

**SEXUALLY ORIENTED BUSINESS REGULATIONS
BURNET COUNTY, TEXAS**

WHEREAS, sexually oriented businesses require special supervision in order to protect and preserve the health, safety and welfare of the patrons of such business as well as the citizens of the communities where they locate; and

WHEREAS, the County 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 city that demands reasonable regulation of sexually oriented businesses in order to protect the health and well-being of the citizens; and

WHEREAS, permitting and or licensing is a legitimate 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, 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 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 proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the County wants to prevent 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 the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it is not the intent of this Regulation to suppress any speech activities protected by the First Amendment, but to enact a content neutral Regulation that addresses the secondary effects of sexually oriented businesses as well as the health problems associated with such businesses; and

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

**SECTION I.
Purpose and Intent.**

It is the purpose of this Regulation to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this Regulation 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 Regulation to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Regulation to condone or legitimize the distribution of obscene materials.

**SECTION II.
Definitions.**

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

(2) ADULT BOOKSTORE or ADULT VIDEO STORE means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(A) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities," or "specified anatomical areas"; or

(B) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities." A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for

sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment

(3) ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(A) persons who appear in a state of semi-nudity; or

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

(C) 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"; or

(D) persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers

(4) ADULT MOTEL means a hotel, motel, or similar commercial establishment that:

(A) offers accommodation to the public for any form of consideration and 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 that advertises the availability of this adult type of photographic reproductions; or

(B) offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(C) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(5) 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 regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) 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 that are characterized by the exposure of "specified anatomical areas" or by "specified sexual

activities."

(7) DIRECTOR means the Burnet County Judge and such employee(s) of the County as he may designate to perform the duties of the director under this Regulation.

(8) 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.

(9) ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(10) ESTABLISHMENT means and includes any of the following

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

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

(C) the additions of any sexually oriented business to any other existing sexually oriented business, or

(D) the relocation of any sexually oriented business

(11) LICENSED DAY-CARE CENTER means a facility licensed by the State of Texas, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under 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 (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(12) PERMITTEE AND/OR LICENSEE means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

(13) NUDE MODEL 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.

(14) NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock.

anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered

(15) PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(16) SEMI-NUDE means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(17) SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

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

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

(18) SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(19) SPECIFIED ANATOMICAL AREAS means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

(20) SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

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

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

(C) masturbation, actual or simulated; or

(D) excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above

(21) SUBSTANTIAL ENLARGEMENT of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas

exist on the effective date of this document.

(22) TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

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

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

(C) the establishment of a trust, gift, or other similar legal device 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.

SECTION III Classification.

Sexually oriented businesses are classified as follows

- (1) adult arcades;
- (2) adult bookstores or adult video;
- (3) adult cabarets;
- (4) adult motels;
- (5) adult motion picture theaters;
- (6) adult theaters;
- (7) escort agencies;
- (8) nude model studios; and
- (9) sexual encounter centers.

SECTION IV. Permit and/or License Required

(1) It shall be unlawful for a person to operate a sexually oriented business without a valid permit and/or license, issued by the director.

(2) An application for a permit and/or license must be made on a form provided by the County of Burnet. The application must be accompanied by a sketch or a 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 a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

(3) The applicant must be qualified according to the provisions of this Regulation and the premises must be inspected and found to be in compliance with the law by any health department, fire department, and building official.

(4) If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit and/or license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for a permit and/or license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten (10%) percent or greater interest in the corporation must sign the application for a permit and/or license as applicant.

(5) The fact that a person possesses other types of state or city permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business permit and/or license.

(6) Applications for a permit, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director or the Director's designee during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form.

(A) The name, street address (and mailing address if different) and Texas drivers license number of the intended operator; and the name and street address (and mailing address if different) of the owner(s);

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

(C) The telephone number of the establishment;

(D) The address, and legal description of the tract of land on which the establishment is to be located;

(E) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the permit is sought, and the date on which the

establishment began operations as a sexually oriented business at the location for which the permit is sought; and

(F) If the establishment 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 expected 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) Payment of the application fee in full:

(B) If the establishment is a Texas corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(C) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(D) If the establishment is a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto;

(E) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

(F) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(G) If the persons identified as the fee owner(s) of the tract of land in item (6) are not also the owners of the establishment, 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 establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment;

(H) Any of items (B) through (G), above shall not be required for a renewal application if the applicant states that the documents previously furnished the director with the original application or previous renewals thereof remain correct and current.

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

(A) 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,

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

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

**SECTION V.
Issuance of Permit and/or License.**

(1) The Director shall approve the issuance of a permit and/or license to an applicant within thirty (30) days after receipt of an application unless he finds one or more of the following to be true.

(A) An applicant is under eighteen (18) years of age.

(B) An applicant or an applicant's spouse is overdue in his payment to the city of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.

(C) An applicant has failed to provide information reasonably necessary for issuance of the permit and/or license or has falsely answered a question or request for information on the application form.

(D) An applicant is residing with a person who has been denied a permit and/or license by the County to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(E) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, building official and zoning official as being in compliance with applicable laws and Regulations.

(F) The permit and/or license fee required by this Regulation has not been paid.

(G) An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Regulation.

(2) The permit and/or 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 permit and/or 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

(3) Any health department, fire department, and building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Director. The certification shall be promptly presented to the Director.

(4) In the event that the Director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of its application by the Director. provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this Regulation

(5) An applicant may appeal the decision of the director regarding a denial to County by filing a written notice of appeal with the County Judge's Office within fifteen (15) days after the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the applicant on appeal to County. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Commissioner's Court shall vote to either uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the County receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal

SECTION VI

Fees.

The annual fee for a sexually oriented business permit and/or license is Five Hundred (\$500.00) Dollars. This fee is to be used to pay for the cost of the administration and enforcement of this Regulation.

SECTION VII

Inspection.

An applicant, or permittee and/or licensee shall permit representatives of the Sheriff's Department, or other County or State departments or agencies 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.

SECTION VIII
Expiration of Permit and/or License

(1) Each permit and/or license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section V. Application for renewal should be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit and/or license will not be affected.

(2) When the Director denies renewal of a license, the applicant shall not be issued a permit and/or license for one year from the date of denial. If, subsequent to denial, the Director finds that the basis for denial of the renewal permit and/or license has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date denial became final.

SECTION IX.
Suspension.

The Director shall suspend a permit and/or license for a period not to exceed thirty (30) days if he determines that permittee and/or licensee or an employee of a permittee and/or licensee has:

(A) violated or is not in compliance with any section of this Regulation.

(B) become impaired or intoxicated through the 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 Regulation.

(D) knowingly permitted gambling by any person on the sexually oriented business premises.

SECTION X.
Revocation.

(1) The Director shall revoke a permit and/or license if a cause of suspension in Section IX occurs and the permit and/or license has been suspended within the preceding twelve (12) months.

(2) The Director shall also revoke a permit and/or license if he determines that

(A) a permittee and/or licensee gave false or misleading information in the material submitted during the application process;

(B) a permittee and/or licensee or an employee has knowingly allowed possession,

use, or sale of controlled substances on the premises;

(c) a permittee and/or licensee or an employee has knowingly allowed prostitution on the premises;

(D) a permittee and/or licensee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's and/or licensee's permit and/or license was suspended;

(E) a permittee and/or licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the permitted and/or licensed premises;

(F) a permittee and/or licensee is delinquent in payment to the County or State for any taxes or fees past due;

(G) the owner or operator of the permitted establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment; or

(H) that there was a change of owner or operator for which a transfer application was not timely filed.

(3) When the Director revokes a permit and/or license, the revocation shall continue for one (1) year, and the permittee and/or licensee shall not be issued a sexually oriented permit and/or license for one (1) year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit and/or license if at least ninety (90) days have elapsed since the date the revocation became effective.

(4) After denial of an application by the Director and County, or denial of a renewal of an application, or Suspension or revocation of a permit and/or license by the Director, the applicant or licensee or permittee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

SECTION XI. Transfer of Permit and/or License.

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

**SECTION XII.
Locational Restrictions.**

Sexually oriented businesses shall be permitted in any commercial district provided that:

(1) the sexually oriented business may not be operated within 1,500 feet of:

(A) a church, synagogue or regular place of religious worship;

(B) a public or private elementary or secondary school;

(C) a boundary of any residential district;

(D) a public park;

(E) a licensed day-care center; or

(F) another sexually oriented business.

(2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.

(3) For the purpose of this Regulation, 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, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center.

(4) For purposes of Subsection (3) of this section, the distance between any two sexually oriented business uses 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.

**SECTION XIII.
Non-Conforming Uses.**

(1) Any business lawfully operating on the effective date of this Regulation that is in violation of the locational or structural configuration requirements of this Regulation shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,500 feet of one another and otherwise in a permissible

location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later-established business(es) is non-conforming.

(2) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit and/or license, of a church, Synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, or residential district within one thousand (1,500) feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and/or license, and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

SECTION XIV Additional Regulations for Adult Motels.

(1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two 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 chapter

(2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented permit and/or license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again

(3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration

SECTION XV Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

(1) 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 that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(A) Upon application for a sexually oriented permit and/or license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. 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 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 (6) inches. The Director 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.

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

(C) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director or his designee

(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) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a 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 has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(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 view area specified in Subsection (E) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application titled pursuant to Subsection (I) of this section.

(G) No viewing room may be occupied by more than one person at any time.

(H) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.

(I) 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.

SECTION XVI.

Exterior Portions of Sexually Oriented Businesses

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

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this Regulation.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(A) The establishment is a part of a commercial multi-unit center, and

(B) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

SECTION XVII.

Signage.

(1) Notwithstanding any other County regulation to the contrary, it shall be unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

(A) not contain any flashing lights;

(B) be a flat plane, rectangular in shape;

(C) not exceed seventy-five (75) square feet in area; and

(D) not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

(A) be a flat plane, rectangular in shape;

(B) not exceed twenty (20) square feet in area;

(C) not exceed five (5) feet in height and four (4) feet in width, and

(D) be affixed or attached to any wall or door of the enterprise,

(6) The provisions of item (A) of subsection (2) and subsection(3) and (4) shall also apply to secondary signs.

SECTION XVIII.

Persons Younger Than Eighteen Prohibited From Entry; Attendant Required

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

(2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

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

(B) a valid personal identification certificate issued by the State of Texas reflecting that such person is eighteen (18) years of age or older.

SECTION XIX
Massages or Baths Administered by Person of Opposite Sex

It shall be unlawful for any establishment, regardless of whether it is a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex.

SECTION XX
Exemptions.

It is a defense to prosecution under this Regulation that a person appearing in a state of nudity did so in a modeling class operated:

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

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

SECTION XXI
Notices.

(1) Any notice required or permitted to be given by the Director or any other county office, division, department or other agency under this Regulation to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Director, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director or his designee shall cause it to be posted at the principal entrance to the establishment.

(2) Any notice required or permitted to be given to the Director by any person under this Regulation shall not be deemed given until and unless it is received in the office of the Director.

(3) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Director in writing of any change of residence or mailing address.

SECTION XXII
Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid

permit and/or license or otherwise violates this Regulation is subject to a suit for injunction as well as prosecution for criminal violations

**SECTION XXIII
Separability.**

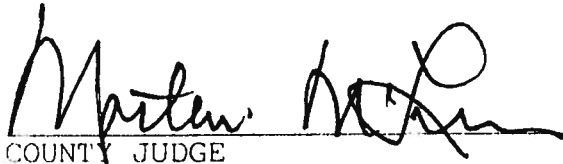
If any section, subsection, or clause of this Regulation shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

**SECTION XXIV.
Conflicting Regulations Repealed.**

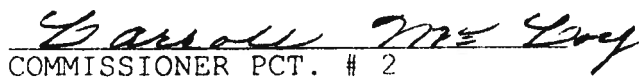
All Regulations or parts of Regulations in conflict with the provisions of this Regulation are hereby repealed.

**SECTION XXV
Effective Date.**

This Regulation shall be enforced from and after April 28, 1997.



COUNTY JUDGE
MARTIN MCLEAN


COMMISSIONER PCT. #1
JAMES HOLBROOK


COMMISSIONER PCT. # 2
CARROLL MCCOY


COMMISSIONER PCT. 3.
GEORGE DESPAIN

ATTEST:


COMMISSIONER PCT. # 4
CRAIG SEWARD


JANET PARKER
COUNTY CLERK