING DISTANCE RESTRICTIONS BETWEEN SEXUALLY ORIENTED BUSINESSES AND CHURCHES, SCHOOLS, RESIDENTIAL AREAS, DAY CARE FACILITIES AND PARKS AND BETWEEN EACH SEXUALLY ORIENTED BUSINESS, REQUIRING LICENSES FOR OWNERS, OPERATORS AND EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES; ESTABLISHING A FEE FOR THE ISSUANCE OF A LICENSE FOR OWNERS, OPERATORS AND EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES; PROHIBITING CONTACT BETWEEN CERTAIN EMPLOYEES AND CUSTOMERS OF SEXUALLY ORIENTED BUSINESSES, AND PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, Chapter 243 of the Local Government Code authorizes the adoption of an ordinance regulating sexually oriented businesses, and

WHEREAS, the Planning Committee for the Village of Pleak convened to evaluate a compilation of studies done by cities throughout the United States regarding the undesirable secondary effects of sexually oriented businesses, and

WHEREAS, the Planning Committee for the Village of Pleak, after convening found that the undesirable secondary effects of sexually oriented businesses required that the Village of Pleak adopt an ordinance to regulate sexually oriented businesses, and

WHEREAS, the Village Council finds that based on the compilation of studies done by cities throughout the United States regarding the undesirable secondary effects of sexually oriented businesses, that sexually oriented businesses can exert dehumanizing influences on churches, schools, residential areas, parks, and day care facilities, can have negative effects on property values, and can contribute to increased criminal activities in the surrounding areas, and

WHEREAS, the Village Council finds that sexually oriented businesses tend to require special supervision from public safety agencies in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as the residents of the Village, and

WHEREAS, the Village Council finds that a concentration of sexually oriented businesses can contribute to a decline in the value of surrounding properties; and an increase in criminal activities in surrounding areas, and

WHEREAS, the Village Council acknowledges that sexually oriented businesses should be located in particular areas, and

WHEREAS, the Village Council recognizes that sexually oriented businesses should not be located near churches, schools, day care facilities, parks or within residential areas, and

WHEREAS, the Village Council finds that a distance of one thousand (1,000) feet between sexually oriented businesses and churches, schools, day care facilities, parks, residential areas and other sexually oriented businesses, would provide the needed protection to the community from the adverse effects of sexually oriented businesses without depriving such businesses of adequate opportunities to locate within the Village, now therefore,

BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PLEAK, TEXAS THAT THE FOLLOWING REGULATIONS ARE ADOPTED FOR OWNERS, OPERATORS AND EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES:

SECTION 1. DEFINITIONS

As used in these regulations:

1. **Adult Arcade** shall mean any place the public is allowed or invited where image producing devices are maintained to show images to five or fewer persons per device at any one time and where the images so displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section. Devices covered in this definition include machines that produce still or motion pictures, are coin or slug operated, are electronically or mechanically controlled, and include computer monitors.
2. **Adult video store or bookstore** shall mean an establishment whose primary business is:
 - a. The offering to customers of books, magazines, films, video tapes, computer programs, slides or other visual representations (whether for viewing off-premises or on-premises), periodicals or other printed or pictorial materials which depict or describe specified sexual activities or specified anatomical areas as defined in this section; and
 - b. Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities as defined in this section.
3. **Adult cabaret** nightclub, bar, restaurant, or similar commercial establishment that features:

- a. Persons who appear semi-nude or in a state of nudity as defined in this section;
 - b. Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities as defined in this section; or
 - c. Films, motion pictures, computer simulations, video cassettes, slides or other reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section.
- 3. **Adult encounter, sex or love parlor** shall mean an establishment whose primary business is:
 - a. The provision of 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, or;
 - b. physical contact in the form of wrestling or tumbling between persons of the opposite sex, or;
 - c. activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude or in a state of nudity.
- 5. **Adult modeling studio or nude studio** shall mean an establishment whose primary business is the provisions to customers of 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.
- 6. **Adult movie theater** shall mean a commercial establishment that regularly shows, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section.
- 7. **Applicant for the license** shall mean the intended operator of the sexually oriented business.
- 8. **Adult Motel** shall mean a hotel, motel or similar commercial establishment which:

- a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, 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, or
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
9. **Child Care Facility** shall mean a facility used as a day nursery, children's boarding home, child placement agency or other place for the care or custody of children under fifteen (15) years of age.
10. **Church or Place of Religious Worship** shall mean a facility, including all structures and grounds, at which persons regularly assemble for worship, intended primarily for purposes connected with faith or for propagating a particular form of belief.
11. **Conduct any business in a sexually oriented business** shall mean any person who does any one (1) or more of the following shall be deemed to be conducting business in a sexually oriented business:
- a. 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;
 - b. Displays or takes orders from any customer for any merchandise, goods entertainment or other services offered on the sexually oriented business premises;
 - c. Delivers or provides to any customer any merchandise, goods, entertainment or other services offered on the sexually oriented business premises;
 - d. Acts as a door attendant to regulate entry of customers or other persons into the sexually oriented business premises; or
 - e. Supervises or manages other persons in the performance of any of the foregoing activities on the sexually oriented business premises.
12. **Customer** shall mean any person who:

- a. Is allowed to enter a regulated establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - b. Enters a regulated establishment and purchases, rents or otherwise partakes of any merchandise, goods, entertainment, or other services offered therein; or
 - c. Is a member of and on the premises of a regulated establishment operating as a private club.
13. **Dwelling** shall mean a house, duplex, apartment, townhouse, condominium, mobile home, manufactured home, or any other building used as a residence.
14. **Employee** shall mean any person who renders any service whatsoever to the customers of a regulated establishment or who works in or about a regulated establishment and who receives compensation for such service or work from the operator or owner of the regulated establishment or from the customers therein.
15. **Entertainment** shall mean (a) any live exhibition, display or performance, or (b) any still picture(s) or movie picture(s), whether mechanically, electrically or electronically displayed, or (c) any combination of the foregoing in which specified sexual activities are depicted. 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.
16. **Escort** shall mean an individual who, for consideration, agrees or offers to privately model, dance or similarly perform for another person, or to act as a private companion, guide or date for another person and offers a service intended to provide sexual stimulation or sexual gratification to the customer.
17. **Escort Agency** shall mean a business that, for consideration, furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes and offers a service intended to provide sexual stimulation or sexual gratification to the customer.
18. **Exterior portion** shall mean any part of the physical structure of a regulated establishment, including a wall, veneer, door, fence, roof, roof covering or window, which is visible from any public way or public property.
19. **Hospital** shall mean a building used to provide in-patient medical care for the sick or injured and licensed pursuant to the Texas Hospital Licensing Law, Chapter 241 of the Texas Health and Safety Code, or operated by an agency of the Federal Government.

20. **Operator** shall mean the manger or other natural person principally in charge of a sexually oriented business.
21. **Owner or owners** shall mean the proprietor if a sole proprietorship, all partners (general and limited) if a partnership, or all officers, directors and persons holding five (5) percent or more of the outstanding shares of a corporation. Provided, however, the term owner or owners shall not include any of the aforesaid persons who has given to the operator a statement under oath that the person does not desire to be listed on a license application under this article and that the person waives any right to any notice that is required or permitted to be given by the Village or any officer or agency thereof in connection with the application or license for the sexually oriented business under this article.
22. **Live exhibition** shall mean a live performance by one or more individuals conducted in front of at least one patron, including but not limited to dancing, modeling sword swallowing, juggling, acrobatic acts, wrestling and pantomime.
23. **Nudity or state of nudity** shall mean any state of dress, which fails to opaquely cover a human buttock, anus, male genitalia, female genitalia or areola of a female breast.
24. **Premises** shall mean a building, provided that if the building has been physically divided into separate units with each such unit having its own individual means of ingress or egress to the exterior of the building and which are offered by lease or otherwise for separate use and control, then it shall refer to each such separate unit.
25. **Public building** shall mean a building used by Federal, State or local government that is open to the general public.
26. **Public park** shall mean a tract of land dedicated for public use and accessible to the general public for recreational purposes, not including public roads, walkways, easements and rights of way. This term shall include locations owned by non-profit organizations that provide educational and recreational facilities.
- Regulated establishment shall mean any sexually oriented business, adult arcade, adult bookstore or adult movie theater, as defined herein
27. **Residence** shall mean the use of land, whether situated within the Village or not, for premises such as homes, townhomes, patio homes, manufactured home, 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 premises which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is occupied and used exclusively for other purposes. The term

residential shall also include any unimproved tract designated for tax appraisal purposes as residential by the Fort Bend County Appraisal District if situated in the Village or by the appraisal district of the county in which the tract is situated if not situated in the Village. The term additionally shall include any tract, that, based upon the records of the planning officials for the Village, has been subdivided or platted for residential use, but that is not yet designated for tax appraisal purposes as residential.

28. **School** shall mean a facility, including all attached playgrounds, dormitories, stadiums and other appurtenances which are part of the facility, used for the primary purposes of instruction or education, including public and private preschool, primary and secondary schools, colleges and universities, and child care facilities.
29. **Sexually oriented business** shall mean any commercial enterprise whose primary business is the offering of a service or the selling, renting, or exhibiting of devices, products or any other items intended to provide sexual stimulation or sexual gratification to the customer. This term shall include, but not be limited to, a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult arcade, adult video store, adult motel, adult cabaret, escort agency, or other commercial enterprise.
30. **Specified sexual activities** shall mean:
 - a. fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts, whether clothed or nude;
 - b. sex acts, actual or simulated, including intercourse, or copulation, or sodomy;
 - c. masturbation, actual or simulated; or
 - d. excretory functions as part of or in connection with any of the activities set forth in a through c hereinabove.
31. **Specified anatomical areas** shall mean human genitals in a state of sexual arousal, whether clothed or nude.

SECTION 2. APPLICATION REQUIRED.

- A. It shall be unlawful for any person to operate a sexually oriented business or to be an employee of a sexually oriented business, or any commercial enterprise, without a valid license, issued by the Village of Pleak.

- B. To obtain a license, whether initial or renewal, to operate a sexually oriented business or to obtain a sexually oriented business employee license, the applicant shall file in person at the office of the Village of Pleak an application made on a form prescribed and approved by the Village of Pleak. The application shall be signed under oath by the applicant and notarized. The application shall include, but not be limited, to the following information:
1. The full legal name and any other name used by the applicant in the proceeding five (5) years.
 2. The name under which the sexually oriented business is to be operated.
 3. A description of the capacities in which each employee will be employed.
 4. The names, residence street addresses and mailing addresses of the owner(s) of the sexually oriented business.
 5. A description of the sexually oriented business and the services and products which will be offered.
 6. Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency.
 7. A photograph of the applicant and two (2) sets of the applicant's complete fingerprints.
 8. The applicants complete business license or permit history including any permit or license which has been issued to the applicant by any agency, board, Village, County, or State, and any profession or vocational license or permit. This shall include those which have expired or are currently in effect and shall include any license or permit that has been denied, revoked or suspended. If there have been licenses or permits which were denied, revoked or suspended, the permit history shall include the reason for that action.
 9. If the applicant intends to operate a sexually oriented business under an assumed name, a copy of the assumed name certificate filed in compliance with Chapter 36 of the Texas Business and Commerce Code. If the sexually oriented business is licensed under the Texas Alcoholic Beverage Code the application shall be filed and the sexually oriented business shall conduct business under the name shown on the liquor license.
 10. The applicant's criminal history which shall consist of a statement of: any and all criminal convictions from Texas or any other state, and the date

and place thereof; any charges, complaints, information, or indictments from Texas or any other state, to which the applicant entered a plea of guilty or nolo contendere or for which applicant received deferred adjudication, excluding Class C misdemeanor traffic violations.

11. If the application is for a sexually oriented business license, the name and address for the statutory agent or other agent authorized to receive service of process.
12. The name, resident address and telephone number of the manager or other individual to be principally in charge of the operation of the sexually oriented business.
13. If the applicant is an individual, the application shall be signed and verified by the applicant. If the applicant is a partnership, the application shall be signed and verified by all of the partners thereof. If the applicant is a corporation or other entity, the application shall be signed and verified by the President and the Treasurer of such corporation or entity.
14. A statement under oath that:
 - a. the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct; and
 - b. the applicant has read and understands these regulations.
15. The applicant shall authorize the Village to seek information to confirm any statements set forth in the application.

C. In addition, the application shall be accompanied by the following:

1. Payment of an annual nonrefundable application fee for a sexually oriented business license in the amount of \$260.00; or the payment of an annual application fee for a sexually oriented business employee license in the amount of \$190.00.
2. If the applicant is a Texas Corporation, a certified copy of the Articles of Incorporation, together with all amendments thereto filed in the Office of the Texas Secretary of State.
3. If the applicant is a foreign corporation, a certified copy of the Certificate of Authority to Transact Business in the State, together with all amendments thereto filed in the Office of the Texas Secretary of State.

4. If the applicant is a foreign or limited partnership, a certified copy of the Certificate of Limited Partnership, together with all amendments thereto, filed in the Office of the Texas Secretary of State under the Texas Revised Limited Partnership Act (Article 6132a-1 of Texas Revised Civil Statutes).
 5. A list of all employees involved in providing the services to be provided by the sexually oriented business, including their age, date and place of birth, social security number, driver's license number and salary or wage rate. This list shall be updated monthly by verified report to the Police Chief.
- D. The information provided pursuant to Section 2 B, shall be supplemented in writing by certified mail, return receipt requested, to the Village of Pleak within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.
- E. The application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

SECTION 3. ISSUANCE OF LICENSE.

- A. The Village of Pleak council shall approve or deny the issuance of a license to an applicant for a sexually oriented business license or a sexually oriented business employee license within forty-five (45) days after receipt of a completed application. The license shall be approved unless one or more of the following is found to be true:
1. An applicant is under twenty-one (21) years of age.
 2. An applicant, an applicant's spouse or if the applicant is a corporation, partnership or other business entity, any officer, director, partner or participant in the business entity, is delinquent in the payment to the Village of any taxes, fees, fines, or penalties.
 3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

4. An applicant, an applicant's spouse, or if the applicant is a corporation, partnership or other business entity, any officer, director partner or participant in the business entity, has been convicted of a crime:
 - a. has been convicted or has entered a plea of guilty or nolo contendere in this state or any other state of any of the offenses described in Chapter 19, Texas Penal Code, Chapter 20, Texas Penal Code, Chapter 21, Texas Penal Code, Chapter 22, Texas Penal Code, Chapter 25, Texas Penal Code, Chapter 34, Texas Penal Code, Chapter 43, Texas Penal Code, Chapter 47, Texas Penal Code, or Chapter 481, Subchapter D of the Health and Safety Code, or criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses, or any other offense in another state that, if committed in this state, would have been punishable as one or more of the aforementioned offenses;

for which:

 - b. less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - c. less than five years have elapsed since the date of conviction of the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - d. less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period;
5. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
6. An applicant who has been convicted or whose spouse has been convicted of an offense listed in Section 3, subsection 4a, may qualify for a sexually oriented business license only when the time period required has elapsed.
7. The applicant's sexually oriented business is located within one thousand (1,000) feet of any school, church, childcare facility, hospital, or public park. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's sexually oriented business to the nearest point on the property line of such school, church, child care facility, hospital, or public park;

8. The applicant's sexually oriented business is located within one thousand (1, 000) feet of any other sexually oriented business for which there is a license. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's sexually oriented business to the nearest point on the property line of any other sexually oriented business;
9. The applicant's sexually oriented business is located within one thousand (1,000) feet from any dwelling, measured from the closest point on the property line of the dwelling property to the closest point on the property line of the applicant's sexually oriented business.
10. The application fee or renewal fee required by these regulations has not been paid.

SECTION 4. INSPECTION.

- A. An applicant, operator or licensee shall permit law enforcement officers, and any other federal, state, county or Village agency in the performance of any function connected with the enforcement of this article, to inspect the premises of the sexually oriented business for the purpose of ensuring compliance with this article, at any time it is occupied or open for business.
- B. It shall be unlawful for a licensee, operator, agent or employee of a sexually oriented business to refuse to permit a law enforcement officer to inspect the premises at any time the premises is occupied or open for business.

SECTION 5. TRANSFER OF LICENSE.

A license shall not be transferred to another, nor shall a license holder operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

SECTION 6. EXPIRATION OF LICENSE.

Each license shall be effective when issued and shall be renewable annually upon filing an application as provided for herein. All licenses are renewable on the anniversary date of each year succeeding the year in which they are first issued.

SECTION 7. REVOCATION OF LICENSES.

- A. The Mayor, or designee shall revoke any and all licenses authorized by this ordinance, if it is determined that a licensee or an employee of the licensee has:

1. Violated or is not in compliance with any provision of this ordinance;
2. Has been on the sexually oriented business premises while in an intoxicated or disorderly condition;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this ordinance;
4. Knowingly permitted gambling by any person on the sexually oriented business premises;
5. Demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers;
6. A licensee gave false or misleading information in the application;
7. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substance on the premises;
8. A licensee or an employee has knowingly allowed prostitution on the premises;
9. A licensee or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
10. A licensee has been convicted of an offense listed in Section 3, subsection 4a, for which the time period required has not elapsed;
11. On one or more occasions within a twelve month period, a person or persons while in or on the licensed premises committed an offense listed in Section 3, subsection 4a for which a conviction has been obtained, and the person or persons were employees of the sexually oriented business at the time the offenses were committed;
12. A licensee or an employee has knowingly allowed a specified sexual conduct to occur in or on the licensed premises;
13. A licensee is delinquent in payment to the Village of taxes or fees related to the sexually oriented business or arising out of any other business activity owned or operated by the licensee and licensed by the Village.
14. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

SECTION 8. NOTICE, HEARING AND APPEAL.

If the Mayor, or his designee, determines that grounds exist for denial, or revocation of a license under this ordinance, he shall notify the applicant or licensee (Respondent) in writing of his intent to deny, or revoke, including a summary of the grounds therefor. The notification shall be by certified mail to the address on file. Within ten working days of receipt of such notice, the

Respondent may provide to the Mayor, or his designee, in writing a response which shall include a statement of reasons why the license should not be denied, or revoked and may include a request for a hearing. If the Mayor, or his designee, does not receive a response, in the time stated, the denial, or revocation shall be final and notice of such will be sent to the respondent. Within five working days after receipt of a response, the Mayor, or his designee, shall either withdraw the intent to deny, or revoke, and so notify the respondent in writing by certified mail or shall schedule a hearing before the Village Council for the Village of Pleak. The respondent shall be required to comply with the decision of the Mayor, or his designee, during the pendency of the hearing before Village Council. The respondent shall be given at least ten calendar days notice prior to the date of the hearing, unless such notice is waived by the respondent. The hearing shall be conducted in an informal manner. The respondent may be represented by counsel. The rules of evidence shall not apply. The Village Council shall render a written decision within five working days after completion of the hearing and shall mail a copy of the decision by certified mail to the respondent. The decision of the Village Council shall be final.

SECTION 9. HOURS OF OPERATION.

A person commits an offense if the person operates or causes to operate a sexually oriented business before 10:00 a.m. or after 10:00 p.m. on Monday through Sunday. A person commits an offense if the person operates or causes to operate a sexually oriented business on any Sunday.

SECTION 10. PROHIBITED ACTS.

- A. It shall be unlawful for any person to 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.
- B. It shall be unlawful for any entertainer to approach closer than six (6) feet to any customer while engaging in entertainment or while exposing any specified anatomical areas or engaging in any specified sexual activities.
- C. It shall be unlawful for any employee to engage in entertainment or to expose any specified anatomical areas or engage in any specified sexual activities in the presence of a customer in any separate area within the sexually oriented business to which entry or access is blocked or obscured by any door, curtain or other barrier separating entry to such area from any other area of the sexually oriented business.
- D. It shall be unlawful for any person who owns, operates, manages, or controls a sexually oriented business in which alcoholic beverages are offered for sale for

consumption on the premises to allow any person to appear in a state of nudity on the premises of the sexually oriented business.

- E. It shall be unlawful for a person to appear in a state of nudity on the premises of a sexually oriented business at which alcoholic beverages are offered for sale for consumption on the premises.
- F. For the purposes of this section, intent, knowledge, or recklessness, suffice to establish the requisite mental state to establish criminal responsibility.

SECTION 11. LIGHTING.

- A. Each sexually oriented business shall be equipped with overhead lighting fixture of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than ten foot-candles as measured at the floor level.
- B. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in a sexually oriented business to ensure that the illumination required, is maintained at all times that any patron is present in the sexually oriented business.

SECTION 12. EXTERIOR PORTIONS OF REGULATED BUSINESS.

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

SECTION 13. SIGNS.

- A. It shall be unlawful for the owner or operator of any sexually oriented business, or any other person to erect, construct, or maintain any sign for the sexually oriented business other than one primary sign as provided herein.
- B. Primary signs shall have no more than two display surfaces. Each such display surface shall:
 - 1. Not contain any flashing lights;
 - 2. be a flat plane, rectangular in shape;
 - 3. Not exceed fifty (50) square feet in area; and
 - 4. not exceed ten (10) feet in height or ten (10) feet in length.
- C. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations of any manner, and may contain only:

1. The name of the sexually oriented business; and/or
2. One (1) or more of the following phrases:
 - a. 'Adult bookstore'
 - b. 'Adult movie theatre'
 - c. 'Adult encounter parlor'
 - d. 'Adult cabaret'
 - e. 'Adult lounge'
 - f. 'Adult novelties'
 - g. 'Adult entertainment'
 - h. 'Adult modeling studio'

SECTION 14. UNLAWFUL ACTS.

- A. A license is valid only at the location or for the person for which it was issued. It shall be unlawful for any individual, partnership, corporation or other entity to use a license that has been issued to another individual, partnership, corporation or other entity.
- B. It shall be unlawful for any person to counterfeit, forge, change, deface or alter a license.

SECTION 15. MINIMUM AGE.

- A. It shall be a violation of this ordinance for any person younger than twenty-one (21) years of age to enter or be on the premises of a Sexually Oriented Business at any time that the business is open for business.
- B. 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 the regular business hours. It shall be the duty of the attendant to not allow any person under the age of twenty-one (21) years to enter the business. It shall be presumed that an attendant knew a person was under the age of twenty-one (21) 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 Texas Department of Public Safety reflecting that such person is twenty-one (21) years of age or older.

SECTION 16. ENFORCEMENT.

- A. Injunction. A person who violates any portion of this ordinance is subject to suit to enjoin the operation of the sexually oriented business. The Village Attorney is authorized to file suit to enjoin violation of these regulations. A suit may be initiated upon information received from private citizens or any law enforcement agency.
- B. Criminal Prosecution. A person who violates any provision of this ordinance has committed an offense. An offense under this subsection is punishable by a fine not to exceed two thousand dollars (\$2,000.00).
- C. Each day that any violation shall continue shall constitute and be punishable as a separate offense.
- D. The revocation or suspension of any license 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 license.

SECTION 17. SEVERABILITY CLAUSE.

If any provision of this ordinance or application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are hereby declared to be severable.

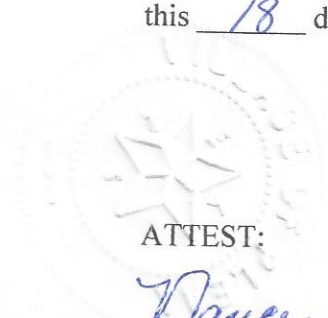
SECTION 18. ADOPTION OF ORDINANCE.

This ordinance shall become effective upon its approval and passage.

PASSED AND ADOPTED by an affirmative vote of all members of the Village Council

this 18 day of May, 2016.

ATTEST:


Nancy Walker
Nancy Walker, Village Secretary

APPROVED:

Larry Bittner
Larry Bittner, Mayor