

JAN 25 2021

Approved

REQUEST FOR AGENDA PLACEMENT FORM

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Bill Moore

TODAY'S DATE: January 12, 2021

DEPARTMENT: County Attorney

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE: January 25, 2021

SPECIFIC AGENDA WORDING: Public Hearing to Consider Amendments to Order #97-006, Licensing and Regulations of Sexually Oriented Businesses in Unincorporated Areas of Johnson County, by amending Section 1-101, Definitions, Paragraph (y) on page 15; adding (n), "other commercial enterprise" to Section 1-102, Classifications of Sexually Oriented Businesses on page 18; changing the word "city" to "county" in Section 1-105(b), on page 23; and renumbering 1-104 and 1-105 on page 23.

Consideration of Amendments to Order #97-006, Licensing and Regulations of Sexually Oriented Businesses in Unincorporated Areas of Johnson County, by amending Section 1-101, Definitions, Paragraph (y) on page 15; adding (n), "other commercial enterprise" to Section 1-102, Classifications of Sexually Oriented Businesses on page 18; changing the word "city" to "county" in Section 1-105(b), on page 23; and renumbering 1-104 and 1-105 on page 23.

PERSON(S) TO PRESENT ITEM: Bill Moore

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 10 minutes

ACTION ITEM: x

WORKSHOP: _____

(Anticipated number of minutes needed to discuss item) **CONSENT:** _____

EXECUTIVE: _____

STAFF NOTICE:

COUNTY ATTORNEY: _____

IT DEPARTMENT: _____

AUDITOR: _____

PURCHASING DEPARTMENT: _____

PERSONNEL: _____

PUBLIC WORKS: x

BUDGET COORDINATOR: _____

OTHER: Sheriff _____

*****This Section to be Completed by County Judge's Office*****

ASSIGNED AGENDA DATE: _____

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE _____

COURT MEMBER APPROVAL _____ Date _____

Amended Order #97-006

Filed For Record 1:46pm

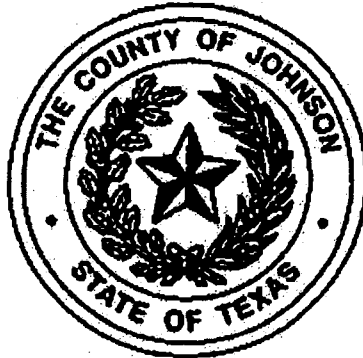
STATE OF TEXAS §

JAN 25 2021

COUNTY OF JOHNSON §

Becky Ivey, County Clerk
Johnson County Texas
By md Deputy

**Licensing and Regulations of Sexually Oriented Businesses in
Unincorporated Areas of Johnson County**



COMMISSIONERS COURT

Passed and Approved August 25, 1997

Amended January 25, 2021

**COMMISSIONERS COURT OF JOHNSON COUNTY
SEXUALLY ORIENTED BUSINESSES ORDER**

AN ORDER PROVIDING FOR THE LICENSING AND REGULATION OF
SEXUALLY ORIENTED BUSINESSES IN THE UNINCORPORATED AREAS OF
JOHNSON COUNTY, TEXAS.

WHEREAS, there is the potential for the location of sexually oriented businesses in Johnson County and such businesses require special supervision from the public safety agencies of the County to protect and preserve the health, safety and welfare of the patrons of such businesses as well as the citizens of the County; and

WHEREAS, the Johnson County Commissioners Court finds that sexually oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the County which demands reasonable regulation of sexually oriented businesses to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate and reasonable means of accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses, due to their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban and rural blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the Johnson County Commissioners Court desires to minimize and control these adverse effects and thereby protect the health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve property values and character of surrounding neighborhoods and deter the spread of urban and rural blight; and

WHEREAS, the regulations contained herein neither have the purposes nor effect of imposing any content limitations on those who produce adult books, films, photographs, or entertainment or their ability to make them available to whom they desire and that these regulations neither have the purpose nor effect of restricting any way the purpose of viewing of these materials by those who desire to view them; and

WHEREAS, the Johnson County Commissioners Court makes the following findings with regard to Sexually Oriented Businesses:

The Johnson County Commissioners Court finds that there is convincing evidence 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, causing increased crime and the consequent downgrading of property values. Numerous studies, reports, and findings concerning the harmful effects of adult entertainment uses on surrounding land uses and neighborhoods have been produced including the following, which have been reviewed by the Johnson County Sexually Oriented Business Task Force and Johnson County Commissioners Court and summarized as follows:

A. DETROIT, MICHIGAN--The Detroit Adult Entertainment Use Regulations were adopted in 1972 as part of an "Anti-Skid Row Ordinance" that prohibited an adult entertainment business within 500 feet of a residential area or within 1000 feet of any two other regulated uses. The term applied to a variety of other sexual entertainment establishments, including adult theaters, adult bookstores, cabarets, bars, taxi dance halls, and hotels. During the hearings on the ordinance, the City introduced extensive documentation that demonstrated the adverse socioeconomic and blighting impacts that the adult entertainment uses have on surrounding development, including decreased residential and commercial uses and an increased number of package stores and lounges. The documentation consisted of reports and affidavits from sociologists, urban planners and real estate experts, as well as some laymen on the cycle of decay expected in Detroit from the influx and concentration of such establishments.

B. AMARILLO, TEXAS-- In 1977, the Amarillo Planning Department prepared a report entitled, A Report on Entertainment Uses in Amarillo. The report concluded that adult entertainment uses have adverse impacts on surrounding land uses, and that those impacts can be distinguished from those of other businesses. The study found that street crime rates are considerably above the City's average in areas immediately surrounding the adult-only businesses, and that late at night, during their primary operating hours, these businesses create unique problems of noise, glare and traffic.

C. LOS ANGELES, CALIFORNIA--A November, 1984 report, The Current Status of Pornography and its Effect on Society, prepared by the Los Angeles Police Department's Vice Division, identifies the adverse effects of concentrating adult entertainment businesses. The study compared the popular Detroit plan, which disperses adult entertainment businesses, and the Boston plan, which has a single, concentrated adult business section in a specific area of the town. The Detroit plan was upheld by the U.S. Supreme Court in Young v. American Mini-Theaters, Inc. and was endorsed by area police officers, businessmen, realtors, appraisers and residents. The report states, "The proliferation and clustering of sex-oriented businesses adversely impacts the crime rate in adjacent areas... The overwhelming increase in prostitution, robberies, assaults, thefts and proportionate growth in police personnel deployed throughout Hollywood are all representative of the blighting that the clustering of adult entertainment establishments has on the entire community." Therefore, the L.A. Planning Department recommended the Detroit plan with the requirement of not less than 1000 feet between sexually oriented businesses and regulation of signs and other forms of advertising.

D. INDIANAPOLIS, INDIANA--In 1984, Indianapolis surveyed real estate experts on the impact that adult entertainment uses had on surrounding property values. A random sample (20 percent) of the national membership of the American Institute of Real estate appraisers was used. The opinion survey found that an adult bookstore located in the

hypothetical neighborhood described would have a negative impact on residential property values of premises located within one block of the site.

E. PHOENIX, ARIZONA--A 1979 Planning Department study compared three study areas containing adult entertainment uses with three control areas that had similar demographic and land use characteristics but not adult entertainment businesses. Their study indicated that, on the average, "In the three study areas, property crimes were 36 percent higher, violent crimes were 4 percent higher, and sex crimes were over 600 percent higher than in the control areas."

F. ST. PAUL, MINNESOTA--In 1978, the Planning Department of St., Paul completed a study of Effects of Surrounding Area of Adult Entertainment Businesses. The study concluded: (1) that there was a statistically significant correlation between neighborhood deterioration as reflected in housing values and crime rates and the location of adult entertainment businesses; (2) the statistical relationship was still significant after taking into account certain marketing factors, and; (3) there was a stronger correlation with neighborhood deterioration after establishment of an adult entertainment business than before.

G. BEAUMONT, TEXAS--The serious, objectionable effects of the concentration of adult entertainment uses in Beaumont was clearly illustrated in the commercial revitalization plan for the Charlton-Pollard neighborhood that was prepared by the City's Planning department in May of 1981. The plan described the economic decline that followed the establishment of adult entertainment uses in a specific neighborhood. It was noted that the growing presence of adult businesses drive away neighborhood commercial stores. Limitation may be accomplished by zoning and specific use permits in some zones. Spacing between adult entertainment businesses is critical and would vary based on what is in the vicinity of such business.

H. SEATTLE, WASHINGTON--In 1976, the city of Seattle amended its zoning ordinance providing for the gradual elimination of nonconforming adult theaters. The Seattle Department of Construction and Land Use prepared a report addressing the Proposed Land Use Code Text Amendment which regulated adult cabarets. This report is divided into two areas: (1) the intent of the proposal, as defined by its boundaries and rationale; and (2) a review of prior court cases as they relate to adult cabaret policies. The proposed zoning ordinance amendments are recommended based on the evidence the neighborhood property values will be negatively impacted due to the incompatibility of such businesses with other property uses and that residents fear that some of the people attracted by adult theaters may constitute a threat to the comfort and safety of the residents. Evidence was presented in the report which indicated that adult theaters were not compatible with adjacent residences and other types of uses such as churches, schools, etc.

I. AUSTIN, TEXAS--In May of 1986 the Austin Planning Department published a report of adult businesses in Austin. An analysis of crime rates in Austin was conducted by comparing areas with adult business to areas without adult businesses. Four study areas were chosen that did not contain adult businesses. Two study areas were chosen containing only one adult business each, and two study areas where chosen containing two adult businesses each.

Within the study areas containing adult businesses, sex crimes were found to be from two to nearly five times the city-wide average. Also sex-related crime rates were found to be 66% higher in study areas containing two adult businesses as compared to study areas containing only one business.

Austin conducted a survey of 120 real estate appraisers and lending institutions. Eighty-eight percent (88%) of those responding indicated a belief that an adult bookstore would decrease residential property values within one block, and 59% felt that residential property would decrease within three blocks. A survey of three adult businesses in Austin revealed that

only three customers had addresses within one mile of an adult business and 44% of all customers visiting the adult bookstore had addresses outside the City of Austin.

J. HOUSTON, TEXAS--results after committee completed several phases of research (including public hearings, executive sessions, draft of proposed ordinance, public hearing regarding the ordinance, and executive sessions, with legal counsel to refine ordinance) included the conclusion that a new SOB ordinance would not be a "knee-jerk" reaction to public opinion, but rather a necessary regulation of enterprises which have the potential to severely negatively impact the community. Decreased property values, increased crime, ancillary activities (such as prostitution), crude advertising, possible corruption of children and overall decrease in quality of life were all documented as concerns related to current and future adult businesses in Houston. Therefore, the committee drafted as strong an ordinance as was possible while maintaining a careful balance between the rights of the persons who do not wish to be exposed to such businesses and the rights of the persons who wish to operate or patronize such businesses.

K. OKLAHOMA CITY, OKLAHOMA--The Planning Division of the Community Development Department of the City of Oklahoma City, Oklahoma sent 100 surveys to professional real estate appraisers in order to develop a data base regarding adult entertainment businesses. The survey asked the appraisers in order to develop a data base regarding adult entertainment businesses. The survey asked the appraisers opinions as to the effects of a sole adult bookstore locating on an arterial street that borders a middle income residential neighborhood. 74% of the appraisers felt there would be a negative impact and 41% felt commercial property would be negatively impacted at a distance of three blocks away. Comments from the survey included the following: "an immediate transition begins, with the better quality businesses moving out and a lower class business moving in;" "attracts undesirables; threat to residents feeling of safety and security;" and "tends to prevent economic improvement in the area."

L. CLEVELAND, OHIO--Statistics provided from the National Conference on the Blight of Obscenity (which was held in Cleveland) conclude that "areas which house pornography shops had a much higher crime rate than other areas of the city." At the conference, experienced detectives reported on the impact of pornography on a city both in the form of individual cases, such as one female murder victim's assailant visited a pornography shop within hours of the murder and sexual assault, and statistics, including the following regarding the City's 204 census tracts of property of which 15 of these contain pornography outlets:

- During 1976 when crime decreased 8.1% in the city overall, 12 of these 15 particular tracts had an increase in crime or remained the same. Also, the two highest crime-ridden tracts in the town contain 8 of the 26 local pornography shops.
- There was an average of 20.5 robberies per census tract; however, of the 15 tracts containing pornography shops the average was 40.5 (double the city-wide average). Moreover the one tract that contains five such shops had 136 robberies take place although only 730 people live in that tract compared to the most populous tract (5,210 people) had only 14 robberies.
- 498 rapes occurred in 1976 which is an average of 2.4 per tract but the rate in each of the 15 tracts was two to four times the average. Of the three tracts where rapes occur the most frequently, 2 of the 3 contain pornography shops and the 3rd tract borders a tract which contains such shops. The rate in these 3 tracts is 7 times the city average.

I. The Johnson County Commissioners Court finds that from the studies that have been presented, concentrations of Sexually Orientated Businesses within a community have a serious harmful physical, social, and economic effect on surrounding areas particularly when they are located in close proximity to each other, thereby contributing to urban and rural blight and downgrading the quality of life in the adjacent areas. The studies show that regulations requiring the dispersion of Sexually Oriented Businesses are justified. The studies also show that because of their very nature, Sexually Oriented Businesses uses can and should be regulated;

II. The Johnson County Commissioners Court finds that the studies conducted in other cities and states throughout the country have shown a decline in neighborhoods, and neighborhood oriented commercial, religious, and institutional facilities when exposed to adult entertainment facilities;

III. The Johnson County Commissioners Court finds that the Supreme Court has upheld the validity of such controls which disperse these kinds of activities;

IV. The Johnson County Commissioners Court finds that there will be adequate locations for Sexually Oriented Businesses within the unincorporated areas of Johnson County after passage of this Order;

V. The Johnson County Commissioners Court finds that the unrestricted location of certain sexually oriented businesses may be detrimental to the public health, safety and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity and; therefore, require immediate remedial legislation;

VI. The Johnson County Commissioners Court finds that in Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), the Supreme Court reiterated Young v. American Mini Theaters, 427 U.S. at 71, in according "high respect" to "a city's" interest in attempting to preserve the quality of urban life;

VII. The concern over sexually transmitted diseases is a legitimate health concern which the Johnson County Commissioners Court determines demands reasonable regulation of adult entertainment establishments in Johnson County in order to protect the health and well-being of the citizens. Therefore regulations in this Order include measures which are reasonably expected to discourage anonymous sex, indecent exposure, prostitution and public lewdness at adult entertainment establishments. Such measures include, but are not limited to, requirements such as manager stations, open (unobstructed view of) booths/rooms, overhead lighting, minimum four foot walls with no apertures, holes or other openings, no-touch provisions and 6 foot buffer zones between employees and patrons, hour restrictions, interior/exterior lighting requirements, and density restrictions, prohibition of nudity and semi-nudity in establishments where alcohol is served, consumed or offered for sale, and registration/licensing of owners, managers and employees. Numerous studies, cases and witnesses confirm these measures will promote public health and general welfare by inhibiting illegal activities which tend to promote the spread of sexually transmitted diseases including HIV.

VIII. The Johnson County Commissioners Court finds that licensing is a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulation of their business, and that licensing is a legitimate and reasonable means of ensuring that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

IX. The Johnson County Commissioners Court is relying on the findings and studies listed above and as presented in public hearings and is attempting to benefit the public welfare by proposing this Order.

X. The Johnson County Commissioners Court is aware that under case law from the U.S. Supreme Court, such as City of Renton v. Playtime Theaters, Inc., 475 U.S. 50 (1986), this Commissioners Court is allowed to rely on the experience of other cities in enacting legislation to regulate adult entertainment users.

XI. It is the express intent of the Johnson County Commissioners Court to ensure that the adverse effects created by Sexually Oriented Businesses are minimized and controlled so as not to cause or contribute to crime, increased blighting, or downgrading of adjacent property and the surrounding neighborhood by restricting their proximity to a church, cemetery, government building, place of religious worship, licensed day care facility, school, hospital, boundary of a residential or historic district as defined in this chapter; a public park, or the property line of a lot devoted to a residential use as defined in this chapter.

XII. The regulations established herein are intended to protect and preserve the quality of life, property values, integrity and character of the county neighborhoods and other districts, deter the spread of urban blight, and protect the citizens of Johnson County from the objectionable effects of Sexually Oriented Businesses.

XIII. The Johnson County Commissioners Court finds that in accordance with case law, such as Lakeland Lounge v. City of Jackson, Mississippi, 973 F .2d 1255 (5th Cir. 1992), the county staff, Johnson County Sexually Oriented Business Task Force and the Commissioners Court have worked diligently over several months with each other and with numerous expert sources across the United States studying the effects of sexually oriented businesses and regulation of such businesses.

XIV. The Johnson County Commissioners Court finds that its concern regarding the secondary effects of such adult businesses and the welfare of the public, rather than the desire to suppress free expression, have led to the passage of this Order. Every effort has been made to preserve the rights of the operators, owners and patrons of such businesses including the adoption of a content-neutral Order which serves a substantial governmental interest while allowing for reasonable alternative channels of communication.

XV. The Johnson County Commissioners Court finds that it is necessary, expedient and in the best interest of the citizenry to regulate the operation and location of adult entertainment establishments for the purpose of stemming a potential increase in criminal activities and disturbances of the peace and good order of the community, maintaining property values, preventing injuries to residential neighborhoods and other districts, and protecting and preserving the quality of life.

NOW, THEREFORE, pursuant to the authority granted by the Constitution and Chapter 243 of the Texas Local Government Code, BE IT ENACTED BY THE COMMISSIONERS COURT OF JOHNSON COUNTY, TEXAS:

1. That the findings contained in the preamble to this Order are determined to be true and correct and are hereby adopted by the Johnson County Commissioners Court and made a part of this Order for all purposes.

**SEXUALLY ORIENTED BUSINESSES ORDER
TABLE OF CONTENTS**

- 1-100. PURPOSE AND INTENT
- 1-101. DEFINITIONS
- 1-102. CLASSIFICATIONS OF SEXUALLY ORIENTED BUSINESSES
- 1-103. LICENSE REQUIRED
- 1-104. ISSUANCE OF LICENSE
- 1-105. LICENSE FEES FOR SEXUALLY ORIENTED BUSINESSES
- 1-106. INSPECTION
- 1-107. EXPIRATION OF LICENSE
- 1-108. SUSPENSION
- 1-109. REVOCATION
- 1-110. APPEAL
- 1-111. TRANSFER OF LICENSE
- 1-112. LOCATION OF SEXUALLY ORIENTED BUSINESSES
- 1-113. EXEMPTIONS FROM LOCAL RESTRICTIONS
- 1-114. ADDITIONAL REGULATIONS FOR ESCORT AGENCIES
- 1-115. ADDITIONAL REGULATIONS FOR NUDE STUDIOS OR MODELING STUDIOS
- 1-116. ADDITIONAL REGULATIONS FOR ADULT THEATERS AND ADULT MOTION PICTURE THEATERS
- 1-117. ADDITIONAL REGULATIONS FOR ADULT MOTELS
- 1-118. REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS
- 1-119. ADDITIONAL REGULATIONS PERTAINING TO ADULT CABARETS
- 1-120. ADDITIONAL REGULATIONS WHERE ALCOHOLIC BEVERAGES ARE SERVED, CONSUMED, OR OFFERED FOR SALE.
- 1-121. DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS
- 1-122. ADDITIONAL REGULATIONS PERTAINING TO VISIBILITY, CONTINUOUS WALLS AND ILLUMINATION AT ALL SEXUALLY ORIENTED BUSINESSES.
- 1-123. HOURS OF OPERATION
- 1-124. ENFORCEMENT
- 1-125. INJUNCTIVE RELIEF
- 1-126. SEVERABILITY
- 1-127. TIME OF EFFECT

**SEXUALLY ORIENTED BUSINESS ORDER
FOR JOHNSON COUNTY**

1-100. PURPOSE AND INTENT.

(a) The Texas Legislature has found that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. Tex. Local Govt. Code Ann. Section 243.001(a). The purpose of this chapter to regulate sexually oriented businesses is to promote the health, safety, morals, and general welfare of the citizens of the unincorporated areas of Johnson County, to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the unincorporated areas of Johnson County, to deter sexually related criminal activity occurring in and around sexually oriented businesses and to protect the health of patrons and employees of such businesses from sexually transmitted diseases. The provisions of this chapter 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 not the intent nor effect of this Order 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.

(b) It is the intent of the Johnson County Commissioners Court that the locational regulations of Section 1-112. of this chapter are promulgated pursuant to Tex. Local Govt. Code Ann. Chapter 243 as they apply to a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other similar commercial enterprise the primary business of which is the 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 the customer. It is the intent of the Johnson County Commissioners Court that all other provisions of this Order are promulgated pursuant to the Texas Local Govt. Code Ann. Chapter 243.

(c) It is the intent of the Johnson County Commissioners Court to protect and preserve the health, safety and welfare of the patrons of "adult oriented establishments," as well as the health, safety and welfare of the county's citizens. Statistics and studies performed by a substantial number of cities and towns in the United States and research by the Sexually Oriented Businesses Task Force indicate the following:

(1) Large numbers of persons, primarily male, frequent such "adult oriented establishments, " especially those which provide closed booths, cubicles, studios and rooms for the private viewing of so-called "adult" motion pictures and/or video tapes and/or live entertainment; and

(2) Such closed booths, cubicles, studios and rooms have been used by patrons, clients or customers of such "adult oriented establishments" for the purpose of engaging in certain sexual acts; and

(3) Male and female prostitutes have been known to frequent such establishments in order to provide sex for hire to the patrons, clients or customers of such establishments within such booths, cubicles and rooms; and

(4) Doors, curtains, blinds and/or other closures installed in or on the entrances and/or exits are in use encourage patrons using such booths, cubicles, studios and rooms to engage in sexual acts therein with prostitutes and/or with other members of the same sex, thereby promoting and encouraging prostitution and the commission of sexual acts which cause blood, semen and urine to be deposited on the floor and/or walls of such booths, cubicles, studios and rooms, which deposits could prove detrimental to the health and safety of other persons who may come into contact with such deposits; and

(5) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections; and

(6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by HIV in the United States; and

(7) The U.S. Surgeon General in his October 22, 1986 report advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn; and

(8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts; and

(9) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and operators of the facilities to self-regulate those activities and maintain those facilities; and

(10) A reasonable licensing scheme is an appropriate mechanism to know the true identity of the owners, operators and employees, their criminal background (since someone convicted a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this ordinance or other laws), identifies potential witnesses or suspects and by preventing minors from working in such establishments; and

(11) That there is an increasing commercial exploitation of human sexuality by owners and operators of commercial establishments where alcoholic beverages are served or offered for sale for consumption on the premises, or where alcoholic beverages are permitted to be consumed; and

(12) That such exploitation takes place in the form of employing or permitting persons to perform or exhibit their nude or semi-nude bodies to other persons as an

inducement to such other persons to purchase alcoholic beverages or to consume alcoholic beverages while on the premises; and

(13) Such exploitation is further often accompanied by serious and dangerous criminal activity, such as the possession or use of controlled substances, the proliferation of drug-related activity, prostitution, disorderly conduct, assaults, and the like; and

(14) That the direct result of such exploitation in the context of the location where it is permitted (i.e., where alcohol is served or consumed) threatens the preservation of property values of adjoining and adjacent properties and neighborhoods; and

(15) That the direct result of such exploitation is the moral degradation and disturbances of the peace and good order of the community; and

(16) Such commercial exploitation of such nude and semi-nude acts are adverse to the public's interest and the quality of life, tone of commerce, and total community environment in the unincorporated areas of Johnson County; and

(17) The hour restrictions on private clubs in Texas under the current Alcoholic Beverage Commission were originally adopted to "safeguard the welfare, safety, and temperance of the people of Texas," and we hereby find that such hours when applied to sexually oriented businesses equally safeguard the welfare and safety of the citizens of Cleburne; and

(18) The important governmental interests of the prevention of crime and prevention of disease (such as the City of Chattanooga presented evidence of high crime and health risks which supported that City's adoption of City Code Section 11-435(d) as outlined in DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997)) are further by the prohibition of touching between the sexually oriented business employees and customers and when a six foot buffer zone is established; and

(19) The reasonable regulation and supervision of such adult oriented establishments tends to discourage such sexual acts and prostitution, and thereby promotes the health, safety and welfare of the patrons, clients and customers of such establishments; and

(20) The continued unregulated operation of adult oriented establishments including, without limitation, those specifically cited in this provision, is and would be detrimental to the general welfare, health and safety of the citizens of Johnson County; and

(21) The above findings raise substantial governmental concerns; and

(22) Such reasonable regulations are within the powers granted to the county by the Constitution and laws of the state of Texas in order to protect the public health, safety and welfare and have been enacted by this Order without any intention of limiting or restricting the contents of any communicative materials or of denying or restricting the

rights of any adult to obtain, view, distribute, exhibit, or sell any sexually oriented materials protected by the United States and/or State Constitution; and

(23) In order to reduce the secondary effects of sexually oriented businesses, regulation of signage is necessary to protect the health, safety and welfare of the public.

1-101. DEFINITIONS.

In this section for the purposes of this Order, the word "he" shall be defined to include the word "she" unless otherwise expressly stated. The following terms shall, for the purposes of this Order, have the meanings indicated in this section.

(a) Adult Arcade means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time and where the images so displayed are distinguished or characterized by depicting or describing of "specified sexual activities" or "specified anatomical areas."

(b) Adult Bookstore or Adult Video Store means a commercial establishment that as one of its principle business purposes offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specific sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

(c) Adult Cabaret means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) persons who appear in a state of nudity or semi-nudity, including topless dancers, nude dancers or strippers, male or female; or

(2) live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities; or

(3) films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the description of "specified sexual activities" or "specified anatomical areas."

(d) Adult Motel means a hotel or similar commercial establishment that:

(1) 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 that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) offers a sleeping room for rent for a period of time less than ten (10) hours; or

(3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time less than ten (10) hours.

(e) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(f) Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(g) Adult Tanning Salon means a business or commercial enterprise that, as one of its primary business purposes, furnishes, offers to furnish, or advertises to furnish anyone who appears in a state of nudity or displays "specified anatomical areas" for a fee, tip or other consideration.

(h) Licensed Day-Care Center means a facility licensed by the State of Texas that provides care, training, education, custody, treatment or supervision for more than six (6) children under the of fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four hours a day, regardless of whether or not the facility is operated for a profit or charges for the service it offers.

(i) Church means a building in which persons regularly assemble for worship, intended for the purposes connected with faith, or for propagating a particular form of belief.

(j) Director of Public Works means the Person employed as the Johnson County Director of Public Works or his designated agent.

(k) Sheriff of Johnson County means the duly elected sheriff of Johnson County or his designated agent.

(l) Escort means a person who, for 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.

(m) Escort Agency means a person who, or business association that, furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes for a fee, tip, or other consideration.

(n) Establishment means and includes any of the following:

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

(2) the conversion of an existing business, whether or not a sexually oriented business, to a sexually oriented business;

(3) the addition of any sexually oriented business to any other existing sexually oriented business; or

(4) the relocation of any sexually oriented business.

(5) a location and place of business.

(o) Licensee means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for license.

(p) Nude Studio or Modeling Studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(q) Nudity or a State of Nudity means the appearance of a human bare buttock, anus, male genitals, female genitals or female breast; or a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals or areola of the female breast. This definition shall not include a mother in the act of nursing her child.

(r) Operates or Causes to be Operated means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(s) Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(t) Residential District means a single family, duplex, townhouse, multiple family or mobile home district or area designated by such uses.

(u) Residential Use means property use for single family, duplex, multiple family, mobile home park, mobile home subdivision, or campground purposes. A premises which is designated primarily for living, sleeping, cooking, and eating therein shall be deemed to be residential unless it is actually occupied and used for other purposes.

(v) School means any public or private learning center, elementary school, secondary school, junior college, community college, college, university or other center for post-secondary education.

(w) Semi-Nude means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, and any part of the female breast below the top of the areolae, as well as portions of the body covered by supporting straps or devices.

(x) Sexual Encounter Center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

(1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) activities between male and female persons and/or persons of the same sex when one or more persons is in a state of nudity or semi-nude.

(y) Sexually Oriented Business means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, adult cabaret, escort agency or any other commercial enterprise the primary business of which is offering of a service or selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer. *For the purposes of determining whether a commercial activity is a SEXUALLY ORIENTED BUSINESS, the relevant inquiry shall be as to the nature of the primary business at the premises. For an "other commercial enterprise the primary business of which is the 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 the customer," the offering of such service, devices, or other items shall be deemed "the primary business at the premises" if any of the following conditions are met: 1) the specified service, devices, or other items generate 20% or more of the gross revenues generated at the premises; 2) the specified service, devices, or other items account for 20% or more of the floor space in the premises; or 3) the specified service, devices, or other items account for 20% or more of the number of items displayed at the premises. It is immaterial and irrelevant that: some ancillary activity may occur as an incident to the otherwise adult activity, such as but not limited to, tanning, garment modeling, exercise, massage, or other activity, simultaneously or in conjunction with one of the activities expressly identified in this definition as constituting a sexually oriented business if the activity taken as a whole appeals to the prurient interest in sex and is intended to sexually stimulate or sexually gratify any person, notwithstanding the presence of the ancillary activity; or any particular word or term is or is not associated with or utilized in the name or description of an enterprise or establishment, including but not limited to the words spa, sauna, center, studio, parlor, theater, cabaret, club, review, shop, gymnasium, pool, hall, salon, store, lounge, arcade, service, agency, or company (Amended January 25, 2021).* For purposes of this section, this definition shall apply to sexually oriented businesses whether situated in the county or not. A sexually oriented business does not include:

(1) A business operated by or employing or contracting with a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under state license; or

(2) A business operated by and employing or contracting with a state licensed physician or licensed chiropractor engaged in practicing the healing arts; or

(3) A business operated by and employing or contracting with a licensed tattooist or tanning shop operator engaged in performing functions authorized under state license for a tattoo parlor or tanning salon; or

(4) A business operated by and employing or contracting with a state licensed massage therapist who practices or offers massage engaged in performing the functions authorized by the license; or

(5) A school, which is accredited or certified by a national academic accreditation organization, and which maintains an educational program to train persons with the necessary skills and knowledge to obtain a state issued license as a psychologist, physical therapist, athletic trainer, cosmetologist, tattooist, artist, barber, physician, chiropractor, or massage therapist.

(6) A person appearing nude in a modeling class:

(a) operated by a proprietary school licensed by the state of Texas; a college, junior college, or university supported entirely or partly by taxation; or by a private college or university or junior college which maintains and operates educational programs in which credits earned are transferable to a college, junior college, or university supported entirely or partly by taxation;

(b) in a structure which has no sign visible from the exterior of the structure advertising that a nude person is available for viewing; and

(c) in order to participate in the class a student must enroll at least three (3) days prior to the class; and

(d) where there is no more than one nude model on the premises at any one time.

(z) Specified Anatomical Areas means human genitals in a state of sexual arousal.

(aa) Specified Sexual Activities means and includes any of the following:

(1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(3) masturbation, actual or simulated; or

(4) excretory functions as a part of or in connection with any of the activities set forth in (1) through (3), above.

(bb) Substantial Enlargement of a sexually oriented business means the increase in floor area occupied by the business by more than twenty-five (25) percent, as the floor area existed on the date of this Order.

(cc) Transfer of Ownership or Control of a sexually oriented business means and includes the following:

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

(2) the transfer of securities that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

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

(dd) Customer means any person who:

(1) is allowed to enter a sexually oriented business in return for 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 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.

(ee) Employee means any person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business or who receives or has the expectation of receiving any compensation from the operator or customers of the business. By way of example, rather than limitation, the term includes the operator and other management personnel, door persons, bouncers, and cashiers. It is expressly intended that these definitions cover not only conventional employer-employee relationships but also independent contractor relationships, agency relationships, and any other scheme or systems whereby the "employee" has an expectation of receiving compensation, tips, or other benefits from the business or its customers in exchange for services performed. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for delivery of goods to the premises.

(ff) Historic District/Site means a historic overlay of an area or site as defined by the County or State of Texas.

(gg) Park means a publicly owned or publicly leased tract of land, wherever situated, designated, dedicated, controlled, maintained and operated for use by the general public for active or passive recreational or leisure purposes by the county, a city, 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, right-of-ways, esplanades, traffic units, easements or traffic triangles unless such tracts or areas contain and provide improvements or access to a recreational or leisure use by the public. A current list of public parks located in Johnson County shall be compiled and maintained by the Director of Public Works.

(hh) Topless means a female clothed in a manner that simulates or leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola. (as taken from the Texas Penal Code Section 43.251, Employment Harmful to a minor with the addition of the words "simulates or".)

1-102. CLASSIFICATIONS OF SEXUALLY ORIENTED BUSINESSES.

Sexually oriented businesses are classified as follows:

- (a) adult arcades;
- (b) adult bookstores or adult video stores;
- (c) adult cabarets;
- (d) adult motels;
- (e) adult motion picture theaters;
- (f) adult theaters;
- (g) escort agencies;
- (h) nude studios;
- (i) modeling studios;
- (j) adult tanning salons;
- (k) sexual encounter centers;
- (l) love parlors;
- (m) sex parlors: *and*
- (n) *other commercial enterprise included in the definition of a sexually oriented business (Amended January 25, 2021).*

1-103. LICENSE REQUIRED.

(a) A person commits an offense if he/she operates a sexually oriented business without a valid license, issued by the county for the particular type of business. A separate application and permit shall be required for each such business.

(b) An application for a license must be made on a form provided by the Director of Public Works. The application must 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 must be drawn to designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with Section 1-118 of this chapter shall submit a diagram meeting the requirements of Section 1-118.

(c) The applicant must be qualified according to the provision of this chapter.

(d) If a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 10 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 1-104 and each applicant shall be considered a licensee if a license is granted.

(e) An applicant shall be required to give the following information on the application form:

(1) The name, street address and mailing address (if different) and Texas driver's license number of the intended operator(s) and the owners;

(2) The name under which the enterprise is to be operated and a general description of the services to be provided;

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

(4) The address and legal description of the tract of land on which the sexually oriented business is to be located;

(5) 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;

(6) If the sexually oriented business is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the permit.) If the expected startup date is to be more than ten (10) 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 unexpected delay and a statement of the owner's time schedule and plan for accomplishing the same;

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

(a) a certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Texas Revised Civil Statutes, Annotated, Business and Commerce Code, Chapter 36) if the sexually oriented business is to be operated under an assumed name;

(b) if the sexually oriented business is a Texas corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(c) if the sexually oriented business is a foreign corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(d) if the sexually oriented business is a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the Secretary of State under the Texas Limited Partnership Act (Article 6132a Vernon's Texas Civil statutes);

(e) 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 the recorded deed;

(f) if the person identified as the fee owner(s) of the tract of land in (6)(e) 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;

(g) a statement under oath that 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 that the applicant has read the provisions of this article.

(f) The applicant must state on the application for a license which single type of sexually oriented business, as listed in Section 1-102, the applicant will be operating. Operating any other type of Sexually Oriented Business at this location is a violation according to the provisions of this chapter.

(g) A person who operates a sexually oriented business, as listed in Section 1-102, or his agent or employee, commits an offense if he/she operates this business without maintaining a current list/roster of all employees along with a completed updated application for each employee. A valid driver's license, state identification card or passport, all with a photo, shall be required for all employment applications.

1-104. ISSUANCE OF LICENSE.

(a) The Director of Public Works shall approve the issuance of a license to an applicant within thirty (30) days after receipt of an application unless the Director of Public Works finds one or more of the following to be true:

- (1) An applicant is under eighteen (18) years of age.
- (2) An applicant or an applicant's spouse is overdue in payment to the County of taxes, fees, fines, or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a sexually oriented business.
- (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this Order other than the offense of operating a sexually oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- (5) The license fee required by this Order has not been paid.
- (6) An applicant has been employed in a sexually oriented business in a managerial capacity within the past twelve (12) months and has demonstrated an inability to operate or manage a sexually oriented business premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- (7) An applicant of the proposed establishment is in violation of or is not in compliance with section 1-106, 1-111, 1-112, 1-114, 1-115, 1-116, 1-117, 1-118, 1-119, 1-120, 1-121, 1-122, or 1-123 of this Order.
- (8) The Premises to be used for the sexually oriented business are not in compliance with all applicable County laws, regulations and Commissioners Court orders.
- (9) An applicant or an applicant's spouse has been convicted of a crime:
 - (a) Involving;
 - (i) any of the following offenses described in Chapter 43 of the Texas Penal Code:
 - (aa) prostitution;
 - (bb) promotion of prostitution;
 - (cc) aggravated promotion of prostitution;

- (dd) compelling prostitution;
- (ee) obscenity;
- (ff) sale, distribution, or display of harmful material to a minor;
- (gg) sexual performance by a child; or
- (hh) possession or promotion of child pornography;
- (ii) any of the following offenses as described in chapter 21 of the Texas Penal Code:
 - (aa) Public lewdness;
 - (bb) Indecent exposure; or
 - (cc) Indecency with a child;
- (iii) sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
- (iv) harboring a runaway child , sale or purchase of a child, prohibited sexual conduct, or enticing a child as described in Chapter 25 of the Texas Penal Code; or
- (v) criminal attempt, conspiracy, or solicitation to commit any of the following offenses;

(b) for which:

- (i) less than two (2) 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;
- (ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
- (iii) less than five (5) 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 (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

(d) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

1-105. LICENSE FEES FOR SEXUALLY ORIENTED BUSINESSES.

(a) The annual fee for a sexually oriented business license is \$1,000.00, which shall be divided into quarterly payments. A quarter shall be a calendar quarter, dividing the year into three (3) month increments, beginning with January, February and March as the first quarter. Each quarterly payment shall be for Two hundred and fifty Dollars (\$250.00), and this payment shall be made with the application submitted prior to operating the sexually oriented business for that quarter. For subsequent quarters, the applicant must resubmit the abbreviated application form, to be provided by the County, at least thirty (30) days before the expiration date of the quarter in which the business is operating. An application shall not be considered to have been filed until the fee is paid and all information required by the application form has been submitted. The fee of Two hundred and fifty Dollars (\$250.00) shall be due regardless of the time of commencement of operations within a given quarter. There shall be no prorating of the required fee for a sexually oriented business that begins operations within a quarterly period.

(b) In addition to the fees required by Subsection (a), an applicant for an initial sexually oriented business license shall, at the time of making application, pay a nonrefundable fee of \$250.00 for the county to conduct a survey to ensure that the proposed sexually oriented business is in compliance with the locational restrictions set for the in Section 1-112.

1-106. INSPECTION.

(a) An applicant or licensee shall permit representatives of the Sheriff's Department and the County Department of Public Works or any of their designated representatives to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually oriented business or his agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of (a) above at any time it is open for business.

(c) The provisions of this section do not apply to areas of an adult motel that are currently being rented by a customer for use as a permanent or temporary habitation.

1-107. EXPIRATION OF LICENSE.

Each license expires one year from date of issuance, except that a license issued pursuant to a locational restriction expires on the date the exemption expires. A license may be renewed only by making application as provided in Section 1-103. Application for renewal should be

made at least 30 days before the expiration date, and when made less than 30 days before the expiration of the license will not be affected by the pendency of the application.

1-108 SUSPENSION.

The Director of Public Works shall suspend a license for a period not to exceed thirty (30) days if he/she determines that a licensee or an agent of a licensee has:

- (a) violated or is not in compliance with section 1-106, 1-111, 1-112, 1-114, 1-115, 1-116, 1-117, 1-118, 1-119, 1-120, 1-121, 1-122, or 1-123 of this Order.
- (b) engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;
- (c) refused to allow an inspection of the sexually oriented business premises as authorized by this Order;
- (d) knowingly permitted gambling by any person on the sexually oriented business premises; or
- (e) demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

1-109. REVOCATION.

(a) The Director of Public Works shall revoke a license if a cause of suspension in section 1-108 of this Order occurs and the license has been suspended within the preceding twelve (12) months.

(b) The Director of Public Works shall revoke the license if he/she determines that:

- (1) a licensee gave false or misleading information in the material submitted to the Director of Public Works during the application process;
- (2) a licensee, an agent or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- (3) a licensee, an agent or an employee has knowingly allowed prostitution on the premises;
- (4) a licensee, an agent or an employee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
- (5) a licensee has been convicted of an offense listed in subsection 1-104 (a) (9) (a) for which the time period required in subsection 1-104 (a) (9) (b) has not elapsed;
- (6) on two (2) or more occasions within a 12-month period, a person or persons committed an offense, occurring in or on the licensed premises, of a crime listed

in paragraph 1-104 (a) (9) (a), for which a conviction has been obtained, and the person or persons were agents or employees of the sexually oriented business at the time the offenses were committed;

(7) a licensee or agent or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Section 21.01, Texas Penal Code; or

(8) a licensee is delinquent in payment to the County for any ad valorem taxes, sales, or other taxes related to the sexually oriented business.

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

(d) Subsection (b)(7) of this section does not apply to adult motels as a ground for revoking the license unless the licensee, agent or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

(e) When the Director of Public Works revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the Director of Public Works finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Subsection (b)(5) of this section an applicant may not be granted another license until the appropriate number of years required under Subsection 1-104 (a)(9)(b) has elapsed.

1-110. APPEAL.

If the Director of Public Works denies the issuance of a license, or suspends or revokes a license, the Director of Public Works shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the state district court. An appeal to the state district court must be filed within thirty (30) days after receipt of notice of the decision of the Director of Public Works. The licensee shall bear the burden of proof in court.

1-111. TRANSFER OF LICENSE.

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

1-112. LOCATION OF SEXUALLY ORIENTED BUSINESSES.

(a) A person commits an offense if the person operates or causes to be operated a sexually oriented business within one thousand five hundred feet (1500') of:

- (1) a church;
- (2) a school;
- (3) a licensed day-care facility;
- (4) a boundary of a residential district;
- (5) a public park;
- (6) the property line of a lot devoted to residential use; or
- (7) any building or structure in which alcoholic beverages are offered for sale, served, or consumed; (see section 1-120 additional regulations)
- (8) a historic district or site;
- (9) a cemetery
- (10) a hospital or hospital district;
- (11) a Masonic lodge;
- (12) any building or property owned or leased by the city, county, state or federal government.

(b) A person commits a misdemeanor offense if he/she causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business located within one thousand five hundred feet (1500') of another sexually oriented business.

(c) A person commits a misdemeanor offense if he/she causes or permits the operation or establishment, or maintenance of more than one (1) sexually oriented business in the same building, structure, or portion thereof, if he/she causes or permits an increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) For the purpose of Subsection (a) of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, school, licensed day-care facility or building or structure in which alcoholic beverages are offered for sale, or to the nearest boundary of an affected public park, residential district, residential lot, a historic district or site, a

cemetery, a hospital or hospital district, a Masonic lodge, or any building or property owned or leased by the city, county, state or federal government.

(e) For the purposes of Subsection (b) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(f) Any sexually oriented business lawfully operating on the passage of this Order that is in violation of Subsections (a), (b), or (c) of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed twelve (12) months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming use shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two (2) or more sexually oriented businesses are within one thousand five hundred feet (1500') of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(g) A sexually oriented business lawfully operated as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, school, licensed day-care facility, or a building or structure in which alcoholic beverages are offered for sale, public park, residential district, residential lot, historic district or site, cemetery, hospital or hospital district, Masonic Lodge, or any building or property owned or leased by the city, county, state, or federal government, within one thousand five hundred feet (1500') of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

1-113. EXEMPTIONS FROM LOCATIONAL RESTRICTIONS.

(a) If the Director of Public Works denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of any section of this Order, then the applicant may, not later than ten (10) calendar days after receiving notice of the denial, file with the County Judge a written request for an exemption from the locational restrictions of this Order.

(b) If the written request is filed with the County Judge within the ten-day limit, the Commissioners Court shall consider the request. The County Judge shall set the date for a public hearing within sixty (60) days from the date the written request is received.

(c) A hearing by the Commissioners Court may proceed if a quorum of the Commissioners Court is present. The Commissioners Court shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The Commissioners Court may, in its discretion, grant an exemption from the locational restrictions of this Order if it makes the following findings:

(1) That the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

(2) That the granting of the exemption will not violate the spirit or intent of this Order;

(3) That the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban or rural blight;

(4) That the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any effort of urban renewal or restoration; and

(5) That all other applicable provisions of this Order will be observed.

(e) The Commissioners Court shall grant or deny the exemption by a majority vote. Failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the Commissioners Court is final.

(f) If the Commissioners Court grants the exemption, the exemption is valid for one (1) year from the date of the Commissioners Court action. Upon the expiration of an exemption, the sexually oriented business is in violation of the locational restrictions of this Order until the applicant applies for and receives another exemption.

(g) If the Commissioners Court denies the exemption, the applicant may not reapply for an exemption until at least twelve (12) months have elapsed since the date of the Commissioners Court action. The grant of an exemption does not exempt the applicant from any other provisions of this Order other than locational restrictions.

1-114. ADDITIONAL REGULATIONS FOR ESCORT AGENCIES.

(a) An escort agency shall not employ any person under the age of eighteen (18) years.

(b) A person commits an offense if he/she acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

1-115. ADDITIONAL REGULATIONS FOR NUDE STUDIOS OR MODELING STUDIOS.

(a) A nude studio or modeling studio shall not employ any person under the age of eighteen (18) years.

(b) A person commits an offense if he/she knowingly allows any person under the age of eighteen (18) years to appear in a state of nudity or semi-nudity in or on the premises of a nude studio or modeling studio. It is a defense to prosecution under this subsection if a person

under eighteen (18) years was in a rest room not open to the public view or persons of the opposite sex.

(c) A person commits an offense if he/she appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a Nude Studio or Modeling Studio premises which can be viewed from the public right of way.

(d) A Nude Studio or Modeling Studio shall not place or permit a bed, sofa, mattress or futon in any room on the premises, except that sofa may be placed in a reception room open to the public.

1-116. ADDITIONAL REGULATIONS FOR ADULT THEATERS AND ADULT MOTION PICTURE THEATERS.

(a) A person commits an offense if he/she knowingly allows a person under the age of eighteen (18) years to appear in a state of nudity or semi-nudity in or on the premises of an adult theater or adult motion picture theater.

(b) A person under the age of 18 years commits an offense if he/she knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.

(c) It is a defense to prosecution under Subsection (a) and (b) of this section if the person under eighteen (18) years was in a restroom not open to the public view or persons of the opposite sex.

(d) Every act or omission by an employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(e) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of the Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this Order.

1-117. ADDITIONAL REGULATIONS FOR ADULT MOTELS.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Order.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented business

license, he/she rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he/she rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(d) Every act or omission by an employee constituting a violation of the provision of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(e) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this Order.

1-118. REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT REGULATIONS PERTAINING FILMS OR VIDEOS.

In order to decrease the possibility of lewd behavior (such as: anonymous public sexual encounters, which cause the spread of sexually transmitted disease and HIV).

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all overhead lighting fixtures, and switches, which lights are controlled by which switches and designating any portion of the premises in which patrons will not be permitted. Only agents or employees shall have access to light switches. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or within marked dimensions sufficient to show the various internal dimensions of all areas of the interior or the premises to an accuracy of plus or minus six (6") inches. The Director of Public Works 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.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of the manager's station may be made without prior approval of the Director of Public Works or his designated representative.

(4) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) 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 (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operator, and it also shall be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection (a)(5) of this section remains unobstructed by any doors, walls, curtains, paintings, or opaque coverings, merchandise, display racks or other materials at all times that any patron is present on the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (a)(1) of this section.

(7) 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 not less than five (5.0) foot candle as measured at the floor level.

(8) It shall be the duty of the owners, operators, agents and employees present on the premises to ensure that illumination described above is maintained at all times that any patron is present on the premises.

(b) A person having a duty under Subsections (a)(1) through (a)(8), above commits an offense if he/she knowingly fails to fulfill that duty.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director of Public Works or his agent.

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) Every act or omission by an employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the

operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(f) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provision of this Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this Order.

1-119. ADDITIONAL REGULATIONS PERTAINING TO ADULT CABARETS.

(a) An employee of an adult cabaret, while appearing in a state of nudity, commits an offense if he/she touches a customer or the clothing of a customer.

(b) A customer at an adult cabaret commits an offense if he/she touches an employee appearing in a state a nudity or clothing of the employee.

(c) Any dance, performance, exhibition or show by an employee of an adult cabaret, while appearing in a state of nudity or seminude, shall occur on a platform which is raised at least two feet (2') from the level of the floor and the employee, while in the state of nudity or seminude, shall be at least six (6) feet from any customer.

(d) Every act or omission by an employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(e) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provision of this Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this Order.

1-120 ADDITIONAL REGULATIONS WHERE ALCOHOLIC BEVERAGES ARE SERVED, CONSUMED OR OFFERED FOR SALE

(a) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the unincorporated boundaries of Johnson County, Texas, at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed:

(1) To suffer or permit any female person, while on the premises of said commercial establishment, to expose that area of the human female breast at or below the top of the areola thereof.

(2) To suffer or permit any female person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the

appearance of or simulate such portions of the human female breasts as described in this Order.

(3) To suffer or permit any person, while on the premises of said commercial establishment, to expose his or her genitals, pubic area, buttock, anus, or anal cleft or cleavage.

(4) To suffer or permit any person, while on the premises of said commercial establishment, to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft or cleavage.

(b) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the unincorporated boundaries of Johnson County, Texas at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose that area of the human female breast at or below the top of the areola thereof, or to use any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(c) It shall be unlawful for any person, while on the premises of a commercial establishment located within the unincorporated boundaries of Johnson County, Texas at which alcoholic beverages are served or offered for sale for consumption on the premises, or at which alcoholic beverages are permitted to be consumed, to expose his or her genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to use any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus or anal cleft or cleavage.

1-121. DISPLAY OF SEXUALLY EXPLICIT MATERIAL TO MINORS.

(a) A person commits an offense if, in a business establishment open to persons under the age of seventeen (17) years, he/she displays a book, pamphlet, newspaper, magazine, film, or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or passion for commercial gain or to exploit sexual lust or perversion for commercial gain, any of the following:

(1) human sexual intercourse, masturbation, or sodomy;

(2) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(3) less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or

(4) human male genitals in a discernibly turgid state, whether covered or uncovered.

(b) In this section "display" means to locate an item in such a manner that, without obtaining assistance from an agent or employee of the business establishment:

- (1) it is available to the general public for handling and inspection; or
- (2) the cover, or outside packaging on the item or contents of the item is visible to members of the general public.

(c) Every act or omission by an employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(d) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provision of this Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposed by this Order.

1-122 ADDITIONAL REGULATIONS PERTAINING TO VISIBILITY, CONTINUOUS WALLS AND ILLUMINATION AT ALL SEXUALLY ORIENTED BUSINESSES.

(a) Every sexually oriented business shall be physically arranged in a manner that the entire interior portion of any areas into which patrons are permitted access (including all booths, cubicles, rooms and stalls except adult motel rooms and toilet facilities) shall be clearly visible from the common areas of the premises and the visibility into such areas shall not be blocked or obscured by doors, screens, curtains, partitions, drapes, merchandise, display racks, other materials, or any other opaque obstruction whatsoever.

(b) All interior walls, partitions or other dividers of any areas into which patrons are allowed access (including all booths, cubicles, rooms and stalls except adult motel rooms and toilet facilities) shall be continuous from the floor to four feet (4') high with no apertures, holes or other openings. This provision shall not apply to conduits for plumbing, heating, air conditioning, ventilation or electrical service, provided that conduits shall be so screened or otherwise configured as to prevent their use as openings that would permit any portion of a human body to penetrate the wall or barrier separating viewing areas.

(c) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of all interior walls, partitions or other dividers of any areas into which patrons are allowed access and designating any area into which patrons will not be permitted. A professionally prepared diagram in the nature of an engineer architect's blueprint shall not be required; however each diagram should be oriented to the north or to some designated street or object and should 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. The Director of Public Works 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. The application shall be sworn to be true and correct by the applicant. No alteration in the configuration or location of an interior wall,

partition or other divider may be made without the prior approval of the Director of Public Works or his designee.

(d) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in Subsection (a) remains unobstructed by any doors, walls, curtains, partitions, any other opaque coverings, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection (c) of this section. It shall be the duty of the operators and owners and it shall also be the duty of any agents and employees present to ensure that the premises is monitored to assure that no openings are allowed to exist in violation of the subsection (b), above, and to ensure that no patron is allowed access to any portion of the premises where any opening exists in violation of subsection (b), above, until the opening has been repaired. It shall be unlawful for any owner, operator or manager of any enterprise to permit any employee to provide any entertainment to any customer in any separate area (any portion of the interior of a sexually oriented business which is separated from any other portion of the same business by any wall, partition or other divider) within an enterprise 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.

(e) The premises of the view area specified in Subsection (a) 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 five (5.0) foot candle as measured at the floor level. The parking lot of every sexually oriented businesses 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 five (5.0) foot candle as measured at the ground level.

(f) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.

(g) A person having a duty under Subsections (a) through (f) of this provision commits an offense if he/she knowingly fails to fulfill that duty.

(h) Every act or omission by an employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operators negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(i) An operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this Order shall be deemed the act or omission of the operator for purposes of determining whether the operator shall be subject to the penalties imposes by this Order.

1-123 HOURS OF OPERATION

No sexually oriented business, except for an adult motel, may remain open at any time on Sunday between the hours of 1:15 A.M. and 1:00 P.M. or any other day at any time between the hours of 12:15 A.M. and 7:00 A.M.

1-124 ENFORCEMENT.

(a) Except as provided by Subsection (b) of this section, any person violating section 1-112 of this Order, upon conviction, is punishable as a Class A misdemeanor by a fine up to \$4000, confinement in jail for a term not to exceed one (1) year or both such fine and confinement for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

(b) If the sexually oriented business involved is an adult cabaret or other adult establishment not within the definition of Section 243.002 of the Local Government Code, then violation of Section 1-112 of this chapter is punishable by a fine not to exceed \$500 as a Class C misdemeanor for each offense and a separate offense shall be deemed committed upon each day during which a violation occurs.

(c) Any person violating a provision of the chapter other than Section 1-112, upon conviction, is punishable by a fine not to exceed \$500 as a Class C misdemeanor for each offense and a separate offense shall be deemed committed upon each day during or on which a violation occurs.

(d) It is a defense to prosecution under section 1-103(a), 1-112 or 1-115(d) of this Order that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

(1) by a proprietary school licensed by the State of Texas; a college, junior college, or university supported entirely or partly by taxation;

(2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) in a structure:

(a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(c) where no more than one (1) nude or semi-nude model is on the premises at any one time.

(d) It is a defense to prosecution under section 1-103(a) or 1-112 of this Order that each item of descriptive, printed film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.

(e) It is a defense to prosecution under Section 1-103 (a) or Section 1-112 that each item of descriptive, printed, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.

(f) For a period of eighteen (18) months after passage of this Order, it is a defense to prosecution under Section 1-118 if the sexually oriented business was in operation at its present location on the date of passage of this Order and that the business is working toward compliance with Section 1-118 such that the business is projected to be in compliance by the end of eighteen (18) months after passage of this Order.

(g) For a period of eighteen (18) months after passage of this Order, it is a defense to prosecution under Section 1-122 if the sexually oriented business was in operation at its present location on the date of passage of this Order and that the business is working toward compliance with Section 1-122 such that the business is projected to be in compliance by the end of eighteen (18) months after passage of this Order.

(h) For a period of eighteen (18) months after passage of this Order, it is a defense to prosecution under Section 1-119 (a) if the sexually oriented business was in operation at its present location on the date of passage of this Order and that the business is working toward compliance with Section 1-119 such that the business is projected to be in compliance by the end of eighteen (18) months after passage of this Order.

(i) Any sexually oriented business in operation on the date of passage of this Order will be entitled to thirty (30) days to fully complete an application for a license. During such thirty (30) days, said business will be granted a grace period regarding enforcement of this chapter. Moreover, if the application is completed in full during said 30 day period, then this period shall be extended to said business until the licensing decision is made under Section 1-104 by the Director of Public Works.

(j) 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.

1-125. INJUNCTIVE RELIEF.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of section 1-112 of this Order is subject to a suit for injunction as well as prosecution for criminal violations.

1-126. SEVERABILITY.

If any section, subsection, clause, phrase or provision of this Order, or application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Order, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

1-127. TIME OF EFFECT.

This Order takes effect at 12:01 a.m. on the day following its adoption.

PASSED AND APPROVED in regular session of the Johnson County

Commissioners Court on the 25, day of January, 2021.



Roger Harmon, Johnson County Judge

Voted: yes, no, abstained



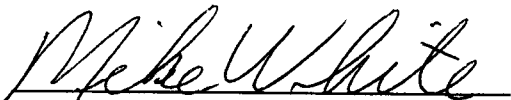
Rick Bailey, Commissioner Pct #1

Voted: yes, no, abstained



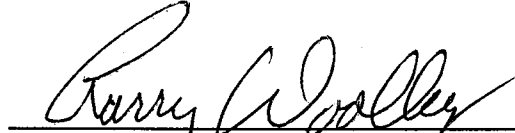
Kenny Howell, Commissioner Pct #2

Voted: yes, no, abstained



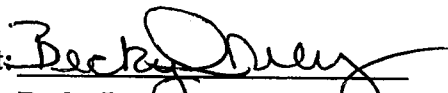
Mike White, Commissioner Pct #3

Voted: yes, no, abstained



Larry Woolley, Commissioner Pct #4

Voted: yes, no, abstained

Attest: 
Becky Ivey, County Clerk

