

Chapter 50. An Order Establishing Regulations for Sexually Oriented Businesses¹

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¹ Chapter 50 was replaced by Travis County Commissioners Court 10/17/1995 (Item 14).

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Subchapter A. General Provisions

50.001 Authority

- (a) These regulations are adopted by the Commissioners Court acting in its capacity as the governing body of Travis County, Texas.
- (b) Travis County adopts these regulations under the authority of Texas Local Government Code Chapter 243 (Vernon Supp. 1995).

50.002 Purpose

- (a) The purpose of these regulations is:

- (1) to protect and promote the public health, safety, and welfare of the residents of Travis County by requiring sexually oriented businesses to be licensed by Travis County;
 - (2) to prevent a heavy concentration of sexually oriented businesses in any area and to prevent their proximity to schools, churches, residential neighborhoods and other land uses that are inconsistent with the operation of a sexually oriented business because sexually oriented businesses contribute to the decline of residential and business neighborhoods and the growth of criminal activity.
- (b) The purpose of these regulations does not include the following:
- (1) limiting or restricting the content of any communicative materials including sexually oriented materials;
 - (2) restricting or denying adults access to sexually oriented materials protected by the First Amendment; or
 - (3) denying access by distributors and exhibitors of sexually oriented entertainment to their customers.
- (c) The effect of these regulations does not accomplish any of these unintended purposes and obscene materials which are not protected by the First Amendment are regulated by the Texas Penal Code, not these regulations.

50.003 Definitions

In these regulations,

- (a) "Adult arcade" means any commercial enterprise open to the public whose primary business is to offer the use of devices that may be operated electronically or mechanically, by coins or by slugs, to show sexually stimulating photographic presentations which are intended to provide sexual stimulation or sexual gratification to five or fewer of its customers at once.
- (b) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial enterprise whose primary business is offering entertainment which is intended to provide sexual stimulation or sexual gratification to customers by regularly featuring:
- (1) persons whose specified anatomical areas are visible to customers;
 - (2) live performances which include specified sexual activities or the exposure of specified anatomical areas; or
 - (3) sexually stimulating photographic presentations.
- (c) "Adult motel" means a hotel, motel or similar commercial enterprise whose primary business is offering any of the following services which are intended to provide sexual stimulation or sexual gratification to its customers:
- (1) offering rooms equipped for sleeping to customers, providing them with sexually stimulating photographic presentations, and having a sign

- advertising these presentations which is visible from the public right of way;
- (2) offering to rent rooms equipped for sleeping for less than ten (10) hours; or
 - (3) allowing a person who has rented or occupies rooms equipped for sleeping to subrent these rooms for less than ten (10) hours.
- (d) "Adult movie theater" means a commercial enterprise whose primary business is regularly showing sexually stimulating photographic presentations which are intended to provide sexual stimulation or sexual gratification to its customers but does not include sexually stimulating photographic presentations that have received a rating from the Motion Picture Association of America.
- (e) "Adult theater" means a theater, concert hall, auditorium, or similar commercial enterprise whose primary business is to offer live entertainment intended to provide sexual stimulation or sexual gratification to its customers by regularly featuring persons whose specified anatomical areas are visible to customers or featuring live performances which include specified sexual activities or the exposure of specified anatomical areas.
- (f) "Adult video-bookstore" means any commercial enterprise whose primary business is to offer, sell, rent or exhibit any of the following items which are intended to provide sexual stimulation or sexual gratification to its customers:
- (1) any printed matter which depicts or describes specified sexual activities or specified anatomical areas;
 - (2) any sexually stimulating photographic presentations; or
 - (3) any instruments, devices, or paraphernalia designed for use in specified sexual activities.
- (g) "Applicant" means any person who is listed on an application for a sexually oriented business license in compliance with subsections 50.041 (1) (5), or (6) or subsections 50.048 (b) or (c) or an operator's license in compliance with subsection 50.061 (1) or 50.066 (b) or (c).
- (h) "Child care facility" means a facility licensed by the State of Texas that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fifteen (15) years old, where the 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 and includes a day nursery, children's boarding home, child placing agency.
- (i) "Church" means a regular place of religious worship for any group, without regard to the title given to the place by the members of the group.
- (j) "Commissioners Court" means Travis County Commissioners Court.

- (k) "Criminal offence associated with sexually oriented businesses" means any one or more of the following offenses:
- (1) prostitution; promotion of prostitution; aggravated promotion of prostitution; compelling prostitution; obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; and possession of child pornography as described in Chapter 43 of the Texas Penal Code;
 - (2) public lewdness, indecent exposure, and indecency with a child as described in Chapter 21 of the Texas Penal Code;
 - (3) sexual assault and aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
 - (4) prohibited sexual conduct and harboring a runaway child as described in Chapter 25 of the Texas Penal Code; and
 - (5) criminal attempt, conspiracy and solicitation to commit any of the offenses named in (K) (1) through (4).
- (l) "Customer" means any person who:
- (1) is allowed to enter a sexually oriented business or use its services in return for the payment of an admission fee or any other form of consideration or gratuity; or
 - (2) enters or contacts a sexually oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered in it; or
 - (3) is a member of and on the premises of a sexually oriented business operating as a private club.
- (m) "Licensee" means any person whose name appears on a valid, subsisting sexually oriented business license or operator's license and any person listed on an application for a sexually oriented business license in compliance with section 50.041 (1), (5) or (6) or 50.048 (b) or (c) if the license has been issued and is valid and subsisting.
- (n) "Nude modeling studio" means a commercial enterprise whose primary business is to provide a natural person who engages in specified sexual activities or displays specified anatomical areas while being observed, sketched, drawn, painted, painted upon, sculptured, photographed or similarly depicted by customers.
- (o) "Person" means any natural person, trust, estate, partnership, limited partnership, association, company or corporation.
- (p) "Premises" means the building, or portion of the building, in which a sexually oriented business is operated and the adjacent land which forms part of the area leased or owned by the sexually oriented business.

- (q) "Public park" means any land owned, operated or maintained by a federal, state or local government, or an agency or authority authorized under them, for the recreation and enjoyment of the general public.
- (r) "Residential property" means the property on which a single family home, duplex, townhouse, apartment, multiple family dwelling, mobile home, nursing home, elder care facility, rehabilitation home for the disabled or mentally retarded, or a campground used as a residence is situated.
- (s) "Sexually oriented business license" means a license issued under sections 50.052.
- (t) "Sexually stimulating photographic presentations" means visual reproductions which depict or describe specified sexual activities or specified anatomical areas, without regard to whether they are still or motion pictures and include photographs, slides, films, video cassettes, compact discs, video reproductions, closed-circuit television transmissions, and other similar reproductions.
- (u) "Sexually oriented business" means a sex parlor, love parlor, adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult movie theater, adult theater, nude modeling studio, or any similar commercial enterprise, whose primary business is the 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.
- (v) "Sheriff" means the Travis County Sheriff or his authorized agents.
- (w) "Specified anatomical areas" means any of the following:
 - (1) less than completely and opaquely covered:
 - (A) human genitals, pubic region, pubic hair; or
 - (B) human buttock or anus; or
 - (C) female breast or breasts below a point immediately above the top of the areola; or
 - (D) any combination of (w) (1) (A) through (C); or
 - (2) human male genitals in a discernibly turgid state even if completely and opaquely covered.
- (x) "Specified sexual activities" means and includes any of the following:
 - (1) the fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts;
 - (2) human sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) human masturbation, actual or simulated; or
 - (4) excretory functions as part of or in connection with any of the activities set forth in (x) (1) through (3) above.

- (y) "Substantially expand" means increase, by more than twenty five percent (25%), the square footage used for sexually oriented activities as characterized by specified sexual activities or the exposure of specified anatomical areas by a sexually oriented business.
- (z) "Transfers ownership" means any change in the ownership of a sexually oriented business that involves more than 50% of beneficial or legal ownership rights in the sexually oriented business if the person receiving the ownership interests did not own at least 10% of the ownership interest before this change in the ownership.

50.004 Area of Jurisdiction

- (a) These regulations shall apply to all of the areas of Travis County except for the areas within the boundaries of the incorporated cities and towns of Travis County.
- (b) These regulations shall also apply to those incorporated cities or towns or villages that have adopted these regulations and executed cooperative agreements with Travis County for their enforcement.

50.005 Duties and Powers of Sheriff

- (a) The Sheriff shall enforce these regulations and make appropriate recommendations to proper authorities when instances of noncompliance with these regulations have been determined.
- (b) The Sheriff shall accept all applications and collect all fees necessary to comply with these regulations. All fees collected shall be deposited in the Travis County Treasury to the credit of the general fund of Travis County.
- (c) The Sheriff shall make annual reports to the Commissioners Court on all actions, including legal actions, taken concerning these regulations and provide the Commissioners Court any other information concerning these regulations and their implementation which may be requested by the Commissioners Court.

50.006 Certificate of Registration or Sexually Oriented Business License Required to Operate

- (a) A person shall not own or operate a sexually oriented business within Travis County unless that person has a valid, subsisting sexually oriented business license or a Certificate of Registration obtained pursuant to these regulations.
- (b) A person shall not substantially expand, change the location of, or change the type of a sexually oriented business unless that person has a valid, subsisting sexually oriented business license for the substantially expanded, changed location or changed type of sexually oriented business obtained in compliance with these regulations.

- (c) A person shall give notice of any change in the trade name of a sexually oriented business to the Sheriff before implementing the change in name.

50.007 Transfer of Certificate of Registration Prohibited

- (a) A person shall not own or operate a sexually oriented business within Travis County by using a Certificate of Registration of an exemption from these regulations that was issued to another person or business.
- (b) If any person who has a Certificate of Registration transfers ownership of a sexually oriented business, that person shall give the Sheriff a notice stating the name, age, mailing address, residential street address, and business address of all transferees of the sexually oriented business.
- (c) An Certificate of Registration of exemption from these regulations is no longer valid if:
 - (1) any person substantially expands that sexually oriented business;
 - (2) any person transfers that sexually oriented business from one location to another;
 - (3) any person transfers a certificate of registration from one type of sexually oriented business to another; or
 - (4) any person transfers ownership of the sexually oriented business to another person.

50.008 Transfer of Sexually Oriented Business Licenses Prohibited

- (a) A person shall not own or operate a sexually oriented business within Travis County by using a sexually oriented business license that was issued to another person.
- (b) If any person transfers ownership of a sexually oriented business, the licensee shall give the Sheriff a notice stating the name, age, mailing address, residential street address, and business address of all transferees of the sexually oriented business.
- (c) Without the prior written approval of the Sheriff in compliance with section 50.052, a person shall not do any of the following:
 - (1) transfer a sexually oriented business license to another person;
 - (2) substantially expand a sexually oriented business;
 - (3) transfer a sexually oriented business license from one location to another; or
 - (4) transfer a sexually oriented business license from one type of sexually oriented business to another.

- (d) Without the prior written approval of the Sheriff in compliance with section 50.052, the sexually oriented business license for that sexually oriented business is no longer valid if:
- (1) any person substantially expands that sexually oriented business;
 - (2) any person transfers that sexually oriented business from one location to another;
 - (3) any person changes a sexually oriented business from one type of sexually oriented business to another type.

50.009 Operator's License Required

A person shall not operate a sexually oriented business within Travis County in any of the following capacities, unless that person has a valid, subsisting operator's license obtained pursuant to these regulations or the person is listed on a subsisting Certificate of Registration of an exempt sexually oriented business:

- (1) Owner of a sexually oriented business;
- (2) Director or officer of a corporation that owns or operates a sexually oriented business;
- (3) General partner in a partnership that owns or operates a sexually oriented business; or
- (4) Manager or any assistant who may be put in charge of the operation during the absence of the manager.

50.010 Transfer of Operator's Licenses Prohibited

- (a) A person shall not transfer an operator's license to another person without the prior approval of the Sheriff in compliance with section 50.070.
- (b) If any person transfers an operator's license to another person without this prior approval of the Sheriff in compliance with section 50.070, the operator's license is no longer a valid operator's license as of the date of transfer.
- (c) A person shall not operate a sexually oriented business within Travis County by using an operator's license that has been issued to another person.

50.011 Exemptions from Compliance with these Regulations

- (a) These regulations do not apply to the following operations without complying any procedure to verify the applicability of the exemption:
 - (1) A bookstore, movie theater, or video store, unless that business is an adult bookstore, adult movie theater, or adult video store;
 - (2) A business, operated by or employing a licensed psychologist, licensed physical therapists, licensed athletic trainer, licensed

cosmetologist, or licensed barber performing functions authorized under the license held;

- (3) A business operated by or employing a licensed physician, or licensed chiropractor engaged in practicing the healing arts; or
 - (4) A sexually oriented business that is located entirely within an incorporated city or town, unless the city or town has adopted these regulations.
- (b) Subchapter C of these regulations does not apply to a sexually oriented business that legally began operation before the date upon which these regulations are adopted by the Commissioners Court if that business is being operated in the same location by the same owner, has not substantially expanded or discontinued operations for more than sixty (60) consecutive days since the date upon which these regulations were adopted if it has complied with the registration requirements in Subchapter B.
 - (c) Subchapter D of these regulations does not apply to any persons who would be required to obtain an Operators License under Subchapter G as a result of their function in a sexually oriented business that is exempt under section 50.011 (b) if those persons were in that function on the date when the application for initial registration for exemption was filed, their names are listed on that application and they have been performing that function for that sexually oriented business since the date upon which the Commissioners Court adopted these regulations.
 - (d) Commercial enterprises licensed under the Alcoholic Beverage Code or regulated under Chapter 8, Title 132, Revised Statutes are not exempt from this chapter and cannot be discriminated against in applying these regulations.
 - (e) Possession of any other valid license required by law does not exempt a person from these regulations including the requirement to have a valid, subsisting sexually oriented business license or a certificate of registration. A person who has both a sexually oriented business license and another business license shall comply with the requirements of both these regulations and the laws requiring the other license.

50.012 Notice

Any notice required to be given under these regulations must be in writing and shall be considered to be given immediately if delivered in person to the person required to receive it and to be given on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to Travis County Sheriff, P. O. Box, 1748, Austin, Texas 78767 for the Sheriff and addressed in accordance with the information given in an application for the applicant.

50.013 Construction, Precedents, and Interpretation

- (a) These regulations shall be construed liberally to accomplish their purpose.
- (b) These regulations do not legalize any activity that is prohibited under the Penal Code or any other state law. If there is any conflict between these regulations and a state law, a rule adopted under a state law, or a municipal ordinance, the stricter of the two provisions prevails.
- (c) The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include the other number as required.
- (d) Headings and titles at the beginning of the various sections of these regulations have been included only to make it easier to locate the subject matter covered by that section or subsection and are not to be used in construing these regulations.
- (e) When any period of time is stated in these regulations, the time shall be computed to exclude the first day and include the last day of the period. If the last day any period falls on a Saturday, Sunday, or a day that Travis County has declared a holiday for its employees, these days are omitted from the computation.
- (f) If any provision of these regulations or the application of them to any person or circumstances is held invalid, the validity of the remainder of these regulations and the application of them to other persons and circumstances shall not be affected.
- (g) The District Court shall resolve any question regarding any interpretation of these regulations.

50.014 Effective Date

Except for subchapter E and sections 50.127 (b) (1) and 50.127 (b) (4), these regulations shall become effective upon adoption by the Commissioners Court. Sections 50.127 (b) (1) and 50.127 (b) (4) shall become effective seventy five (75) days after the date on which these regulations are adopted by the Commissioners Court.

Subchapter E shall become effective ninety (90) days after these regulations are adopted by the Commissioners Court unless a person request an additional thirty (30) day delay in the effective date and the Sheriff finds that the person has made reasonable efforts to bring the sexually oriented business operations into compliance with Subchapter E and was prevented from completed the changes necessary to comply.

[Sections 50.015 through 50.020 reserved for expansion]

Subchapter B. Application Process for Certificate Of Registration

50.021 Information Required for Initial Registration for Exemption from Regulations

Applications for registration for exemption from these regulations shall be made in writing to the Sheriff on a form prescribed by him within thirty (30) days after the date of the adoption of these regulations and shall contain the following information and any other information reasonably necessary to process the application:

- (1) the name, age, mailing address, residential street address, and business street address of every owner of the sexually oriented business,
- (2) the name of the operation;
- (3) the street address of the sexually oriented business and the page and volume number of the Real Property Records of Travis County, Texas where the most recent deed to the property on which the proposed sexually oriented business will be located was recorded;
- (4) the exact legal description of the sexually oriented business;
- (5) the name, age, mailing address, residential street address and business street address of all persons who would be required to have an Operator's License under Subchapter G on the date of filing the application for registration if this sexually oriented business were not exempt from these regulations and the capacity in which they operate the sexually oriented business;
- (6) if any person listed in response to subsections 50.021 (1) or (5) is a partnership, the name, age, mailing address, residential street address, and business street address for each general member of the partnership and any limited partners who own at least a ten percent (10%) interest in the partnership;
- (7) if any person listed in response to subsections 50.021 (1) or (5) is a corporation, the name, age, mailing address, residential street address, and business street address of each officer and director of the corporation and any stockholder who owns at least ten percent (10%) of the outstanding shares in the corporation and the name of the registered agent and address for service of process on the registered agent of the corporation;
- (8) the type of sexually oriented business that is being operated; and
- (9) the nature of the exemption requested and the reasons that justify granting the exemption.

50.022 Supporting Documents Required for Initial Registration for Exemption

The applicant shall attach the following documents to its application:

- (1) if an assumed name is used, a date-stamped copy of the Certificate of Assumed Name;
- (2) if any person named in response to subsections 50.021 (1) or (5) is a limited partnership, a date-stamped copy of the Certificate of Limited Partnership;
- (3) if any person named in response to subsections 50.021 (1) or (5) is a corporation, a date-stamped copy of the Articles of Incorporation filed with the Secretary of State and a certified copy of the corporate resolution authorizing the corporation to file an application under these regulations and designating the officer authorized to execute the application;
- (4) a diagram of the floor plan of the space to be occupied by the sexually oriented business that, although not necessarily professionally prepared, is oriented to a designated direction, street or object and drawn either to a designated scale or with the dimensions of all interior areas marked with an accuracy of plus or minus six inches; which includes a statement of the total floor space; and
- (5) if the applicant is not the owner in fee simple of the proposed sexually oriented business, a properly executed power of attorney or other written evidence of the agency agreement between the applicant and the owner.

50.023 Sworn Acknowledgement Required for Initial Registration for Exemption

- (a) The application shall contain the following statements: "All of the information contained in this application for registration for exemptions true and correct to the best of the Applicant's knowledge and belief.
- (b) An application for registration for exemption from these regulations shall be signed and sworn before a notary public or other official authorized to administer oaths by all Applicants.

50.024 Fees

- (a) To defray the reasonable costs of administering the initial registrations for exemption from these regulations, the applicant shall pay a fee of \$50.00 at the filing of an application for registration for exemption from these regulations at the initial filing of an application for registration for exemption.
- (b) To defray the reasonable costs of administering the renewal registrations for exemption from these regulations, the applicant shall pay a fee of \$25.00 at the filing of a renewal application for registration for exemption from these

regulations at the filing of the renewal application for registration for exemption.

- (c) The fee for issuing a duplicate registration for one which is lost, destroyed or mutilated is \$15.00.
- (d) The fees in section 50.024 (a) and (b) are not returnable, in whole or in part, after a sexually oriented business has been registered as exempt or the application for registration for exemption has been denied.

50.025 Expiration of Registration

- (a) The applicant should submit the renewal application at least thirty (30) days before the expiration date of the subsisting registration.
- (b) If the applicant submits a renewal application less than thirty (30) days before the expiration date of a subsisting registration, the expiration date of the subsisting sexually oriented business license shall not be extended or affected.

50.026 Information Required for Renewal Application

- (a) Renewal applications for renewal registrations shall be made in writing to the Sheriff on a form prescribed by him.
- (b) If all of the information contained in the application form for the subsisting registration and the documents attached to it or the initial application form continue to be correct and unchanged, the renewal application form shall contain the name, mailing address, and business street address of the applicant, a sworn or certified statement in the form shown in section 50.027, the applicable fee, and any other information reasonably necessary to process the renewal application.
- (c) If there have been changes in the information contained in the application form for the subsisting registration or the documents attached to the initial application form or subsequent applications if amended documents have previously been submitted, the renewal application form shall contain the name, mailing address, address, and business street address of the applicant, a list of all information that has changed, copies of all supporting documents that have changed, the applicable fee, a sworn or certified statement in the form shown in section 50.028, and any other information reasonably necessary to process the renewal application.

50.027 Acknowledgement Required for Renewal Application without Changes

If there are no changes in the information contained in the application form for the subsisting sexually oriented business license or the documents attached to it or a subsequent application, the renewal application shall contain the following statements:

"All of the information contained in the application form for the subsisting registration for exemption from the Regulations for Sexually Oriented Businesses is correct on the date of this renewal application. None of the documents submitted with the initial application form have been changed since they were submitted or, if changed, the amended documents have been submitted with a previous renewal application."

"The location covered by the renewal application is the same square footage, floor plan, and geographic location as that approved by the Sheriff in the application for the subsisting registration for exemption from the Regulations for Sexually Oriented Businesses. "

"Any persons who would be required to hold Operators License under Subchapter G of the Regulations for Sexually Oriented Businesses have not changed from those listed in the initial application."

"The registration for exemption from the Regulations for Sexually Oriented Businesses has not expired on the date of application."

"The sexually oriented business is in operation on the date of the renewal application and has been in operation continuously since October 17, 1995."

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief."

50.028 Acknowledgement Required for Renewal Application with Changes

If there are changes in the information contained in the application for the subsisting license or the documents attached to the initial application have changed and these amended documents have not been provided with a previous renewal applications, the renewal application shall contain the following statements:

"All information contained in the application form for the subsisting registration for exemption that is no longer correct on the date of this renewal application has been identified in this renewal application and the information necessary to correct it has been provided. Any documents submitted with initial application form that have been changed since they were submitted have been attached to this renewal application unless the amended documents have been submitted with a previous renewal application."

"The location covered by the renewal application is the same square footage, floor plan, and geographic location as that approved by the Sheriff in the application for a subsisting registration for exemption from the Regulations for Sexually Oriented Businesses.

"All persons who would be required to hold Operators License under Subchapter G who have changed from those listed in the initial application have been listed on this renewal application for registration."

"The registration for exemptions from the Regulations for Sexually Oriented Businesses is not expired on the date of application and the sexually oriented business has been in continuous operation since October 17, 1995."

"The sexually oriented business is in operation on the date of the renewal application.

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

50.029 Sworn Signature Required

A renewal application for registration for exemption shall be signed and sworn before a notary public or other official authorized to administer oaths by a person authorized to act on behalf of the person named in compliance with section 50.021 (1) of the initial application.

50.030 Issuance of Certificate of Registration

(a) The Sheriff shall grant an exemption from these regulations to an applicant and issue a Certificate of Registration within thirty (30) days after the date that the application or renewal application was filed unless one or more of the following conditions exist:

- (1) the sexually oriented business had not legally begun operation before the date upon which these regulations were adopted by the Commissioners Court;
- (2) the sexually oriented business is not being operated in the same location as it was on the date upon which these regulations were adopted by the Commissioners Court;
- (3) the sexually oriented business is not being operated by the same owner that owned it on the date upon which these regulations are adopted by the Commissioners Court;
- (4) the sexually oriented business has substantially expanded since the date upon which these regulations are adopted by the Commissioners Court;
- (5) the sexually oriented business has discontinued operations for more than sixty (60) consecutive days since the date upon which these regulations were adopted by the Commissioners Court;
- (6) the sexually oriented business did not comply with the registration requirements in Subchapter C on a timely basis;
- (7) the applicant has failed to provide information reasonably necessary for the issuance of the sexually oriented business license, or has falsely answered a question on the application form or a request for information;
- (8) the applicant has not complied with sections 50.021 through 50.024 or sections 50.024 through 50.029; or
- (9) the fee required has not been paid.

- (b) After a registration for exemption from the Regulations for Sexually Oriented Businesses is denied, the Sheriff shall not issue a Certificate of Registration for exemption to that applicant unless the Sheriff determines that all conditions that prohibited issuance of the Certificate of Registration has been corrected if the condition was based on sections 50.030 (a) (2), (4), (7), (8), or (9) and there are at least fifteen (15) days before sections 50.126 (b) (1) and 50.126 (b) (3) become effective.
- (c) If the Sheriff issues a Certificate of Registration, the registration is valid for one year from the day on which the Certificate of Registration is issued. If the Sheriff denies the application for registration for exemption from these regulations, the Sheriff shall notify the applicant of the denial of the application, reasons for denial, and the right to appeal the denial under Subchapter G within forty five (45) days after receipt of the application.

50.031 Annual Renewal of Registration for Exemption from these Regulations

- (a) After the initial Certificate of Registration has been issued by the Sheriff, the Sheriff shall renew the Certificate of Registration within sixty (60) days after receipt of the fee required by these regulations and a renewal application in compliance with sections 50.026 and 50.029.
- (b) If the Sheriff denies a renewal application for a Certificate of Registration, the Sheriff shall notify the applicant of the denial of the renewal application, reasons for denial, and the right to appeal the denial under Subchapter G within in sixty (60) days after receipt of the renewal application.

50.032 Content of Registration for Exemption from these Regulations

- (a) If granted, the registration for exemption from these regulations shall display the following information on its face:
 - (1) the name of the person to whom it is granted,
 - (2) any assumed name under which the sexually oriented business is operated,
 - (3) the street address of the sexually oriented business or a description of the location based on adjacent landmarks if no street address exists,
 - (4) the type of sexually oriented business that is being operated;
 - (5) the names of all persons who would be required to have an Operator's License under Subchapter G on the date of filing the initial application for registration if this sexually oriented business were not exempt from these regulations and the capacity in which they operate the sexually oriented business;
 - (4) the expiration date, and
 - (5) the number of square feet approved for the operation.

(b) All Certificates of Registration shall be originally signed by the Sheriff.

[Sections 50.033 through 50.040 reserved for expansion]

Subchapter C. Application Process for Sexually Oriented Business License

50.041 Information Required for Initial Sexually Oriented Business License

Applications for licenses to own or operate sexually oriented businesses or substantially expand or change the location or change the type of sexually oriented business shall be made in writing to the Sheriff on a form prescribed by him and shall contain the following information and any other information reasonably necessary to process the application:

- (1) the name, age, mailing address, residential street address, and business street address of every owner of the proposed sexually oriented business,
- (2) the name of the proposed operation;
- (3) the street address of the proposed sexually oriented business and the page and volume number of the Real Property Records of Travis County, Texas where the most recent deed to the property on which the proposed sexually oriented business will be located was recorded and the name of the owner of the property;
- (4) the exact legal description of the proposed sexually oriented business;
- (5) if any person named in response to section 50.041 (1) is a partnership, the name, age, mailing address, residential street address, and business street address for each general member of the partnership and any limited partners who own at least a ten percent (10%) interest in the partnership;
- (6) if any person named in response to section 50.041 (1) is a corporation, the name, age, mailing address, residential street address, and business street address of each officer and director of the corporation and any stockholder who owns at least ten percent (10%) of the outstanding shares in the corporation and the name of the registered agent and address for service of process on the registered agent of the corporation;
- (7) the names of all sexually oriented businesses located in Travis County in which any Applicants and their spouses have any interest;
- (8) the name and address of all sexually oriented businesses in which any Applicants and their spouses have served in a managerial capacity within one year immediately before the date of filing the application;
- (9) the date, location and details of all violations of these regulations by any Applicants and their spouses for which the person has been

convicted, paid a fine, or been given deferred adjudication within two years immediately before the date of filing the application; and

- (10) the date, location and details of all violations of a criminal offence associated with sexually oriented businesses by any Applicants and their spouses for which the person has been convicted, paid a fine, or been given deferred adjudication within five years immediately before the date of filing the application.

50.042 Supporting Documents Required for Initial Sexually Oriented Business License

The applicant shall attach the following documents to its application:

- (1) if an assumed name is used, a date-stamped copy of the Certificate of Assumed Name;
- (2) if any Applicant is a limited partnership, a date-stamped copy of the Certificate of Limited Partnership;
- (3) if any Applicant is a corporation, a date-stamped copy of the Articles of Incorporation filed with the Secretary of State and a certified copy of the corporate resolution authorizing the corporation to file an application under these regulations and designating the officer authorized to execute the application;
- (4) a certificate from the Travis County Tax Assessor Collector that all taxes owed to Travis County, and fines, interest or penalties in relation to those taxes, have been paid by the businesses listed in compliance with subsection 50.041 (7);
- (5) a diagram of the floor plan of the space to be occupied by the sexually oriented business that, although not necessarily professionally prepared, is oriented to a designated direction, street or object and drawn either to a designated scale or with the dimensions of all interior areas marked with an accuracy of plus or minus six inches; which includes a statement of the total floor space; and which indicates compliance with these regulations that apply to the type of sexually oriented business proposed; and
- (6) if the applicant is not the owner in fee simple of the proposed sexually oriented business, a properly executed power of attorney or other written evidence of the agency agreement between the applicant and the owner.

50.043 Acknowledgement Required for Initial Sexually Oriented Business License

- (a) The application shall contain the following statements:

"All of the information contained in this application is true and correct to the best of the Applicant's knowledge and belief.

"Applicant acknowledges that the sexually oriented business license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

- (b) An application for a sexually oriented business license shall be signed and sworn before a notary public or other official authorized to administer oaths by all Applicants.

50.044 Signage Requirements for Initial Sexually Oriented Business License

- (a) If the property subject to an application for a sexually oriented business license is adjacent to a public road or highway, no later than seven (7) days after filing the application, the applicant shall erect signs that:
 - (1) are situated at least every three hundred (300) feet along each public road frontage and each highway frontage adjacent to it;
 - (2) are clearly visible from the public road or highway;
 - (3) are at least 24 inches high and 36 inches wide with lettering at least 2 inches high and 1 $\frac{1}{2}$ inches wide;
 - (4) state "SEXUALLY ORIENTED BUSINESS LICENSE APPLICATION PENDING" and the date on which the application was filed;
- (b) If the property is not adjacent to a public road or highway, the applicant shall erect the signs in highly visible locations on the property.
- (c) The applicant shall maintain the signs until the application has been approved or denied by the Sheriff and until any appeal process is completed.

50.045 Publication Requirements for Initial Sexually Oriented Business License

No less than twenty one (21) days after filing the application, the applicant shall publish a notice of the application at its own expense in a newspaper of general circulation in Travis County, Texas once a week for two consecutive weeks. The notice must be printed in at least ten (10) point boldface type and include:

- (1) a statement that an application for a sexually oriented business license has been filed;
- (2) the street address or exact location and legal description of the property for which the sexually oriented business license is sought;
- (3) any assumed name that will be used in connection with the proposed sexually oriented business;
- (4) the names of each person required to obtain an Operator's License by these regulations to operate the proposed sexually oriented business;

- (5) if any Applicant is a partnership, the names and titles of all general partners and any limited partners who own at least a ten percent (10%) interest in the partnership; and
- (6) if any Applicant is a corporation, the names and titles of all officers and directors and any and shareholders who own at least ten percent (10%) of the outstanding shares in the corporation.

50.046 Fees

- (a) To defray the reasonable costs of administering these regulations, the applicant shall pay a fee of \$500.00 at the filing of an application for an initial sexually oriented business license and at each filing of a renewal application of a sexually oriented business license.
- (b) The fee for issuing a duplicate sexually oriented business license for one which is lost, destroyed or mutilated is \$15.00.
- (c) The fee in section 50.046 (a) is not returnable, in whole or in part, after a sexually oriented business license has been issued or denied.

50.047 Renewal of License

- (a) The applicant should submit the renewal application at least sixty (60) days before the expiration date of the subsisting sexually oriented business license.
- (b) If the applicant submits a renewal application less than sixty (60) days before the expiration date of a subsisting sexually oriented business license, the expiration date of the subsisting sexually oriented business license shall not be extended or affected.

50.048 Information Required for Renewal Application

- (a) Renewal applications for renewal sexually oriented business licenses shall be made in writing to the Sheriff on a form prescribed by him.
- (b) If all of the information contained in the application form for the subsisting license and the documents attached to it or the initial application form continue to be correct and unchanged, the renewal application form shall contain the name, mailing address, and business street address of the applicant, a statement in the form shown in section 50.049, the applicable fee, and any other information reasonably necessary to process the renewal application.
- (c) If there have been changes in the information contained in the application form for the subsisting license or the documents attached to the initial application form or subsequent applications if amended documents have previously been submitted, the renewal application form shall contain the name, mailing address,, and business street address of the applicant, a list of

all information that has changed, copies of all supporting documents that have changed, the applicable fee, a statement in the form shown in section 50.050, and any other information reasonably necessary to process the renewal application.

50.049 Acknowledgement Required for Renewal Application without Changes

If there are no changes in the information contained in the application form for the subsisting sexually oriented business license or the documents attached to it or a subsequent application, the renewal application shall contain the following statements:

"All of the information contained in the application form for the subsisting sexually oriented business license is correct on the date of this renewal application. None of the documents submitted with the initial application form have been changed since they were submitted or, if changed, the amended documents have been submitted with a previous renewal application."

"The location in the renewal application is the same square footage, floor plan, and geographic location as that approved by the Sheriff in the application for the subsisting sexually oriented business license.

"The sexually oriented business license has never been revoked and is not suspended or expired on the date of application.

"The sexually oriented business is in operation on the date of the renewal application.

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

"Applicant acknowledges that the sexually oriented business license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

50.050 Acknowledgement Required for Renewal Application with Changes

If there are changes in the information contained in the application for the subsisting license or the documents attached to the initial application have changed and these amended documents have not been provided with a previous renewal applications, the renewal application shall contain the following statements:

"All information contained in the application form for the subsisting sexually oriented business license that is no longer correct on the date of this renewal application has been identified in this renewal application and the information necessary to correct it has been provided. Any documents submitted with initial application form that have been changed since they were submitted have been attached to this renewal application unless the amended documents have been submitted with a previous renewal application."

"The location in the renewal application is the same square footage, floor plan, and geographic location as that approved by the Sheriff in the application for a subsisting sexually oriented business license.

"The sexually oriented business license has never been revoked and is not suspended or expired on the date of application.

"The sexually oriented business is in operation on the date of the renewal application.

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

"Applicant acknowledges that the sexually oriented business license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

50.051 Sworn Signature Required

A renewal application for sexually oriented business license shall be signed and sworn before a notary public or other official authorized to administer oaths by a person authorized to act on behalf of the person named in compliance with section 50.041 (1) of the initial application.

50.052 Issuance of Sexually Oriented Business Licenses

(a) The Sheriff shall issue a sexually oriented business license to an applicant within sixty (60) days after the date that the application or renewal application was filed unless one or more of the following conditions exist:

- (1) any natural person named in compliance with sections 50.041 (1), (5) and (6) or 50.048 (1), (5) and (6) is under the age of eighteen (18) years;
- (2) any Applicant or their spouse is overdue in the payment of taxes, fees, fines, or penalties payable by them to Travis County in relation to a sexually oriented business;
- (3) the applicant has failed to provide information reasonably necessary for the issuance of the sexually oriented business license, or has falsely answered a question on the application form or a request for information;
- (4) the applicant has not complied with sections 50.041 through 50.046 or sections 50.046 through 50.051;
- (5) the fee required has not been paid;
- (6) the applicant for an initial sexually oriented business license has not posted signs on the property in compliance with section 50.044;
- (7) the applicant for an initial sexually oriented business license has not published notice of the application in compliance with section 50.045;

- (8) the location of the nearest boundary of the proposed sexually oriented business measured in compliance with section 50.052 (c) would be within one thousand (1,000) feet of the nearest boundary line of property on which any of the following uses exist:
 - (A) a residential property,
 - (B) a public or private elementary or secondary school,
 - (C) a child care facility,
 - (D) a church,
 - (E) a public park adjacent to a residential property,
 - (9) the location of the nearest boundary of the proposed sexually oriented business would be within one thousand (1,000) feet of the nearest boundary line of property on which another sexually oriented business which does not have a common entrance with the proposed sexually oriented business measured in compliance with section 50.052 (c);
 - (10) the nearest side of the building in which the sexually oriented business would be operated is not set at least one hundred (100) feet back from any public road measured in compliance with section 50.052 (c);
 - (11) while employed in a managerial capacity by a sexually oriented business during the year immediately before the date on which the application was filed, any Applicant has demonstrated that he or she is unable to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus requiring action by law enforcement officers;
 - (12) any Applicant or their spouse has been convicted of a violation of these regulations, within two years immediately before the date on which the application was filed; or
 - (13) any Applicant or their spouse has been convicted of a criminal offense associated with sexually oriented businesses for which:
 - (A) less than two (2) years have elapsed since the later of the date of conviction or release from the confinement imposed for that conviction if convicted of a single misdemeanor offense;
 - (B) less than five (5) years have elapsed since the later of the date of conviction or release from confinement imposed for that conviction if convicted of a felony offense; or
 - (C) less than five (5) years have elapsed since the later of the date of the last conviction or the date of release from the last confinement imposed for those convictions if there are two (2) or more convictions of misdemeanor offenses during any two (2) years in that five (5) year period.
- (b) In determining whether a sexually oriented business is within 1,000 feet of any use listed in section 50.052(a)(8), the Sheriff shall not treat any use listed in section 50.052(a)(8) as a condition that prohibits the issuance of a renewal

license if that use began after the sexually oriented business obtained its initial sexually oriented business license and that sexually oriented business has maintained a valid and subsisting sexually oriented business license since the initial license was issued.

- (c) In determining distances for sections 50.052(a)(8) through 50.052(a)(10), the Sheriff shall measure the distance in a straight line without considering intervening structures or objects from the following places:
 - (1) the nearest exterior wall of the structure in which a sexually oriented business is located,
 - (2) the nearest boundary line of a property on which a use listed in section 50.052(a)(8) is located, and .
 - (3) the nearest boundary line of any public road adjacent to the sexually oriented business.
- (d) In determining whether a conviction exists under section 50.052(a)(12) or (13), the Sheriff shall treat a sentence of deferred adjudication, a fine, any final judgment that includes a period of confinement as a conviction. The Sheriff shall not consider the fact that a conviction is being appealed until the appeal is decided and then only if the decision has the effect of voiding the conviction.
- (e) After a sexually oriented business license is denied, the Sheriff shall not issue a sexually oriented business license to that applicant for one (1) year from the date of denial unless the Sheriff determines that all conditions that prohibited issuance of the sexually oriented business license has been corrected if the condition was based on sections 50.052(a) (2), (3), (5), (6), (7), (8), (9), (10), or (11) or abated if the condition was based on subsection 50.052 (a) (1), (4), (12), or (13) and at least ninety (90) days have elapsed since the date on which the denial became final. The Sheriff shall not issue a sexually oriented business license that is prohibited by section 50.052(a) (12) or (13) until the applicable time since the conviction or confinement has elapsed.
- (f) If the Sheriff issues a license, the license is valid for one year from the day on which the sexually oriented business license is issued. If the Sheriff denies the application for a sexually oriented business license, the Sheriff shall notify the applicant of the denial of the application, reasons for denial, and the right to appeal the denial under Subchapter G.

50.053 Annual Renewal of Sexually Oriented Business Licenses

- (a) After the initial sexually oriented business license has been issued by the Sheriff, the Sheriff shall renew the sexually oriented business license within sixty (60) days after receipt of the fee required by these regulations and a renewal application in compliance with sections 50.048 and 50.051.
- (b) If the Sheriff denies a renewal application for a sexually oriented business license, the Sheriff shall notify the applicant of the denial of the renewal

application, reasons for denial, and the right to appeal the denial under Subchapter G.

50.054 Content of Sexually Oriented Business Licenses

- (a) If granted, the sexually oriented business license shall display the following information on its face:
 - (1) the name of the person to whom it is granted,
 - (2) any assumed name under which the sexually oriented business is operated,
 - (3) the address of the sexually oriented business,
 - (4) the expiration date,
 - (5) the number of square feet approved for the operation, and
 - (6) the type of sexually oriented business.
- (b) All sexually oriented business licenses shall be originally signed by the Sheriff.

[Sections 50.055 through 50.060 reserved for expansion]

Subchapter D. Application Process for Operator's License

50.061 Information Required for Initial Operator's License

Applications for Operator's Licenses shall be made in writing to the Sheriff on a form prescribed by him and shall contain the following information and any other information reasonably necessary to process the application:

- (1) the name, age, mailing address, residential street address, and business street address of the applicant;
- (2) the name of the sexually oriented business which the applicant owns or operates;
- (3) the street address of the sexually oriented business named in compliance with section 50.061 (2);
- (4) the names of all sexually oriented businesses located in Travis County in which the applicant or their spouse has any interest;
- (5) the name and address of all sexually oriented business in which the applicant has served in a managerial capacity within one year immediately before the date of filing the application;
- (6) the date, location and details of all violation of these regulations by the applicant for which the person has been convicted, paid a fine, or been given deferred adjudication within two years immediately before the date of filing the application; and

- (7) the date, location and details of all violation of a criminal offence associated with sexually oriented businesses by the applicant for which the person has been convicted, paid a fine, or been given deferred adjudication within five years immediately before the date of filing the application.

50.062 Supporting Documents Required for Initial Operator's license

The applicant shall attach the following documents to its application:

- (1) one (1) copy of one (1) piece of identification that has both a picture of the applicant and the applicant's signature;
- (2) one (1) copy of one (1) piece of identification that shows that the applicant has the right to work in the United States; and
- (3) two (2) copies of a recent photo.

50.063 Acknowledgement Required for Initial Operator's License

- (a) The application shall contain the following statements:

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

"Applicant acknowledges that the operator's license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

- (b) An application for an operator's license shall be signed and sworn before a notary public or other official authorized to administer oaths by the applicant.

50.064 Fees

- (a) To defray the reasonable costs of administering these regulations, an applicant shall pay a fee of \$50.00 at the filing of an application for an initial operator's license and at each filing of a renewal application for an operator's license.
- (b) The fee for issuing a duplicate operator's license for one which is lost, destroyed or mutilated is \$15.00.
- (c) The fee in section 50.064 (a) is not returnable, in whole or in part, after a operator's license has been issued or denied.

50.065 Expiration of Operator's License

- (a) The applicant should submit the renewal application at least sixty (60) days before the expiration date of the subsisting operator's license.

- (b) If the applicant submits a renewal application less than sixty (60) days before the expiration date of a subsisting operator's license, the expiration date of the subsisting operator's license shall not be extended or affected.

50.066 Information Required for Renewal Application

- (a) Renewal applications for operator's licenses shall be made in writing to the Sheriff on a form prescribed by him.
- (b) If all of the information contained in the application form for the subsisting operator's license and the documents attached to it or the initial application form continue to be correct and unchanged, the renewal application form shall contain the name, mailing address, and business street address of the applicant, a statement in the form shown in section 50.067, the applicable fee, and any other information reasonably necessary to process the renewal application.
- (c) If there have been changes in the information contained in the application form for the subsisting operator's license or the documents attached to the initial application form or subsequent applications, the renewal application form shall contain the name, mailing address, address, and business street address of the applicant, a list of all information that has changed, copies of all supporting documents that have changed, the applicable fee, a statement in the form shown in section 50.068, and any other information reasonably necessary to process the renewal application.

50.067 Acknowledgement Required for Renewal Operator's License without Changes

If there are no changes in the information contained in the application form for the subsisting license or the documents attached to it or in a subsequent application, the renewal application shall contain the following statements:

"All of the information contained in the application form for the subsisting operator's license is correct on the date of this renewal application. None of the documents submitted with the initial application form have been changed since they were submitted or, if changed, the amended documents have been submitted with a previous renewal application."

"The operator's license has never been revoked and is not suspended or expired on the date of application."

"The sexually oriented business which the applicant operates is in operation on the date of the renewal application."

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief."

"Applicant acknowledges that the operator's license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

50.068 Acknowledgement Required for Renewal Operator's License with Changes

If there are changes in the information contained in the application form for the subsisting license or the documents attached to the initial application have changed and the amended documents have not been submitted with a previous renewal application, the renewal application shall contain the following statements:

"All information contained in the application form for the subsisting operator's license that is no longer correct on the date of this renewal application has been identified in this renewal application and the information necessary to correct it has been provided. Copies of any documents submitted with the initial application form that have been changed since they were submitted have been attached to this renewal application unless copies of the amended documents have been submitted with a previous renewal application."

"The operator's license has never been revoked and is not suspended or expired on the date of application.

"The sexually oriented business which the applicant operates is in operation on the date of the renewal application.

"All of the information contained in this application is true and correct to the best of the applicant's knowledge and belief.

"Applicant acknowledges that the operator's license applied for shall be subject to all provisions of the codes and ordinances of Travis County relating to sexually oriented businesses and all provisions of the codes and statutes of the State of Texas."

50.069 Sworn Signature Required

A renewal application for an operator's license shall be signed and sworn before a notary public or other official authorized to administer oaths by the applicant.

50.070 Issuance of Operator's Licenses

- (a) The Sheriff shall issue an Operator's license to an applicant within sixty (60) days after the date that the application was filed unless one of the following conditions exist:
- (1) the applicant is under the age of eighteen (18) years;
 - (2) the applicant has failed to provide information reasonably necessary for the issuance of the operator's license, or has falsely answered a question or request for information on the application form;
 - (3) the applicant has not complied with sections 50.061 through 50.064 or sections 50.064 through 50.069;
 - (4) the fee required has not been paid;
 - (5) while employed in a managerial capacity by a sexually oriented business during the year immediately before the date on which the application was filed, the applicant demonstrated that he/she is unable

to operate or manage a sexually oriented business in a peaceful and law-abiding manner, thus requiring action by law enforcement officers;

- (6) the applicant has been convicted of a violation of these regulations, within two (2) years immediately before the date on which the application was filed;
 - (7) the applicant has been convicted of a criminal offense associated with sexually oriented businesses for which:
 - (A) less than two (2) years have elapsed since the later of the date of conviction or release from the confinement imposed for those convictions if convicted of a single misdemeanor offense;
 - (B) less than five (5) years have elapsed since the later of the date of conviction or release from confinement imposed for that conviction if convicted of a felony offense; or
 - (C) less than five (5) years have elapsed since the later of the date of the last conviction or the date of release from the last confinement imposed for that conviction if there are two (2) or more convictions of misdemeanor offenses during any two (2) years in that five (5) year period.
- (b) In determining whether a conviction exists under section 50.070(a) (7), the Sheriff shall treat a sentence of deferred adjudication, a fine, any final judgment that includes a period of confinement as a conviction. The Sheriff shall not consider the fact that a conviction is being appealed until the appeal is decided and then only if the decision has the effect of voiding the conviction.
- (c) After an operator's license has been denied, the Sheriff shall not issue another operator's license to that applicant for one (1) year after the date the denial became effective unless the Sheriff determines that all conditions that prohibited the issuance of the operator's license have been corrected if based on subsections 50.070(a) (2), (4) or (5) or abated if the based on subsection 50.070 (a) (1), (3), (6) or (7) and at least ninety (90) days have elapsed since the date the denial became effective and all other conditions for a operator's license are complied with. The Sheriff shall not issue a operator's license that is prohibited by section 50.070(a) (7) until the applicable time under subsection 50.070(a) (7) has elapsed since the conviction or confinement.
- (d) If the Sheriff issues an operator's license, that operator's license is valid for one (1) year from the day on which the operator's license is issued, If the Sheriff denies the application for an operator's license, the Sheriff shall notify the applicant of the denial of the application, reasons for denial, and the right to appeal the denial under Subchapter G.

50.071 Annual Renewal of Operator's Licenses

- (a) After the initial Operator's License has been issued by the Sheriff, the Sheriff shall renew the operator's license within sixty (60) days after receipt of the fee required by these regulations and a renewal application in compliance with sections 50.066 and 50.069.
- (b) If the Sheriff denies the renewal application for an operator's license, the Sheriff shall notify the applicant of the denial of the renewal application, reasons for denial, and the right to appeal the denial under Subchapter G.

50.072 Content of Operator's Licenses

- (a) If granted, the Operator's License shall display the following information on its face:
 - (1) the name of the person to whom it is granted,
 - (2) a photograph of the licensee,
 - (3) the address of the sexually oriented business that the person is operating,
 - (4) the expiration date, and
 - (5) the type of sexually oriented business.
- (b) All operator's licenses shall be originally signed by the Sheriff.

[Sections 50.073 through 50.090 reserved for expansion]

Subchapter E. Operational Requirements

50.091 Operational Requirements for All Sexually Oriented Businesses and their Employees

- (a) The certificate of registration or sexually oriented business 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.
- (b) Any person required to obtain an Operators License must keep that license available for inspection on the Premises at all times when the person is on the Premises and produce the Operator's License whenever requested to do so by any person.
- (c) A sexually oriented business shall not exhibit advertisements, displays, or other promotional materials that are characterized by specified sexual activities, or specified anatomical areas at the Premises in a way that allows them to be visible from a public road or pedestrian sidewalk, or other public place.

- (d) A sexually oriented business shall not employ any person who is under the age of eighteen (18) years. A person who is under the age of eighteen (18) years shall not work for a sexually oriented business.
- (e) Any person required to obtain an Operator's License must wear identification that states his or her name and function at all times while working on the Premises.

50.092 Operational Requirements Applicable to Adult Arcades Only

- (a) An applicant for an adult arcade shall configure the floor space of the interior of the premises so that:
 - (1) there is at least one (1) manager's station;
 - (2) the manager's station has an unobstructed view by direct line of sight of every area within the premises where any customer is allowed access except restrooms if there is only one manager's station;
 - (3) from at least one (1) of the managers' stations there is an unobstructed view by direct line of sight of each area within the premises where any customer is allowed access except restrooms if there is more than one managers' stations; and
 - (4) viewing booths are separated by at least twelve (12) inches of open space between the exterior walls of other viewing booths.
- (b) An applicant for an adult arcade shall show the following information on the diagram provided in compliance with subsection 50.042 (5):
 - (1) the way in which section 50.092 (a) will be complied with;
 - (2) one (1) or more manager's stations with a floor space of not more than thirty two (32) square feet;
 - (3) any portion of the floor plan of the premises where customers will not be allowed access;
 - (4) the location of all overhead lighting fixtures in the interior of the premises in a manner that will allow compliance with section 50.092 (c);
 - (5) the place where the sexually oriented business license, if granted, will be conspicuously posted; and
- (c) A person who operates or causes an adult arcade to be operated shall equip the interior of the premises with overhead lighting fixtures that illuminate every place where customers are allowed access at a level of not less than one (1.0) footcandle when measured at the floor level.
- (c) Any person who operates or causes an adult arcade to be operated and a person employed by an adult arcade and present at the premises:

- (1) shall not alter the configuration of the floor plan or location of any manager's station shown on the diagram provided in compliance with section 50.042 (5) without the prior written approval of the Sheriff;
 - (2) shall ensure that at least one (1) person employed by the adult arcade is on duty and situated in each manager's station at all times when any customer is inside the interior of the premises;
 - (3) shall not place any video reproduction equipment in the restrooms;
 - (4) shall ensure that any open areas specified in the diagram provided in compliance with section 50.092 (a) remain unobstructed by any doors, walls, merchandise, display racks or other materials when any customer is inside the interior of the premises;
 - (5) shall ensure that no customer is allowed access to any area within the premises which was designated as an area where customers would not be allowed access in the diagram submitted in compliance with subsections 50.092 (a) and (b);
 - (6) shall ensure that the illumination required by section 50.092 (c) is maintained whenever any customer is inside the interior of the premises.
- (d) At eye level adjacent to the entry for each room or compartment to which customers are allowed access in an adult arcade, Licensees shall post one of the following educational AIDS-related messages in lettering no less than 1 inches high and 1 inch wide or a sign with a similar message that has been approved in writing by the Travis County Health Department:
- (1) STOP AIDS. AVOID CONTACT WITH SEXUAL FLUIDS AND DIRTY NEEDLES.
 - (2) AIDS IS TRANSMITTED BY SEX WITHOUT CONDOMS, OR BY SHARING NEEDLES.

50.093 Operational Requirements Applicable to Adult Motels Only

- (a) Evidence that a room equipped for sleeping in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten (10) hours creates a rebuttable presumption that the establishment is an Adult Motel under these regulations.
- (b) A person who has control of a room equipped for sleeping in a hotel, motel, or similar commercial establishment shall not permit the room to be rented and vacated two or more times in less than a ten (10) hour period for any form of consideration unless the person has a sexually oriented business license.

50.094 Operational Requirements Applicable to Nude Modeling Studios Only

- (a) A person under the age of eighteen (18) years shall not participate in specified sexual activities or expose specified anatomical areas inside or at the Premises of a nude modeling studio.
- (b) A person shall not participate in specified sexual activities or expose specified anatomical areas from a location in a nude modeling studio that is visible from a public right of way.
- (c) A person shall not knowingly allow another person to participate in specified sexual activities or expose specified anatomical areas from portions of the Premises of a nude modeling studio that are visible from a public right of way.
- (d) A person shall not place or permit a bed, sofa, or mattress to be placed in any room at a nude modeling studio except for a sofa placed in a public reception room.

50.095 Operational Requirements Applicable to Adult Theaters and Adult Movie Theaters Only

- (a) A person under the age of eighteen (18) years shall not knowingly participate in specified sexual activities or expose specified anatomical areas inside or at the Premises of an adult theater or adult movie theater.
- (b) A person shall not knowingly allow a person under the age of eighteen (18) years to participate in specified sexual activities or expose specified anatomical areas inside or at the Premises of an adult theater or adult movie theater.

50.096 Operational Requirements Applicable to Adult Video-Bookstores Only

- (a) A person in an adult video bookstore open to persons under the age of 17 years, shall not locate any printed matter which depicts or describes specified sexual activities or specified anatomical areas or any sexually stimulating photographic presentation so that the it is available for handling and inspection or the outside packaging is visible to the general public without assistance from a person employed by adult video-bookstore and in a manner intended to provide sexual stimulation or sexual gratification.

[Sections 50.097 through 50.120 reserved for expansion]

Subchapter F. Methods of Enforcement

50.121 Inspection

- (a) The Sheriff may routinely inspect sexually oriented businesses to assure continued compliance with these regulations.

- (b) An applicant, licensee and a person employed by a sexually oriented business shall permit the Sheriff to inspect a sexually oriented business, both inside and outside, and its records at any time it is occupied or open for business to insure compliance with these regulations. The Sheriff may inspect the sexually oriented business to determine whether the Premises and the operation complies with section 50.052 (a) (8), (9), and (10).
- (c) Subsections 50.121 (a) and (b) do not apply to any portion of an Adult Motel which is being rented by a customer for use as a permanent or temporary residence at the time of the inspection.

50.122 Revocation of a Certificate of Registration

- (a) The Sheriff shall revoke a certificate of registration if he determines that:
 - (1) the sexually oriented business is not being operated in the same location as it was on the date upon which these regulations are adopted by the Commissioners Court;
 - (2) the owner of the sexually oriented business has transferred ownership of it since the date upon which these regulations are adopted by the Commissioners Court;
 - (3) the sexually oriented business has substantially expanded since the date upon which these regulations are adopted by the Commissioners Court;
 - (4) the sexually oriented business has discontinued operations for more than sixty (60) consecutive days since the date upon which these regulations were adopted by the Commissioners Court;
 - (5) a holder of a certificate of registration failed to provide information reasonably necessary for the issuance of the sexually oriented business license, or gave false or misleading information in the information and documents submitted to the Sheriff during the application process;
 - (6) a holder of a certificate of registration or a person employed by the sexually oriented business has knowingly allowed possession, use, or sale of controlled substances on the Premises;
 - (7) a holder of a certificate of registration or a person employed by the sexually oriented business has knowingly allowed prostitution on the Premises;
 - (8) a holder of a certificate of registration or a person employed by the sexually oriented business has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact as defined in Section 21.01 Texas Penal Code to occur in or on the licensed Premises; or

- (9) a holder of a certificate of registration or a person employed by the sexually oriented business knowingly operated the sexually oriented business when its sexually oriented business license was suspended;
 - (10) on two or more occasions within a twelve (12) month period, a person or persons committed a criminal offense associated with sexually oriented businesses in or on the Premises for which a conviction has been obtained, and the person or persons were employed by the sexually oriented business when the offenses were committed;
 - (11) a holder of a certificate of registration is delinquent in payment to Travis County for ad valorem taxes related to the sexually oriented business.
- (b) The Sheriff shall not revoke the license of an adult motel for subsection 50.122 (b) (4) unless the licensee or a person employed by the sexually oriented business knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
 - (c) After a certificate of registration has been revoked, the Sheriff shall not issue another certificate of registration to that business.

50.123 Suspension of Sexually Oriented Business License

- (a) The Sheriff shall suspend the sexually oriented business license for not more than thirty (30) days if he determines that a licensee has:
 - (1) violated or is not in compliance with any portion of these regulations;
 - (2) refused to allow an inspection of the Premises as authorized by these regulations;
 - (3) knowingly allowed gambling by any person on the Premises;
 - (4) has allowed possession, use, or sale of controlled substances on the Premises;
 - (5) has allowed prostitution on the Premises;
 - (6) has allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact as defined in Section 21.01 Texas Penal Code to occur in or on the licensed Premises;
 - (7) demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus requiring action by law enforcement officers; or
 - (8) employed a natural person who is under the age of eighteen (18) years.
- (b) If the Sheriff suspends the sexually oriented business license, the Sheriff shall notify the licensee of the suspension, reasons for suspension, and the right to appeal the suspension under Subchapter G.

50.123 Revocation of Sexually Oriented Business License

- (a) The Sheriff shall revoke a sexually oriented business license if a cause of suspension in section 50.123 (a) occurs and the sexually oriented business license has been suspended within the preceding one (1) year.
- (b) The Sheriff shall revoke a sexually oriented business license for one (1) year if he determines that:
 - (1) a licensee gave false or misleading information in the information and documents submitted to the Sheriff during the application process;
 - (2) a licensee or a person employed by the sexually oriented business has knowingly allowed possession, use, or sale of controlled substances on the Premises;
 - (3) a licensee or a person employed by the sexually oriented business has knowingly allowed prostitution on the Premises;
 - (4) a licensee or a person employed by the sexually oriented business has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact as defined in Section 21.01 Texas Penal Code to occur in or on the licensed Premises; or
 - (5) a licensee or a person employed by the sexually oriented business knowingly operated the sexually oriented business when its sexually oriented business license was suspended;
 - (6) a licensee or a person employed by the sexually oriented business has been convicted of a criminal offense associated with sexually oriented businesses for which the time period required in section 50.052(a)(13) has not elapsed or the licensee or the person employed by the sexually oriented business still remains in community supervision or on deferred adjudication for that conviction;
 - (7) on two or more occasions within a twelve (12) month period, a person or persons committed a criminal offense associated with sexually oriented businesses in or on the licensed Premises for which a conviction has been obtained, and the person or persons were employed by the sexually oriented business when the offenses were committed;
 - (8) a licensee is delinquent in payment to Travis County for ad valorem taxes related to the sexually oriented business.
- (c) The Sheriff shall not revoke the license of an adult motel for subsection 50.124 (b) (4) unless the licensee or a person employed by the sexually oriented business knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- (d) In determining whether a conviction exists under subsection 50.124(b) (6) or (7), the Sheriff shall treat a sentence of deferred adjudication, a fine, any final

judgment that includes a period of confinement as a conviction. The Sheriff shall not consider the fact that a conviction is being appealed until the appeal is decided and then only if the decision has the effect of voiding the conviction.

- (e) After a sexually oriented business license has been revoked, the Sheriff shall not issue another sexually oriented business license to that business or licensee for one (1) year after the date the revocation became effective unless the Sheriff determines that the basis for the revocation has been corrected if based on subsections 50.124 (1) or (8) or abated if based on subsections 50.124 (6) and at least ninety (90) days have elapsed since the date the revocation became effective and all other conditions for a sexually oriented business license are complied with. The Sheriff shall not issue a sexually oriented business license that is prohibited by subsection 50.124 (b) (6) until the applicable time under section 50.052 (a) (13) has elapsed since the conviction.
- (f) If the Sheriff revokes the sexually oriented business license, the Sheriff shall notify the licensee of the revocation, reasons for revocation, and the right to appeal the revocation under Subchapter G.

50.125 Suspension Of Operator's License

- (a) The Sheriff shall suspend an Operator's License for not more than thirty (30) days if he determines that a licensee has:
 - (1) violated or is not in compliance with any portion of these regulations;
 - (2) refused to allow an inspection of the Premises as authorized by these regulations;
 - (3) knowingly allowed gambling by any person on the Premises;
 - (4) has allowed possession, use, or sale of controlled substances on the Premises;
 - (5) has allowed prostitution on the Premises;
 - (6) has allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact as defined in Section 21.01 Texas Penal Code to occur in or on the licensed Premises;
 - (7) demonstrated inability to operate or manage a sexually oriented business in a peaceful and law-abiding manner thus requiring action by law enforcement officers; or
 - (8) employed a natural person who is under the age of eighteen (18) years.
- (b) If the Sheriff suspends the operator's license, the Sheriff shall notify the licensee of the suspension, reasons for suspension, and the right to appeal the suspension under Subchapter G.

50.126 Revocation of Operator's License

- (a) The Sheriff shall revoke an Operator's License if a cause of suspension in Section 50.126 (a) occurs, and the Operator's License has been suspended within the preceding one (1) year.
- (b) The Sheriff shall revoke a Operator's License for one (1) year if he determines that:
 - (1) a licensee gave false or misleading information in the information and documents submitted to the Sheriff during the application process;
 - (2) a licensee has knowingly allowed possession, use, or sale of controlled substances on the Premises;
 - (3) a licensee has knowingly allowed prostitution on the Premises;
 - (4) a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact as defined in Section 21.01 Texas Penal Code to occur in or on the licensed Premises; or
 - (5) a licensee knowingly operated the sexually oriented business when the licensee's operator's license was suspended or when the sexually oriented business's license was suspended;
 - (6) a licensee has been convicted of a criminal offense associated with sexually oriented businesses for which the time period required in Section 50.070 (a) (6) or (7) elapsed the licensee or a person employed by the sexually oriented business still remains in community supervision or on deferred adjudication for that conviction.
- (c) In determining whether a conviction exists under section 50.126 (a) (6), the Sheriff shall treat a sentence of deferred adjudication, a fine, any final judgment that includes a period of confinement as a conviction. The Sheriff shall not consider the fact that a conviction is being appealed until the appeal is decided and then only if the decision has the effect of voiding the conviction.
- (d) After an operator's license has been revoked, the Sheriff shall not issue another operator's license to that person for one (1) year after the date the revocation became effective. unless the Sheriff determines that the basis for the revocation has been corrected if based on subsection 50.126 (b) (1) or abated if based on subsection 50.126 (b) (6) and at least ninety (90) days have elapsed since the date the revocation became effective and all other conditions for a operator's license are complied with. The Sheriff shall not issue an operator's license that has been revoked under subsection 50.126 (b) (6) until the applicable time under subsection 50.070 (a) (7) has elapsed since the conviction or confinement.

- (e) If the Sheriff revokes the operator's license, the Sheriff shall notify the licensee of the revocation, reasons for revocation, and the right to appeal the revocation under Subchapter G.

50.127 Criminal Enforcement

- (a) Criminal enforcement of these regulations is authorized by Texas Local Government Code 243.010 (b), (Vernon Supp. 1995).
- (b) A person who violates, or causes another person to violate, one or more of the following regulations in these regulations commits an offense:
 - (1) Section 50.006 Certificate of Registration or Sexually Oriented Business License Required to Operate;
 - (2) Section 50.007 Transfer of Certificate of Registration Prohibited;
 - (3) Section 50.008 Transfer of Sexually Oriented Business Licenses Prohibited;
 - (4) Section 50.009 Operator's License Required;
 - (5) Section 50.010 Transfer of Operator's Licenses Prohibited;
 - (6) Section 50.091 Operational Requirements for All Sexually Oriented Businesses;
 - (7) Section 50.092 Operational Requirements Applicable to Adult Arcades Only;
 - (8) Section 50.093 Operational Requirements Applicable to Adult Motels Only;
 - (9) Section 50.094 Operational Requirements Applicable to Nude Modeling Studios Only;
 - (10) Section 50.095 Operational Requirements Applicable to Adult Theaters and Adult Movie Theaters Only;
 - (11) Section 50.096 Operational Requirements Applicable to Adult Video-Bookstores Only; or
 - (12) Section 50.121 Inspection.
- (c) A person who knowingly makes any false, fraudulent, or untruthful statement, either written or oral, or in any way knowingly conceals any material fact, or gives or uses any assumed name or fictitious name other than the one filed for record in compliance with the Assumed Business or Professional Name Act (Texas Business and Commerce Code Chapter 36) commits an offense.
- (d) A person who counterfeits, forges, changes, defaces, or alters a sexually oriented business license or an operator's license commits an offense.
- (e) An offense under these regulations is a Class "A" Misdemeanor. A separate offense occurs on each day on which all of the elements of the offense exist.

- (f) Jurisdiction for prosecution of a suit under section 50.126 is in the County Courts.
- (g) Venue for prosecution of a suit under section 50.126 is Travis County.

50.128 Defenses to Criminal Offenses

- (a) If a person under the age of eighteen (18) years was in a restroom not open to the view of either the public or persons of the opposite sex while specified anatomical parts were exposed, that is a defense to prosecution under these regulations.
- (b) It is a defense to prosecution under these regulations if a person is in a modeling class operated:
 - (1) by a school licensed by the State or an educational institution or university supported entirely or partly by taxation;
 - (2) by a private college or university which has educational programs from which credits are transferrable to an educational institution supported entirely or partly by taxation; or
 - (3) where there is no advertising that indicates a nude person is available for viewing; a student must enroll at least three (3) days before class to participate in a class; and there is no more than one (1) nude model is on the Premises at once.
- (c) It is a defense to prosecution under these regulations if each item of printed matter or a photographic presentation offered for sale or rental contains significant literary, artistic, political, or scientific value when evaluated as a whole.

50.129 Civil Enforcement

- (a) Civil enforcement of these regulations is authorized by Texas Local Government Code 243.010 (a), (Vernon Supp. 1995).
- (b) When it appears that a violation of any of these regulations has occurred or is occurring, the County Attorney may bring a suit in District Court for injunctive relief against the person who committed, is committing, or is threatening to commit the violation.
- (c) Civil suits, excluding criminal prosecutions, may not be instituted by Travis County unless the Commissioners Court has authorized the institution of the suit.

[Sections 50.130 through 50.140 reserved for expansion]

Subchapter G. Appeal Process

50.141 Appeal Procedure For Registration and License Denials, Suspensions, and Revocations

- (a) An applicant or a licensee may bring an appeal to the District Courts of Travis County for any of the following reasons by submitting a written appeal to the District Clerk within thirty (30) days after receipt of the notice any of the following actions giving rise to the appeal:
 - (1) denial of an application for a certificate of registration of an exemption;
 - (2) denial of an application for a sexually oriented business license;
 - (3) suspension of a sexually oriented business license;
 - (4) revocation of a sexually oriented business license;
 - (5) denial of an application for an operator's license;
 - (6) suspension of an operator's license; or
 - (7) revocation of an operator's license.
- (b) All appeals to the District Court shall be heard on the basis of a trial de novo. By filing an appeal to the District Court, a licensee stays the effect of a suspension or revocation of their license until the District Court makes a final decision.
- (c) If an applicant or licensee does not file an appeal from a decision listed in section 50.141 (a) within thirty (30) days after receipt of the notice of the decision, the decision becomes final.