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IN THE
POTTER COUNTY COMMISSIONERS COURT
POTTER COUNTY, TEXAS

AN ORDER AMENDING AN ORDER DATED AUGUST 9, 1993
REGULATING SEXUALLY ORIENTED BUSINESSES IN THE UNINCORPORATED
AREAS OF POTTER COUNTY PURSUANT TO CHAPTER 243,
LOCAL GOVERNMENT CODE

On this 25 day of November, 1996, the Commissioners Court of Potter County, Texas convened in open session at the Potter County Courthouse, and passed the following order:

"WHEREAS, the Potter County Commissioners Court passed an order which became effective on the 9th day of August, 1993, regulating sexually oriented businesses in the unincorporated areas of Potter County under authority of Chapter 243 of the Texas Local Government Code; and,

WHEREAS, the Commissioners Court finds that preservation of the spirit and effectiveness of the regulations contained in the order of August 9, 1993 is necessary to promote public health, safety and welfare; and,

WHEREAS, the Commissioners Court further finds that developments in the law relating to the regulation of sexually oriented business make clarification of the regulations contained in the order of August 9, 1993 appropriate in order to preserve the spirit and effectiveness of the regulations;

NOW, THEREFORE, be it ordered that the order of the Potter County Commissioners Court dated August 9, 1993, and entitled "An Order Regulating Sexually Oriented Businesses In The Unincorporated Areas Of Potter County Pursuant To Chapter 243, Local Government Code" is amended to read as follows:

AN ORDER
REGULATING SEXUALLY ORIENTED BUSINESSES IN THE UNINCORPORATED
AREAS OF POTTER COUNTY PURSUANT TO CHAPTER 243,
LOCAL GOVERNMENT CODE

On this the 9TH day of August, 1993, the Commissioners Court of Potter County, Texas convened in open session at the Courthouse and passed the following order:

"Whereas, the Potter County Commissioners Court finds that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity; and

Whereas, the Commissioners Court finds that the risks of detrimental impact from the

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operation of a sexually oriented business upon certain land uses make the use of real property as a residential neighborhood, residence, regular place of religious worship, school, hospital, child care facility, public park, public playground, athletic stadium, charitable or nonprofit organization facility or penal or correctional facility inconsistent with the operation of a sexually oriented business; and,

Whereas, the Commissioners Court finds that the location within close proximity of hotels or motels and sexually oriented businesses may facilitate or encourage criminal activity, including prostitution and other unlawful sexual activities, thereby making the operation of a hotel or motel inconsistent with the operation of a sexually oriented business; and,

Whereas, the Commissioners Court finds that the experiences of many other counties and municipalities indicate that the nature of business conducted by, and even the very existence of, sexually oriented businesses may detrimentally affect surrounding businesses and residential neighborhoods and cause increased crime and reduced property values; and,

Whereas, the Commissioners Court has the authority pursuant to Chapter 243, Texas Local Government Code, to adopt regulations to remedy this problem; and

Whereas, the Commissioners Court desires to exercise this authority in a manner as comprehensive as possible under Chapter 243, Texas Local Government Code, and the constitutions of the United States and the State of Texas by adopting the following regulations regarding sexually oriented businesses; and,

Whereas, the Commissioners Court does not intend to suppress any speech activities protected by the First Amendment to the United States Constitution through its orders, but rather to adopt content-neutral regulations intended to address the deleterious secondary effects of sexually oriented businesses; and,

Whereas, the Commissioners Court finds that the following regulations are necessary to promote the public health, safety, or welfare;

NOW, THEREFORE, be it ordered that the following regulations be adopted to regulate sexually oriented businesses in the unincorporated areas of Potter County:

1. **DEFINITIONS.** The following definitions apply in these regulations unless the context clearly indicates otherwise:

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

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- b. "Adult bookstore" or "adult video store" means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:
- (1) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (2) instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".
- c. "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
- (1) persons who appear in a state of nudity;
 - (2) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - (3) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- d. "Adult motel" means a hotel, motel or similar commercial establishment which:
- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, film, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions;
 - (2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - (3) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
- e. "Adult motion picture theater" means a commercial establishment where for any form of consideration, films, motion pictures, video cassettes, slides or similar photograph reproductions are regularly shown and are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

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- f. "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- g. "Athletic stadium" means any real property upon which exists or is constructed a structure and facilities designed for staging and holding athletic contests.
- h. "Charitable organization" means any real property which is owned, leased or occupied by any organization exempt from federal income tax under 26 U.S.C. § 501(a) by being listed as an exempt organization in 26 U.S.C. § 501(c)(3) and (c)(4), if it is a nonprofit corporation, foundation, community chest or fund organized and operated exclusively for charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, or educational purposes, or is organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community.
- i. "Child care facility" means a facility that provides care, training, education, custody, treatment or supervision for a child who is not related by blood, marriage or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers, and is required to be licensed by the Texas Department of Human Services.
- j. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- k. "Escort agency" means a business that furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes, for a fee, tip or other consideration.
- l. "Hospital" means any general hospital or any special hospital.
 - (1) "General hospital" means an establishment that offers services, facilities and beds for use for more than 24 hours for two or more unrelated individuals requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy, and regularly maintains clinical laboratory services, diagnostic X-ray services, treatment facilities including surgery or obstetrical care or both, and other definitive medical or surgical treatment of similar extent.
 - (2) "Special hospital" means an establishment that offers services, facilities and beds for use for more than 24 hours for two or more unrelated individuals who are regularly admitted, treated and discharged and who

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require services more intensive than room, board, personal services and general nursing care, has clinical laboratory facilities, diagnostic X-ray facilities, treatment facilities, or other definitive medical treatment, has a medical staff in regular attendance, and maintains records of the clinical work performed for each patient.

- m. "Hotel" means a building in which members of the public obtain sleeping accommodations for consideration. The term includes "motel".
- n. "Minor" means any person under 18 years of age.
- o. "Nonprofit organization" means any real property which is owned, leased or occupied by any incorporated or unincorporated organization that has been established and is operating for religious, charitable or educational purposes and that does not distribute any of its income to its members, directors or officers.
- p. "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other person who pay money or any form of consideration.
- q. "Nudity" or a "state of nudity" means:
 - (1) the appearance of a human bare buttock, anus, male genitals, female genitals, pubic region or female breasts; or
 - (2) a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, pubic region or areola of the female breast.
- r. "Operate" means the conduct of business, for consideration, at a building or facility which is open to the public if the business being conducted is within the definition of a sexually oriented business as set forth in paragraph 1(bb) of these regulations.
- s. "Penal or correctional facility" means any real property which is the location of a place designated by law for the confinement of a person arrested for, charged with or convicted of a criminal offense. The term includes:
 - (1) a municipal or county jail;
 - (2) a confinement facility operated by the Texas Department of Criminal Justice;
 - (3) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and

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- (4) a community corrections facility operated by a community supervision and corrections department.
- t. "Public nuisance" means the habitual use of any place for any of the following purposes:
- (1) gambling, gambling promotion, or communicating gambling information prohibited by law;
 - (2) promotion or aggravated promotion of prostitution;
 - (3) compelling prostitution;
 - (4) commercial manufacture, commercial distribution, or commercial exhibition of obscene material, as obscenity is contemplated under the laws of the United States and the State of Texas;
 - (5) discharge of a firearm in a public place in violation of Section 42.01(a)(9), Texas Penal Code;
 - (6) engaging in organized criminal activity as a member of a combination or as a member of a criminal street gang as described by Section 71.02, Texas Penal Code; or
 - (7) delivering or using a controlled substance in violation of Chapter 481, Texas Health and Safety Code.
- u. "Public park" means any real property dedicated and maintained for public use for purposes of recreation and amusement.
- v. "Public playground" means any real property dedicated and maintained for public use which has equipment or facilities specifically used for outdoor recreation.
- w. "Regular place of religious worship" means any real property that is exempt from taxation under Section 11.20(a)(1), Texas Tax Code.
- x. "Residence" means a dwelling, house, abode, structure or building used for human habitation.
- y. "Residential neighborhood" means a platted subdivision in which residences are constructed or exist, and in which residences represent the predominant form of structure or building.
- z. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

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- aa. "Sexual encounter center" means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- bb. "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center or other commercial enterprise the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.
- cc. "Specified anatomical areas" means human genitals in a state of sexual arousal.
- dd. "Specified sexual activities" means and includes any of the following:
 - (1) the fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts;
 - (2) sex acts, normal or deviate, actual or simulated, including intercourse, oral copulation or sodomy;
 - (3) masturbation, actual or simulated; or
 - (4) excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

2. **EXEMPTED BUSINESSES.** These regulations do not apply (A) to a bookstore, movie theater, or video store, unless that business is an adult bookstore, adult motion picture theater, or adult video store, or (B) to a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, or licensed barber engaged in performing functions authorized under the license held or to a business operated by or employing a licensed physician or licensed chiropractor engaged in practicing the healing arts.

3. **APPLICATION OF REGULATIONS.** These regulations apply only to those parts of Potter County, Texas that are situated outside the corporate limits of any incorporated municipality which may be located in whole or in part in Potter County, Texas.

4. **LOCATION REQUIREMENTS.**

- a. No sexually oriented business shall be located within 1,000 feet of any residence, regular place of religious worship, school, hospital, child care facility, hotel, motel, public park, public playground, athletic stadium, charitable or nonprofit organization, penal or correctional facility, or any other sexually oriented business.

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- b. A sexually oriented business licensed under these regulations and lawfully operating is not in violation of this paragraph if, subsequent to the grant or renewal of the sexually oriented business's license to operate, a residence, regular place of religious worship, school, hospital, child care facility, hotel, motel, public park, public playground, athletic stadium, charitable or nonprofit organization, penal or correctional facility or other sexually oriented business becomes located within 1,000 feet of the previously-licensed sexually oriented business. In the case of renewal of a license, this provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

5. **LICENSING.** No sexually oriented business may operate in the areas of Potter County affected by these regulations without first obtaining a license, as follows:

a. The Owner of the sexually oriented business shall file an application with the Potter County Judge containing the following information, to be given under oath:

1. The Owner's name, address, and driver's license number.
 2. The address and location of the sexually oriented business to be licensed.
 3. The name, address, and driver's license number of the manager or operator of the sexually oriented business.
 4. Whether any of these persons have been convicted of a criminal offense, and, if so, the date, offense, and punishment received.
 5. If the location is leased, the name, address, and driver's license number of the lessor of the location of the sexually oriented business.
- b. The form of the application for a license to operate a sexually oriented business in Potter County shall include a map of Potter County, Texas, and the Owner of the proposed sexually oriented business shall indicate on the map included in the application the location of the proposed sexually oriented business.
- c. The Owner, manager (if any) and operator (if any) of the proposed sexually oriented business must be qualified in accordance with these regulations. Qualification under these regulations means that the person is not be subject to any of the grounds set forth in paragraph 6 below regarding denial of a license.
- d. The Owner shall pay at the time of filing the application a fee of \$200.00, which shall be refunded if the license is denied. No portion of the

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application fee shall be returned or refunded after a license has been issued.

- e. The Commissioners Court will review the application in open court at the next regularly scheduled meeting of the Commissioners Court if the application is filed with the County Judge on or before the 10th day preceding the regularly scheduled meeting of the Commissioners Court. If the application is filed with the County Judge after the 10th day preceding the regularly scheduled meeting of the Commissioners Court, but before the meeting takes place, the Commissioners Court will review the application in open court at the next regularly scheduled meeting of the Commissioners Court subsequent to the meeting for which the application was untimely submitted. The Owner, manager (if any) and operator (if any) of the proposed sexually oriented business shall be entitled to appear at the meeting at which the application is reviewed and present evidence in support of the application. Any person or entity opposing the application shall be entitled to appear at the meeting at which the application is reviewed and present evidence in opposition to the application. During the meeting at which the application is reviewed, the Commissioners Court shall find by majority vote whether:

- (1) all information required is included in the application;
- (2) the Owner, manager (if any) and operator (if any) of the proposed sexually oriented business are qualified in accordance with these regulations; and
- (3) whether any of the grounds set forth in paragraph 6 below regarding denial of a license is applicable to the proposed sexually oriented business.

If, by majority vote, the Commissioners Court finds that all information required to be included in the application is included, that the Owner, manager (if any) and operator (if any) of the proposed sexually oriented business are qualified in accordance with these regulations, and that none of the grounds set forth in paragraph 6 below regarding denial of a license is applicable to the proposed sexually oriented business, then the Commissioners Court shall immediately order that a license be issued to the sexually oriented business.

- f. The license shall be issued in the name of the Owner of the sexually oriented business, and shall be specific to the premises described in the application. The Owner shall not transfer or assign the license to another person or to another location.
- g. The license issued shall be effective for a period of one (1) year from the

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date of issuance, and may be renewed annually by submitting a new application and an application fee of \$200.00; provided, however, that the sexually oriented business must be in compliance with these regulations before a renewal license will be issued.

6. **DENIAL OF LICENSE.** A finding of any of the following shall be grounds for the Commissioners Court to deny an application for a license to operate a sexually oriented business in Potter County:

- a. that the Owner, manager (if any) or operator (if any) of the proposed sexually oriented business has, within the two (2) years immediately prior to submission of the application for a license to operate a sexually oriented business in Potter County, engaged in conduct with respect to any other sexually oriented business that would be grounds for revocation of a license, as set forth in paragraph 8 of these regulations;
- b. that the proposed sexually oriented business has operated in Potter County without first obtaining a license, as provided by these regulations, within the two (2) years immediately prior to submission of the application for a license to operate a sexually oriented business in Potter County, provided that this subparagraph shall not apply to an existing, licensed sexually oriented business that is submitting an application for purposes of renewal of a previously issued, unexpired license to operate a sexually oriented business in Potter County;
- c. that the Owner has intentionally failed to refused to provide any item of information required under these regulations to be contained in an application for a license to operate a sexually oriented business in Potter County;
- d. that the proposed location of the sexually oriented business for which an application to operate in Potter County has been submitted would violate the location requirements set forth in paragraph 4 of these regulations, provided that denial of a license on this ground, standing alone, shall not be grounds for denial of a subsequent application for a license to operate a sexually oriented business in Potter County if such subsequent application indicates compliance with the location requirements set forth in paragraph 4 of these regulations;
- e. the correct application fee under paragraph 5(c) or 5(e) of these regulations has not been paid or, if paid by check or bank draft, such check or bank draft has not been honored by the drawee upon presentment;
- f. that the Owner, manager (if any) or operator (if any) of the proposed sexually oriented business has had a license to operate a sexually oriented

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business, issued in the name of the Owner, manager (if any) or operator (if any), suspended or revoked by any county or other state or local agency within the two (2) years immediately prior to submission of the application for a license to operate a sexually oriented business in Potter County;

g. that the Owner, manager (if any) or operator (if any) of the proposed sexually oriented business has been convicted of a crime:

(1) involving:

(A) any of the following offenses as described in Chapter 43, Texas Penal Code:

- i. prostitution;
- ii. promotion of prostitution;
- iii. aggravated promotion of prostitution;
- iv. compelling prostitution;
- v. obscenity;
- vi. sale, distribution, or display of harmful material to a minor;
- vii. sexual performance by a child;
- viii. possession of child pornography;

(B) any of the following offenses as described in Chapter 21, Texas Penal Code:

- i. public lewdness;
- ii. indecent exposure;
- iii. indecency with a child;

(C) sexual assault or aggravated sexual assault, as described in Chapter 22, Texas Penal Code;

(D) prohibited sexual conduct, solicitation of a child, or harboring a runaway child as described in Chapter 25, Texas Penal Code; or

If an applicant is otherwise in compliance with the application for a license to operate a sexually oriented business, and the Commission has not corrected or denied that a license

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- (E) criminal attempt, conspiracy, solicitation or engaging in organized criminal activity to commit any of the foregoing offenses;

(2) for which:

- (A) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
- (B) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense;
- (C) provided that the fact that a conviction is being appealed shall have no effect on the disqualification of the Owner, manager (if any) or operator (if any) under this subparagraph; or

- h. that the Owner, manager (if any) or operator (if any) of the proposed sexually oriented business is overdue in his or her payment to the county of taxes, fees, fines or penalties assessed against him or her, provided that the County Tax Assessor-Collector shall make this determination and report his findings to the County Commissioners within ten (10) days of the filing of the application with the County Judge.

If an application for a license is denied under this paragraph, except as expressly provided otherwise in this paragraph, a license may not be issued to the Owner who submitted the application for a period of one (1) year from the date of the denial. An order of denial is a final action. If the Commissioners Court finds, by majority vote at a regularly scheduled meeting of the Commissioners Court subsequent to the denial, that the basis for the denial has been corrected or abated in accordance with these regulations, the Commissioners Court may order that a license be issued.

7. INSPECTION. The Owner, manager (if any), operator (if any) or employee of any sexually oriented business licensed under these regulations shall permit any of the County Commissioners, their designated agent, the County Judge or any officer of the Potter County Sheriff's Office to inspect a sexually oriented business to determine compliance with these regulations at any time the sexually oriented business is occupied or open for business.

8. LICENSE SUSPENSION. The Commissioners Court may suspend a license to operate a sexually oriented business in Potter County as provided by this paragraph.

- a. Information regarding a ground for suspension of a license to operate a sexually

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oriented business may be brought to the attention of the Commissioners Court by the filing with the County Judge of a sworn complaint by a representative of the Potter County Sheriff's Office or by any person.

- b. Upon receipt of information regarding a ground for suspension of a license to operate a sexually oriented business, unless such information is submitted by a representative of the Potter County Sheriff's Office, the County Judge shall request that the Potter County Sheriff's Office investigate the information.
- c. It shall be the duty of the Potter County Sheriff's Office to investigate information regarding a ground for suspension of a license to operate a sexually oriented business in Potter County upon request by the County Judge, and to report its findings within fifteen (15) days of receipt of the request by the County Judge.
- d. Upon receipt of the findings described in subparagraph c, above, the County Judge shall provide written notice by certified mail, return receipt requested, to the Owner of the sexually oriented business that is the subject of the findings. The notice shall inform the Owner:
 - (1) of the nature of the alleged ground or grounds for suspension of the Owner's license to operate a sexually oriented business; and
 - (2) of the time, date and place of the next regularly scheduled meeting of the Commissioners Court at which the issue of suspension of the Owner's license to operate a sexually oriented business will be considered.

Such notice to the Owner of the sexually oriented business must be provided at least five (5) days before the meeting of the Commissioners Court at which the issue of suspension of the Owner's license to operate a sexually oriented business will be considered.

- e. If the notice required by subparagraph d, above, cannot be provided within the required time period before the upcoming regularly scheduled meeting of the Commissioners Court, then the issue of suspension of the Owner's license to operate a sexually oriented business shall be placed on the agenda of the next regularly scheduled meeting of the Commissioners Court subsequent to the meeting for which notice could not be timely provided, and the required notice shall be provided in accordance with subparagraph d.
- f. A finding of any of the following shall be grounds for the Commissioners Court to suspend a license to operate a sexually oriented business:
 - (1) that the Owner, manager (if any) or operator (if any) of the licensed sexually oriented business is not in compliance with any portion of these regulations;

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- (2) that the Owner, manager (if any), operator (if any) or any employee of the licensed sexually oriented business refused to allow an inspection of the premises of the sexually oriented business, as authorized under these regulations; or
 - (3) that the Owner, manager (if any) or operator (if any) knowingly permitted gambling by any person on the premises of the sexually oriented business.
- g. If the Commissioners Court finds, by majority vote, that any of the grounds for suspension of a license to operate a sexually oriented business exist, the Commissioners Court shall order that the license of the sexually oriented business with regard to which the finding was made shall be suspended for a period not to exceed thirty (30) days. An order of suspension is a final action.
9. **LICENSE REVOCATION.**
- a. A finding of any of the following shall be grounds for the Commissioners Court to revoke a license to operate a sexually oriented business:
- (1) that the Owner knowingly gave false information on the application for a license;
 - (2) that the Owner, manager (if any) or operator (if any) of the sexually oriented business allowed minors to enter the premises of the sexually oriented business or to become employed by the sexually oriented business;
 - (3) that the license to operate a sexually oriented business has been suspended in accordance with these regulations two (2) or more times during a 12-month period;
 - (4) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has permitted the premises to become a public nuisance;
 - (5) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has knowingly allowed possession, use or sale of controlled substances, as described in Chapter 481, Texas Health and Safety Code, on the premises of the sexually oriented business;
 - (6) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has knowingly allowed prostitution on the premises of the sexually oriented business;
 - (7) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has been convicted of an offense listed in paragraph 6(g) of these regulations, and the time period specified in paragraph 6(g)(2) has

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not expired, provided that this provision shall not apply if the manager or operator of the sexually oriented business has been convicted and the Owner terminates the employment of such manager or operator within ten (10) days of receiving actual knowledge of such conviction;

- (8) that, on two or more occasions during a 12-month period, an employee of the sexually oriented business committed an offense listed in paragraph 6(g), a conviction was obtained for each such offense and each offense occurred in or on the licensed premises of the sexually oriented business;
 - (9) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or sexual contact to occur in or on the licensed premises. The term "sexual contact" has the meaning as it is defined in Section 21.01, Texas Penal Code; or
 - (10) that the Owner of the sexually oriented business is delinquent in payment to the county of hotel occupancy taxes or ad valorem taxes related to the sexually oriented business.
 - (11) that the Owner, manager (if any) or operator (if any) of the sexually oriented business has caused or allowed the sexually oriented business to operate during a period that the license of the sexually oriented business is under suspension based on the provisions of paragraph 8 of these regulations, unless the operation of the sexually oriented business occurs during a time when such suspension has been stayed by a court of competent jurisdiction.
- b. Information regarding a ground for revocation of a license to operate a sexually oriented business may be brought to the attention of the Commissioners Court by the filing with the County Judge of a sworn complaint by a representative of the Potter County Sheriff's Office or by any person.
 - c. Upon receipt of information regarding a ground for revocation of a license to operate a sexually oriented business, unless such information is submitted by a representative of the Potter County Sheriff's Office, the County Judge shall request that the Potter County Sheriff's Office investigate the information.
 - d. It shall be the duty of the Potter County Sheriff's Office to investigate information regarding a ground for revocation of a license to operate a sexually oriented business in Potter County upon request by the County Judge, and to report its findings within fifteen (15) days of receipt of the request by the County Judge.
 - e. Upon receipt of the findings described in subparagraph d, above, the County Judge shall provide written notice by certified mail, return receipt requested, to the Owner of the sexually oriented business that is the subject of the findings.

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The notice shall inform the Owner:

- (1) of the nature of the alleged ground or grounds for revocation of the Owner's license to operate a sexually oriented business; and
- (2) of the time, date and place of the next regularly scheduled meeting of the Commissioners Court at which the issue of revocation of the Owner's license to operate a sexually oriented business will be considered.

Such notice to the Owner of the sexually oriented business must be provided at least five (5) days before the meeting of the Commissioners Court at which the issue of revocation of the Owner's license to operate a sexually oriented business will be considered.

- f. If the notice required by subparagraph e, above, cannot be provided within the required time period before the upcoming regularly scheduled meeting of the Commissioners Court, then the issue of revocation of the Owner's license to operate a sexually oriented business shall be placed on the agenda of the next regularly scheduled meeting of the Commissioners Court subsequent to the meeting for which notice could not be timely provided, and the required notice shall be provided in accordance with subparagraph e.
- g. If the Commissioners Court finds, by majority vote, that any of the grounds for revocation of a license to operate a sexually oriented business exist, the Commissioners Court shall order that the license of the sexually oriented business with regard to which the finding was made shall be revoked. An order of revocation is a final action. Revocation of a license shall continue for a period of one (1) year, during which time the Owner may not be issued a license to operate a sexually oriented business in Potter County. If the Commissioners Court finds, by majority vote at a regularly scheduled meeting of the Commissioners Court subsequent to the revocation, that the basis for the revocation has been corrected or abated in accordance with these regulations, the Commissioners Court may order that a license be issued.

10. **MINORS.** No licensed sexually oriented business shall allow minors to enter the premises of the sexually oriented business, nor shall any licensed sexually oriented business employ any minor.

11. **EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.**

The interior of a sexually oriented business which exhibits films or videos depicting or describing specified anatomical areas or specified sexual activities shall be configured in such a manner that a person who occupies the manager's station or cashier's post or position has an unobstructed view of every area of the premises to which customers have access, excluding restrooms. The following regulations shall also apply to a sexually oriented business which is subject to this paragraph:

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- a. Restrooms of a sexually oriented business subject to this paragraph may not be equipped with or contain video reproduction equipment.
- b. The view required by this paragraph must be by direct line of sight from the manager's station or cashier's post or station.
- c. At least one employee shall be on duty and situated in the manager's station or cashier's post or station at any time a customer is present in the sexually oriented business to which this paragraph applies.
- d. The Owner, manager (if any) and operator (if any) of the sexually oriented business shall ensure compliance with the sight requirements imposed by this paragraph and that such sight requirements remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any customer is present in the sexually oriented business.

12. **ENFORCEMENT AND AVAILABILITY OF JUDICIAL RELIEF.**

- a. The County may sue in district court for an injunction to prohibit the violation of these regulations.
- b. A person commits an offense if the person violates any of these regulations. An offense under this subsection is a Class A Misdemeanor.
- c. Any person aggrieved by a final action taken under these regulations may bring suit immediately in a district court in Potter County. If a suit is brought by a person or entity aggrieved by the suspension, revocation or denial of renewal of a license to operate a sexually oriented business, such filing of suit stays the suspension, revocation or denial pending entry of a final order resolving the suit by the district court. This stay does not apply to the denial of an initial application for a license to operate a sexually oriented business.

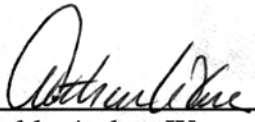
13. **AMENDMENT.** These regulations may be amended from time to time in the discretion of the Commissioners Court.

14. **SEVERABILITY.** The provisions of these regulations are intended to be severable, and the invalidation of any provision or provisions of these regulations by a court shall not affect the validity of the other provisions of these regulations. If a court invalidates any provision of these regulations, it is intended that these regulations be construed as if the invalidated provision had not been included in these regulations.

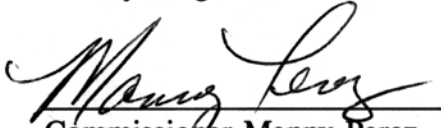
Effective the 9th day of August, 1993.

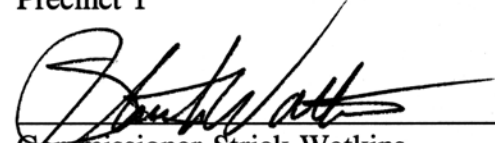
Amendments effective the ____ day of _____, 1996.

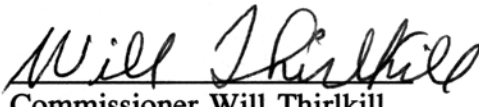
Adopted this 25 day of November, NOV 25 1996.


Honorable Arthur Ware
County Judge

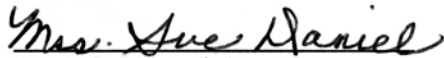

Commissioner Cliff Roberts
Precinct 1


Commissioner Manny Perez
Precinct 2


Commissioner Strick Watkins
Precinct 3


Commissioner Will Thirlkill
Precinct 4

ATTEST:


Mrs. Sue Daniel
Potter County Clerk