

SECTION 26

SEXUALLY ORIENTED BUSINESSES

AN ORDINANCE OF THE TOWN OF ELSINORE, RELATING TO SEXUALLY ORIENTED BUSINESSES; ESTABLISHING THE ELSINORE TOWN ZONING ORDINANCE BY DISPERSING SEXUALLY ORIENTED BUSINESSES AND LIMITING THEM TO SPECIFIED ZONING DISTRICTS; ESTABLISHING DISTANCE REQUIREMENTS; PROVIDING FOR LICENSING AND REGULATION OF SEXUALLY ORIENTED BUSINESSES AND EMPLOYEES; ESTABLISHING FEES; AND PROVIDING ADDITIONAL HEALTH AND SAFETY REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES;

WHEREAS, SEXUALLY ORIENTED BUSINESSES IN THE INCORPORATED AREA OF THE TOWN OF ELSINORE REQUIRE SPECIAL SUPERVISION FROM PUBLIC SAFETY AND HEALTH AGENCIES OF THE COUNTY IN ORDER TO PROTECT AND PRESERVE THE HEALTH, SAFETY AND WELFARE OF THE PATRONS OF SUCH BUSINESSES AS WELL AS CITIZENS OF THE TOWN, AND

WHEREAS, STUDIES CONCERNING THE SECONDARY EFFECTS OF SEXUALLY ORIENTED BUSINESSES IN OTHER CITIES INCLUDING, BUT NOT LIMITED TO, GARDEN GROVE, CALIFORNIA (1991); PHOENIX, ARIZONA (1986); MINNEAPOLIS, MINNESOTA (1980); HOUSTON, TEXAS (1983); LOS ANGELES, CALIFORNIA (1977); INDIANAPOLIS, INDIANA (1984); AMARILLO, TEXAS (1977); CLEVELAND, OHIO (1977); AUSTIN TEXAS (1982); SEATTLE, WASHINGTON (1989); OKLAHOMA CITY, OKLAHOMA (1986); BEAUMONT, TEXAS (1982); AND WHITTIER, CALIFORNIA (1978), EXIST; AND

WHEREAS FROM REVIEW OF OTHER CITIES' STUDIES AND THEIR OWN SURVEYS AND TESTIMONY FROM ITS CITIZENS, THERE IS CONVINCING DOCUMENTED EVIDENCE THAT SEXUALLY ORIENTED BUSINESSES, BECAUSE OF THEIR VERY NATURE, HAVE A DELETERIOUS EFFECT ON BOTH EXISTING BUSINESSES AROUND THEM AND THE SURROUNDING RESIDENTIAL AREAS ADJACENT TO THEM, CAUSING AMONG OTHER ADVERSE SECONDARY EFFECTS, INCREASED CRIME AND DOWNGRADING OF PROPERTY VALUES; AND

WHEREAS, IT IS RECOGNIZED THAT SEXUALLY ORIENTED BUSINESSES DUE TO THEIR NATURE, HAVE SERIOUS OBJECTIONABLE OPERATIONAL CHARACTERISTICS, PARTICULARLY WHEN THEY ARE OPERATING IN CLOSE PROXIMITY TO EACH OTHER, THEREBY CONTRIBUTING TO CRIME, LOWER PROPERTY, VALUES URBAN BLIGHT AND DOWNGRADING OF THE QUALITY OF LIFE IN THE ADJACENT AREA; AND

WHEREAS, SEXUALLY ORIENTED BUSINESSES ARE FREQUENTLY USED FOR UNLAWFUL SEXUAL ACTIVITIES INCLUDING PROSTITUTION, SEXUAL LIAISON OF CASUAL NATURE; AND

WHEREAS, INCREASED CRIME AND UNHEALTHFUL CONDUCT TEND TO ACCOMPANY, CONCENTRATE AROUND AND BE AGGRAVATED BY SEXUALLY ORIENTED BUSINESSES INCLUDING, BUT NOT LIMITED TO, PROSTITUTION, PANDERING, EXPOSING MINORS TO HARMFUL MATERIALS POSSESSION AND DISTRIBUTION OF OBSCENE MATERIALS AND CHILD PORNOGRAPHY, POSSESSION AND SALE OF CONTROLLED SUBSTANCES AND VIOLENT CRIMES AGAINST PERSONS AND PROPERTY; AND

WHEREAS, CONCERN OVER SEXUALLY TRANSMITTED VENEREAL DISEASES, AND **AIDS**, IS A LEGITIMATE HEALTH CONCERN OF THE TOWN WHICH DEMANDS REASONABLE REGULATIONS OF SEXUALLY ORIENTED BUSINESS IN ORDER TO PROTECT THE HEALTH AND WELL-BEING OF THE CITIZENS; AND

WHEREAS, THE TOWN COUNCIL HAS CONSIDERED IN PART, EACH OF THE FOLLOWING MATTERS: (A) AREAS WITHIN WALKING DISTANCE OF SINGLE AND MULTIPLE FAMILY DWELLINGS SHOULD BE FREE OF SEXUALLY ORIENTED BUSINESS USES; (B) AREAS WHERE CHILDREN COULD BE EXPECTED TO WALK, PATRONIZE, OR FREQUENT TO BE FREE OF SEXUALLY ORIENTED BUSINESS USES; (C) SEXUALLY ORIENTED BUSINESS USES SHOULD BE LOCATED IN AREAS OF THE TOWN WHICH ARE NOT IN PROXIMITY TO RESIDENTIAL USES, CHURCHES, PARKS, OR OTHER PUBLIC FACILITIES AND SCHOOLS; (D) THE

IMAGE OF THE TOWN OF ELSINORE AS A PLEASANT ATTRACTIVE PLACE TO RESIDE WILL BE ADVERSELY AFFECTED BY THE PRESENCE OF SEXUALLY ORIENTED BUSINESS USES IN PROXIMITY TO RESIDENTIAL LAND USES, CHURCHES, PARKS AND OTHER PUBLIC FACILITIES AND SCHOOLS; (E) SEXUALLY ORIENTED BUSINESS LAND USE SHOULD BE REGULATED BY ZONING TO SEPARATE IT FROM OTHER DISSIMILAR USES JUST AS ANY OTHER LAND USE SHOULD BE SEPARATED FROM USES WITH CHARACTERISTICS DIFFERENT FROM ITSELF; (F) RESIDENTS OF THE TOWN OF ELSINORE AND PERSONS WHO ARE NONRESIDENTS BUT USE THE TOWN OF ELSINORE FOR SHOPPING AND OTHER COMMERCIAL NEEDS WILL MOVE FROM THE COMMUNITY OR SHOP ELSEWHERE IF SEXUALLY ORIENTED BUSINESS LAND USES ARE ALLOWED TO LOCATE IN CLOSE PROXIMITY TO RESIDENTIAL USES, CHURCHES, PARKS, AND OTHER PUBLIC FACILITIES, AND SCHOOLS; (G) MERCHANTS IN THE COMMERCIAL AREA OF THE TOWN ARE CONCERNED ABOUT THE ADVERSE IMPACT AND THE CHARACTER AND QUALITY OF THE TOWN IN THE EVENT THAT SEXUALLY ORIENTED BUSINESS LAND USES ARE LOCATED WITHIN CLOSE PROXIMITY TO RESIDENTIAL USES, CHURCHES, PARKS AND OTHER PUBLIC FACILITIES, AND SCHOOLS, AND THAT SUCH LOCATIONS WILL REDUCE RETAIL TRADE TO COMMERCIAL USES IN THE VICINITY, THUS REDUCING PROPERTY VALUES AND TAX REVENUES TO THE TOWN; AND THAT SUCH ADVERSE AFFECT ON THE PROPERTY VALUES AND BUSINESS WOULD CAUSE THE LOSS TO SOME COMMERCIAL DISTRICTS WITHIN THE TOWN LEADING TO FURTHER DETERIORATION OF THE COMMERCIAL QUALITY OF THE TOWN; AND (H) NO EVIDENCE HAS BEEN PRESENTED TO SHOW THAT LOCATION OF SEXUALLY ORIENTED BUSINESSES WITHIN THE TOWN WILL IMPROVE THE COMMERCIAL VIABILITY OR QUALITY OF LIFE OF THE COMMUNITY; AND

WHEREAS, ZONING, LICENSING, CITIZENS OF THE TOWN AND OTHER POLICE POWER REGULATIONS ARE LEGITIMATE MEANS OF ACCOUNTABILITY TO ENSURE THE OPERATOR (S) OF SEXUALLY ORIENTED BUSINESSES COMPLY WITH REGULATIONS AND ARE LOCATED IN PLACES WHICH MINIMIZE THE ADVERSE SECONDARY EFFECTS WHICH NATURALLY ACCOMPANY THE OPERATION; AND

WHEREAS, THE TOWN RECOGNIZES THE POSSIBLE HARMFUL EFFECTS ON CHILDREN AND MINORS EXPOSED TO THE EFFECTS OF SUCH BUSINESSES AND THE DETERIORATION OF RESPECT FOR FAMILY VALUES, AND THE AVOIDANCE OF SUCH BUSINESSES WHICH NECESSITATE CHILDREN WALKING THROUGH OR VISITING IN THE IMMEDIATE NEIGHBORHOOD OF SUCH BUSINESSES; AND

WHEREAS, THE TOWN COUNCIL FINDS THAT THERE WOULD BE A DETERIORATION IN THE QUALITY OF BUSINESSES WHICH CHOSE TO OPERATE IN AND AROUND SUCH SEXUALLY ORIENTED BUSINESSES; AND

WHEREAS, THE TOWN COUNCIL DESIRES TO CONTROL THESE ADVERSE SECONDARY EFFECTS AND THEREBY PROTECT THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS; PROTECT THE CITIZENS FROM INCREASED CRIME; PRESERVE THE QUALITY OF LIFE; PRESERVE THE PROPERTY VALUES AND THE CHARACTER OF SURROUNDING NEIGHBORHOODS AND BUSINESSES, DETER THE SPREAD OF URBAN BLIGHT AND PROTECT AGAINST THE THREAT TO HEALTH FROM THE SPREAD OF COMMUNICABLE AND SOCIAL DISEASES; AND

WHEREAS, THE TOWN COUNCIL HAS CONSIDERED THE DECISIONS OF THE UNITED STATES SUPREME COURT REGARDING LOCAL REGULATION OF SEXUALLY ORIENTED BUSINESSES, INCLUDING BUT NOT LIMITED TO, YOUNG V. AMERICAN MINI-THEATERS, INC., 427 US. 50 (1976) REH. DENIED 429 U.S.873; RENTON V PLAYTIME THEATERS, 475 US. 41 (1986) REH. DENIED 475 US. 1132; FW/PBS. INC. V. DALLAS, 493 US. 215 (1990); AND BARNES V GLEN THEATER, 501 U.S. 111 S. CT. 2456 (JUNE 21, 1991); AND CITY OF NATIONAL CITY V WIENER, ET AL, 3 CAL. 4TH 832 (1992) (AS MODIFIED JAN. 21, 1993). TOPANGA PRESS, INC., ET AL V. CITY OF LOS ANGELES, 93 D.A.R. 3585 (MARCH 22, 1993) 93 D.A.R. 5261 (AS AMENDED APR. 27, 1993); AND

WHEREAS, THE TOWN COUNCIL HAS DETERMINED THAT LOCATIONAL CRITERIA ALONE DO NOT ADEQUATELY PROTECT HEALTH, SAFETY AND GENERAL WELFARE OF THE PEOPLE OF ELSINORE AND THUS CERTAIN REQUIREMENTS WITH RESPECT TO THE OWNERSHIP AND OPERATION OF SEXUALLY ORIENTED BUSINESSES IS IN THE PUBLIC INTEREST.

WHEREAS, THE TOWN COUNCIL CONSISTENT WITH SALE AND CONSUMPTION OF ALCOHOL AND OUTSIDE ADVERTISING

LIMITATIONS FURTHER FIND THAT RESTRICTED HOURS OF OPERATION WILL FURTHER PREVENT THE ADVERSE SECONDARY EFFECTS OF SEXUALLY ORIENTED BUSINESSES.

WHEREAS, IT IS NOT THE INTENT OF THIS ORDINANCE TO SUPPRESS ANY SPEECH ACTIVITIES CONSTRUED BY THE SUPREME COURT TO PROTECT THE FIRST AMENDMENT, BUT TO ENACT A CONTENT NEUTRAL ORDINANCE WHICH ADDRESSES THE ADVERSE SECONDARY EFFECTS OF SEXUALLY ORIENTED BUSINESSES; AND

WHEREAS, IT IS NOT THE INTENT OF THE TOWN COUNCIL TO CONDONE OR LEGITIMIZE THE DISTRIBUTION OF OBSCENE MATERIAL, AND THE COUNCIL RECOGNIZES THAT STATE LAW PROHIBITS THE DISTRIBUTION OF OBSCENE MATERIALS AND EXPECTS AND ENCOURAGES STATE ENFORCEMENT OFFICIALS TO ENFORCE STATE OBSCENITY STATUTES AGAINST SUCH ILLEGAL ACTIVITIES IN ELSINORE.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF ELSINORE ORDAINS AS FOLLOWS:

13-100. **PURPOSE AND INTENT.** IT IS THE PURPOSE AND INTENT OF THIS ORDINANCE TO REGULATE SEXUALLY ORIENTED BUSINESSES TO PROMOTE THE HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE CITIZENS OF THE TOWN AND TO ESTABLISH REASONABLE AND UNIFORM REGULATIONS TO PREVENT ANY DELETERIOUS LOCATION AND CONCENTRATION OF SEXUALLY ORIENTED BUSINESSES WITHIN THE TOWN, THEREBY REDUCING OR ELIMINATING THE ADVERSE SECONDARY EFFECTS FROM SUCH SEXUALLY ORIENTED BUSINESSES. THE PROVISIONS OF THIS ORDINANCE HAVE NEITHER THE PURPOSE NOR EFFECT OF IMPOSING A LIMITATION OR RESTRICTION ON THE CONTENT OF ANY COMMUNICATIVE MATERIALS, INCLUDING SEXUALLY ORIENTED MATERIALS. SIMILARLY, IT IS NOT THE INTENT NOR EFFECT OF THIS ORDINANCE TO RESTRICT OR DENY ACCESS BY ADULTS TO SEXUALLY ORIENTED MATERIALS CONSTRUED BY THE SUPREME COURT TO PROTECT OR INDIVIDUALLY PERSONALLY ACCEPT THE FIRST AMENDMENT, OR TO DENY ACCESS BY THE DISTRIBUTORS AND EXHIBITORS OF SEXUALLY ORIENTED ENTERTAINMENT TO THEIR INTENDED MARKET. NEITHER IS IT THE INTENT NOR EFFECT OF THE ORDINANCE TO CONDONE THE DISTRIBUTION TO OBSCENE MATERIALS.

DEFINITIONS. FOR THE PURPOSES OF THIS DIVISION, CERTAIN TERMS AND WORDS ARE DEFINED AS FOLLOWS: 13-201. "SEXUALLY ORIENTED BUSINESSES: ARE THOSE BUSINESSES DEFINED AS FOLLOWS:

"ADULT ARCADE" MEANS AN ESTABLISHMENT WHERE, FOR ANY FORM OF CONSIDERATION, ONE OR MORE STILL OR MOTION PICTURE PROJECTORS, SLIDE PROJECTORS, OR SIMILAR MACHINES, OR OTHER IMAGE PRODUCING MACHINES, FOR VIEWING BY FIVE OR FEWER PERSONS EACH, ARE REGULARLY USED TO SHOW FILMS, MOTION PICTURES, VIDEO CASSETTE, SLIDES, OR OTHER PHOTOGRAPHIC REPRODUCTIONS WHICH ARE CHARACTERIZED BY THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUALLY ACTIVITIES" OR "SPECIFIED ANATOMICAL AREAS."

"ADULT BOOKSTORE", "ADULT NOVELTY STORE" OR "ADULT VIDEO STORE" MEANS A COMMERCIAL ESTABLISHMENT WHICH HAS AS A SIGNIFICANT OR SUBSTANTIAL PORTION OF ITS STOCK-IN-TRADE OR DERIVE A SIGNIFICANT OR SUBSTANTIAL PORTION OF ITS REVENUES OR DEVOTES A SIGNIFICANT OR SUBSTANTIAL PORTION OF ITS INTERIOR BUSINESS OR ADVERTISING TO THE SALE, RENTAL FOR ANY FORM OF CONSIDERATION, OF ANY ONE OR MORE OF THE FOLLOWING:

A BOOKS, MAGAZINE, PERIODICALS OR OTHER PRINTED MATTER, OR PHOTOGRAPHS, FILMS, MOTION PICTURE, VIDEO CASSETTES, SLIDES, OR OTHER VISUAL REPRESENTATIONS WHICH ARE CHARACTERIZED BY THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED ANATOMICAL AREA";

INSTRUMENTS, DEVICES, OR PARAPHERNALIA WHICH ARE DESIGNED FOR USE OR MARKETING PRIMARILY FOR STIMULATION OF HUMAN GENITAL ORGANS OR FOR SADOMASOCHISTIC USE OR ABUSE OF THEMSELVES OR OTHERS.

AN ESTABLISHMENT MAY HAVE OTHER PRINCIPAL BUSINESS PURPOSES THAT DO NOT INVOLVE THE OFFERING FOR SALE, RENTAL OR VIEWING OF MATERIALS DEPICTING OR DESCRIBING "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED

ANATOMICAL AREAS", AND STILL BE CATEGORIZED AS ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE. SUCH OTHER BUSINESS PURPOSES WILL NOT SERVE TO EXEMPT SUCH ESTABLISHMENTS FROM BEING CATEGORIZED AS AN ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE SO LONG AS ONE OF ITS PRINCIPAL BUSINESS PURPOSES IS OFFERING FOR SALE OR RENTAL, FOR SOME FORM OF CONSIDERATION, THE SPECIFIED MATERIALS WHICH DEPICT OR DESCRIBE "SPECIFIED ANATOMICAL AREAS" OR SPECIFIED SEXUAL ACTIVITIES. "

"ADULT CABARET" MEANS A NIGHTCLUB, BAR RESTAURANT "BOTTLE CLUB", OR SIMILAR COMMERCIAL ESTABLISHMENT WHETHER OR NOT ALCOHOLIC BEVERAGES ARE SERVED, WHICH REGULARLY FEATURES: (A) PERSONS WHO APPEAR SEMI-NUDE OR IN A STATE OF SEMI-NUDITY; (B) LIVE PERFORMANCES WHICH ARE CHARACTERIZED BY THE EXPOSURE OF "SPECIFIED ANATOMICAL AREAS" OR BY PICTURES, VIDEO CASSETTES, SLIDES, OR OTHER PHOTOGRAPHIC REPRODUCTIONS WHICH ARE CHARACTERIZED BY THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR SPECIFIED ANATOMICAL AREAS".

"ADULT MOTEL" MEANS A MOTEL, HOTEL OR SIMILAR COMMERCIAL ESTABLISHMENT WHICH: (A) OFFERS PUBLIC ACCOMMODATIONS, FOR ANY FORM OF CONSIDERATION WHICH PROVIDES PATRONS WITH CLOSED-CIRCUIT TELEVISION TRANSMISSIONS, FILMS, MOTION PICTURES, VIDEO CASSETTES, SLIDES OR OTHER PHOTOGRAPHIC REPRODUCTIONS WHICH ARE CHARACTERIZED BY THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED ANATOMICAL AREAS" AND WHICH ADVERTISES THE AVAILABILITY OF THIS SEXUALLY ORIENTED TYPE OF MATERIAL BY MEANS OF A SIGN VISIBLE FROM THE PUBLIC RIGHT-OF-WAY, OR BY MEANS OF ANY OFF-PREMISES ADVERTISING INCLUDING, BUT NOT LIMITED TO, NEWSPAPERS, MAGAZINES, PAMPHLETS OR LEAFLETS, RADIO OR TELEVISION, OR (B) OFFERS A SLEEPING ROOM FOR RENT FOR A PERIOD OF TIME LESS THAN TEN (10) HOURS; OR (C) ALLOWS A TENANT OR OCCUPANT TO SUB-RENT THE SLEEPING ROOM FOR A TIME PERIOD OF LESS THAN TEN (10) HOURS.

"ADULT MOTION PICTURE THEATER" MEANS A COMMERCIAL ESTABLISHMENT WHERE FILMS, MOTION PICTURE, VIDEO CASSETTES, SLIDES OR SIMILAR PHOTOGRAPHIC REPRODUCTIONS WHICH ARE CHARACTERIZED BY THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED ANATOMICAL AREAS" ARE REGULARLY SHOWN FOR ANY FORM OF CONSIDERATION.

"ADULT THEATER" MEANS A THEATER, CONCERT HALL, AUDITORIUM, OR SIMILAR COMMERCIAL ESTABLISHMENT WHICH, FOR ANY FORM OF CONSIDERATION, REGULARLY FEATURES PERSONS WHO APPEAR IN A STATE OF SEMI-NUDITY OR LIVE PERFORMANCES WHICH ARE CHARACTERIZED BY EXPOSURE OF "SPECIFIED ANATOMICAL AREAS" OR BY "SPECIFIED SEXUAL ACTIVITIES".

"ESCORT" MEANS A PERSON WHO, FOR ANY FORM OF 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 STRIPEASE FOR ANOTHER PERSON.

"ESCORT AGENCY" MEANS A PERSON OR BUSINESS ASSOCIATION WHO FURNISHES, OFFERS TO FURNISH, OR ADVERTISES TO FURNISH ESCORTS AS ONE OF ITS PRIMARY BUSINESS PURPOSES FOR A FEE, TIP, OR OTHER CONSIDERATION.

"MASSAGE PARLOR" MEANS ANY PLACE WHERE, FOR ANY FORM OF CONSIDERATION OR GRATUITY, MASSAGE, ALCOHOL RUB, ADMINISTRATION OF FOMENTATIONS, ELECTRIC OR MAGNETIC TREATMENTS, OR ANY OTHER TREATMENT OR MANIPULATION OF THE HUMAN BODY WHICH OCCURS AS A PART OF OR IN CONNECTION WITH "SPECIFIED SEXUAL ACTIVITIES", OR WHERE ANY PERSON PROVIDING SUCH TREATMENT, MANIPULATION, OR SERVICE RELATED THERETO, EXPOSES HIS OR HER "SPECIFIED ANATOMICAL AREAS". THE DEFINITION OF SEXUALLY ORIENTED BUSINESSES SHALL NOT INCLUDE THE PRACTICE OF MASSAGE IN ANY LICENSED HOSPITAL, NOR BY A LICENSED HOSPITAL, NOR BY A LICENSED PHYSICIAN, SURGEON, CHIROPRACTOR OR OSTEOPATH, NOR BY ANY NURSE OR TECHNICIAN WORKING UNDER THE SUPERVISION OF A LICENSED PHYSICIAN, SURGEON, CHIROPRACTOR OR OSTEOPATH LICENSED MASSAGE THERAPIST, NOR BY TRAINERS FOR ANY AMATEUR, SEMI-PROFESSIONAL OR PROFESSIONAL ATHLETE OR ATHLETIC TEAM OR SCHOOL ATHLETIC PROGRAM.

"SEMI-NUDE MODEL STUDIO" MEANS ANY PLACE WHERE A PERSON, WHO REGULARLY APPEARS IN A STATE OF SEMI-NUDITY IS PROVIDED FOR MONEY OR ANY FORM OF CONSIDERATION TO BE OBSERVED, SKETCHED, DRAWN, PAINTED, SCULPTURED, PHOTOGRAPHED, OR SIMILARLY DEPICTED BY OTHER PERSONS.

"SEXUALENCOUNTER ESTABLISHMENT" MEANS A BUSINESS OR COMMERCIAL ESTABLISHMENT, THAT AS ONE OF ITS PRIMARY BUSINESS PURPOSES, OFFERS FOR ANY FORM OF CONSIDERATION, A PLACE WHERE TWO OR MORE PERSONS MAY CONGREGATE, ASSOCIATE, OR CONSORT FOR THE PURPOSE OF "SPECIFIED SEXUAL ACTIVITIES" WHEN ONE OR MORE OF THE PERSONS IS SEMI-NUDE.

"EMPLOYMENT" MEANS A PERSON WHO WORKS OR PERFORMS IN AND/OR FOR A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT SAID PERSON IS PAID A SALARY, WAGE OR OTHER COMPENSATION BY THE OPERATOR OF SAID BUSINESS.

THE "ESTABLISHMENT" MEANS AND INCLUDES ANY OF THE FOLLOWING:

- THE OPENING OR COMMENCEMENT SUCH BUSINESS AS A NEW BUSINESS;
- THE CONVERSION OF AN EXISTING BUSINESS, WHETHER OR NOT A SEXUALLY ORIENTED BUSINESS, TO ANY OF THE SEXUALLY ORIENTED BUSINESSES DEFINED IN THIS CHAPTER;
- THE ADDITION OF ANY OF THE SEXUALLY ORIENTED BUSINESSES DEFINED IN THIS CHAPTER TO ANY OTHER EXISTING SEXUALLY ORIENTED BUSINESS OR
- THE RELOCATION OF ANY SUCH SEXUALLY ORIENTED BUSINESS.

"NUDITY OR STATE OF NUDITY" MEANS: (A) THE APPEARANCE OF HUMAN BARE BUTTOCK, ANUS, MALE GENITALS, FEMALE GENITALS, OR THE AREOLA OR NIPPLE OF THE FEMALE BREAST; OR (B) A STATE OF DRESS WHICH FAILS TO OPAQUELY AND FULLY COVER A HUMAN BUTTOCK, ANUS, MALE OR FEMALE GENITALS, PUBIC REGION OR AREOLA OR NIPPLE OF THE FEMALE BREAST.

"OPERATOR" MEANS AND INCLUDES THE OWNER, PERMIT HOLDER, CUSTODIAN, MANAGER, OPERATOR OR PERSON IN CHARGE OF ANY PERMITTED OR LICENSED PREMISES.

"PUBLIC BUILDING" MEANS ANY BUILDING OWNED, LEASED OR HELD BY THE UNITED STATES, THE STATE, THE COUNTY, THE CITY, ANY SPECIAL DISTRICT, SCHOOL DISTRICT, OR ANY OTHER AGENCY OR POLITICAL SUBDIVISION OF THE STATE OR THE UNITED STATES, WHICH BUILDING IS USED FOR GOVERNMENTAL PURPOSES.

"PUBLIC PARK" OR "RECREATION AREA" MEANS PUBLIC LAND WHICH HAS BEEN DESIGNATED FOR PARK OR RECREATIONAL ACTIVITIES INCLUDING BUT NOT LIMITED TO A PARK, PLAYGROUND, NATURE TRAILS, SWIMMING POOL, RESERVOIR, ATHLETIC FIELD, BASKETBALL OR TENNIS COURTS, PEDESTRIAN/BICYCLE PATHS, OPEN SPACE, WILDERNESS AREAS, OR SIMILAR PUBLIC LAND WITHIN THE TOWN WHICH IS UNDER THE CONTROL, OPERATION, OR MANAGEMENT OF THE TOWN PARK AND RECREATION AUTHORITIES.

"RELIGIOUS INSTITUTION" MEANS ANY CHURCH, SYNAGOGUE, MOSQUE, TEMPLE OR BUILDING WHICH IS USED PRIMARIL Y FOR RELIGIOUS WORSHIP AND RELATED RELIGIOUS ACTIVITIES.

"SCHOOL" MEANS ANY PUBLIC OR PRIVATE EDUCATIONAL FACILITY INCLUDING, BUT NOT LIMITED TO, CHILD DAY CARE FACILITIES, NURSERY SCHOOLS, PRESCHOOLS,

KINDERGARTENS, ELEMENTARY SCHOOLS, PRIMARY SCHOOLS, INTERMEDIATE SCHOOLS, JUNIOR HIGH SCHOOLS, MIDDLE SCHOOLS, HIGH SCHOOLS, VOCATIONAL SCHOOLS, SECONDARY SCHOOLS, CONTINUATION SCHOOLS, SPECIAL EDUCATION SCHOOLS, JUNIOR COLLEGES, AND UNIVERSITIES. SCHOOL INCLUDES THE SCHOOL GROUNDS BUT DOES NOT INCLUDE THE FACILITIES USED PRIMARILY FOR ANOTHER PURPOSE AND ONLY INCIDENTALLY AS A SCHOOL.

"PERMITTED OR LICENSED PREMISES" MEANS ANY PREMISES THAT REQUIRED A LICENSE AND/OR PERMIT AND THAT IS CLASSIFIED AS A SEXUALLY ORIENTED BUSINESS.

"PERMITTEE AND/OR LICENSEE" MEANS A PERSON IN WHOSE NAME A PERMIT AND/OR LICENSE TO OPERATE A SEXUALLY ORIENTED BUSINESS HAS BEEN ISSUED, AS WELL AS THE INDIVIDUAL LISTED AS AN APPLICANT ON THE APPLICATION FOR A PERMIT AND/OR LICENSE.

"PERSON" MEANS AS INDIVIDUAL, PROPRIETORSHIP, LEGAL ENTITY.

"SEXUALLY ORIENTED BUSINESS" MEANS AN ADULT ARCADE, ADULT BOOKSTORE, ADULT NOVELTY SHOP, ADULT VIDEO STORE, ADULT CABARET, ADULT MOTEL, ADULT MOTION PICTURE THEATER, ADULT THEATER, MASSAGE PARLOR, SEXUAL ENCOUNTER ESTABLISHMENT, ESCORT AGENCY OR SEMI-NUDE MODEL STUDIO.

"RESIDENTIAL DISTRICT OR USE" MEANS A SINGLE FAMILY DUPLEX, TOWNHOUSE, MULTIPLE FAMILY, OR MOBILE PARK OR SUBDIVISION AS DEFINED IN THE ELSINORE ZONING ORDINANCE.

"SPECIFIED ANATOMICAL AREAS," AS USED IN THIS DIVISION MEANS AND INCLUDES ANY OF THE FOLLOWING:

- LESS THAN COMPLETELY AND OPAQUELY COVERED HUMAN GENITALS, PUBIC REGION, BUTTOCKS, ANUS, OR FEMALE BREASTS BELOW A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA; OR
- HUMAN MALE GENITAL IN A DISCERNIBLE TURGID STATE, EVEN IF COMPLETELY AND OPAQUELY COVERED.

"SPECIFIED SEXUAL ACTIVITIES," AS USED IN THIS DIVISION, MEANS AND INCLUDES ANY OF THE FOLLOWING:

- THE FONDLING OR OTHER INTENTIONAL TOUCHING OF HUMAN GENITALS, PUBIC REGION, BUTTOCKS, ANUS, OR FEMALE BREASTS;
- SEX ACTS, NORMAL OR PERVERTED, ACTUAL OR SIMULATED, INCLUDING INTERCOURSE, ORAL COPULATION, OR SODOMY;
- MASTURBATION, ACTUAL OR SIMULATED; OR
- HUMAN GENITALS IN A STATE OF SEXUAL STIMULATION AROUSAL OR TUMESCENCE;
- EXCRETORY FUNCTIONS AS PART OF OR IN CONNECTION WITH ANY OF THE ACTIVITIES SET FORTH IN SUBDIVISIONS (13.216.1) THROUGH (13-216.4) OF THIS SUBSECTION.

"SEMI-NUDE" MEANS A STATE OF DRESS IN WHICH CLOTHING COVERS NO MORE THAN THE GENITALS, PUBIC REGION, AN AREOLAE OF THE FEMALE BREAST, AS WELL AS PORTIONS OF THE BODY COVERED BY SUPPORTING STRAPS OR DEVICES.

"SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS" MEANS INCREASE IN THE FLOOR AREAS OCCUPIED BY THE BUSINESS BY MORE THAN 75%, AS THE FLOOR AREAS EXIST ON DATE OF ENACTMENT OF THE ORDINANCE.

"TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS" MEANS AND INCLUDES ANY OF THE FOLLOWING:

- THE SALE, LEASE OR SUBLEASE OF THE BUSINESS.
- THE TRANSFER OF SECURITIES WHICH CONSTITUTE A CONTROLLING INTEREST IN THE BUSINESS, WHETHER BY SALE, EXCHANGE OR SIMILAR MEANS;
- THE ESTABLISHMENT OF A TRUST, GIFT OR OTHER SIMILAR LEGAL DEVICE WHICH TRANSFERS OWNERSHIP OF CONTROL OF THE BUSINESS, EXCEPT FOR TRANSFER BY BEQUEST OF OTHER OPERATION OF LAW UPON THE DEATH OF A PERSON POSSESSION THE OWNERSHIP OR CONTROL.

ESTABLISHMENT AND CLASSIFICATION OF BUSINESS REGULATED. THE ESTABLISHMENT OF A SEXUALLY ORIENTED BUSINESS SHALL BE PERMITTED ONLY IN THE SPECIFIED ZONING AND SHALL BE SUBJECT TO THE FOLLOWING RESTRICTION:

NO PERSON SHALL CAUSE OR PERMIT THE ESTABLISHMENT OF ANY OF THE FOLLOWING SEXUALLY ORIENTED BUSINESSES, AS DEFINED ABOVE, WITHIN 5,280 FEET OF ANOTHER SUCH BUSINESS OR WITHIN 5,280 FEET OF ANY RELIGIOUS INSTITUTION, SCHOOL, BOYS' CLUB GIRLS' CLUB, OR SIMILAR EXISTING YOUTH ORGANIZATION, OR PUBLIC PARK OR PUBLIC BUILDING, OR WITHIN 5,280 FEET OF ANY PROPERTY ZONED FOR RESIDENTIAL USE OR USED FOR RESIDENTIAL PURPOSES AND ARE CLASSIFIED AS FOLLOWS:

- ADULT ARCADE
- ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE
- ADULT CABARET
- ADULT MOTEL
- ADULT MOTION PICTURE THEATER
- ADULT THEATER
- MASSAGE PARLOR
- SEXUAL ENCOUNTER ESTABLISHMENT
- ESCORT AGENCY, OR
- SEMI-NUDE MODEL STUDIO

MEASUREMENT OF DISTANCE. AS REGARDING SECTION 3, PARAGRAPH 13-301. , DISTANCE BETWEEN ANY TWO SEXUALLY ORIENTED BUSINESSES SHALL BE MEASURED IN A STRAIGHT LINE, WITHOUT REGARD TO INTERVENING STRUCTURES, FROM THE CLOSEST EXTERIOR STRUCTURAL WALL OF EACH BUSINESS. THE DISTANCE BETWEEN ANY SEXUALLY ORIENTED BUSINESS AND ANY RELIGIOUS INSTITUTION, PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL, BOYS CLUB, GIRLS CLUB, OR SIMILAR EXISTING YOUTH ORGANIZATION, OR PUBLIC PARK OR PUBLIC BUILDING OR ANY PROPERTIES ZONED FOR RESIDENTIAL PURPOSES SHALL ALSO BE MEASURED IN A STRAIGHT LINE, WITHOUT REGARD TO INTERVENING STRUCTURES OR OBJECTS FROM THE NEAREST PORTION OF THE BUILDING OR STRUCTURE USED AS PART OF THE PREMISES WHERE THE SEXUALLY ORIENTED BUSINESS IS CONDUCTED, TO THE NEAREST PROPERTY LINE OF THE PREMISES OF A RELIGIOUS INSTITUTION, PUBLIC OR PRIVATE ELEMENTARY OR SECONDARY SCHOOL, BOYS CLUB, GIRLS CLUB, OR SIMILAR EXISTING YOUTH ORGANIZATION, OR PUBLIC PARK OR PUBLIC BUILDING OR ANY PROPERTIES ZONED FOR RESIDENTIAL USE OR USED FOR RESIDENTIAL PURPOSES.

LOCATION OF SEXUALLY ORIENTED BUSINESSES. THE TOWN OF ELSINORE'S ZONING ORDINANCE HEREBY REQUIRES THAT SEXUALLY ORIENTED BUSINESSES SHALL BE PERMITTED ONLY IN SUCH ZONING AS PROVIDED IN SECTION 13.300. PERMITS OR SEXUALLY ORIENTED BUSINESSES SHALL BE REQUIRED AND GOVERNED BY THE PROCEDURES AND POLICIES SPECIFIED IN SECTION 13-800 ET SEQ. OF THIS DIVISION. IN ADDITION, ANY SEXUALLY ORIENTED BUSINESS SHALL BE SUBJECT TO THE

FOLLOWING RESTRICTIONS:

THE PERSON COMMITS A MISDEMEANOR, IF HE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS.

THE PERSON COMMITS A MISDEMEANOR IF HE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS WITHIN 5,280 FEET OF: (A) ANY RELIGIOUS INSTITUTION; (B) ANY SCHOOL; (C) THE BOUNDARY OF ANY RESIDENTIAL DISTRICT; (D) A PUBLIC PARK ADJACENT TO ANY RESIDENTIAL DISTRICT; (E) A PROPERTY LINE OF A LOT DEVOTED TO RESIDENTIAL USE; OR (F) A BOY'S CLUB, GIRLS CLUB, OR SIMILAR EXISTING YOUTH ORGANIZATION.

A PERSON COMMITS A MISDEMEANOR IF HE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS WITHIN 5,280 FEET OF ANOTHER SUCH BUSINESS, WHICH WILL INCLUDE, ANY ADULT ARCADE, ADULT BOOK STORE, ADULT VIDEO STORE, ADULT CABARET, ADULT MOTEL, ADULT MOTION PICTURE THEATER, ADULT THEATER, MASSAGE PARLOR OR ANY SEXUAL ENCOUNTER ESTABLISHMENT.

A PERSON COMMITS A MISDEMEANOR IF HE CAUSES OR PERMITS THE OPERATION ESTABLISHMENT, OR MAINTENANCE OR MORE THAN ONE SEXUALLY ORIENTED BUSINESS WITHIN THE SAME BUILDING, STRUCTURE, OR PORTION THEREOF, OR CAUSES THE SUBSTANTIAL ENLARGEMENT OF ANY SEXUALLY ORIENTED BUSINESS IN ANY BUILDING, STRUCTURE OR PORTION THEREOF CONTAINING ANOTHER SEXUALLY ORIENTED BUSINESS.

REGULATIONS GOVERNING EXISTING SEXUALLY ORIENTED BUSINESSES.

ANY SEXUALLY ORIENTED BUSINESSES LAWFULLY OPERATING ON A DATE OF ENACTMENT OF THIS ORDINANCE THAT IS IN VIOLATION OF SECTIONS 13-300 AND 13-500 OF THIS DIVISION, SHALL BE DEEMED A NON-CONFORMING USE. A NON-CONFORMING USE SHALL IMMEDIATELY RESULT IN LICENSE REVOCATION. ALL BUSINESS SHALL CEASE IMMEDIATELY AND THE POLICE WILL BARRICADE THE PREMISES SUFFICIENT TO PREVENT ENTRY EXCEPT ENTRY ASSOCIATED WITH THE SALE OF THE REAL PROPERTY.

INJUNCTION. A PERSON WHO OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS WITHOUT HAVING A VALID PERMIT DUE TO LOCATIONAL RESTRICTIONS IS SUBJECT TO A SUIT FOR INJUNCTION AS WELL AS PROSECUTION FOR THE CRIMINAL VIOLATION SUCH VIOLATION SHALL BE PUNISHABLE BY A FINE OF \$10,000 AND/OR THIRTY (30) DAYS IMPRISONMENT, AND IF AN INJUNCTION MUST BE SOUGHT, ATTORNEYS' FEES AND COSTS WILL BE ASSESSED AGAINST THE SEXUALLY ORIENTED BUSINESS SEXUALLY ORIENTED BUSINESS PERMITS

PURPOSE AND INTENT. IT IS THE PURPOSE OF THIS ORDINANCE TO REGULATE SEXUALLY ORIENTED BUSINESSES TO PROMOTE THE HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE CITIZENS OF THE TOWN, AND TO ESTABLISH REASONABLE AND UNIFORM REGULATIONS TO PREVENT DELETERIOUS EFFECTS OF SEXUALLY ORIENTED BUSINESSES WITHIN THE TOWN.

PERMIT REQUIRED

NO SEXUALLY ORIENTED BUSINESS SHALL BE PERMITTED TO OPERATE WITHOUT A VALID SEXUALLY ORIENTED BUSINESS PERMIT ISSUED BY THE TOWN FOR THE PARTICULAR TYPE OF BUSINESS. IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS WITHOUT SAID PERMIT.

THE PLANNING COMMISSION IS RESPONSIBLE FOR GRANTING, DENYING, REVOKING, RENEWING, SUSPENDING, AND CANCELING SEXUALLY ORIENTED BUSINESS PERMITS FOR PROPOSED OR EXISTING SEXUALLY ORIENTED BUSINESSES. THE PLANNING COMMISSION IS ALSO RESPONSIBLE FOR ASCERTAINING WHETHER A PROPOSED SEXUALLY ORIENTED BUSINESS

FOR WHICH A PERMIT IS BEING APPLIED FOR COMPLIES WITH ALL LOCATIONAL REQUIREMENTS OF SECTION 13-300., 13-500., AND 13-600. OF THIS ORDINANCE, ALL APPLICABLE ZONING LAWS AND/OR EFFECTIVE DATE OF THIS ORDINANCE IN THE TOWN AND THE TOWN MASTER PLAN. THE PLANNING COMMISSION IS AUTHORIZED AND DIRECTED TO EXPEND THE NON-REFUNDABLE APPLICATION FEE TO HIRE PROFESSIONAL BACKGROUND INVESTIGATORS FOR COMPREHENSIVE AND EXTENSIVE INVESTIGATIONS OF THE APPLICANT (S). THE PLANNING COMMISSION IS RESPONSIBLE FOR PROVIDING INFORMATION ON WHETHER AN APPLICANT HAS BEEN CONVICTED OF A SPECIFIED CRIMINAL ACT DURING THE TIME PERIOD SET FORTH. THE MAYOR AND TOWN COUNCIL ARE RESPONSIBLE FOR PROVIDING INFORMATION ON WHETHER AN APPLICANT HAS BEEN CONVICTED OF A SPECIFIED CRIMINAL ACT DURING THE TIME PERIOD SET FORTH. A TOWN REPRESENTATIVE IS RESPONSIBLE FOR INSPECTING A PROPOSED, PERMITTED OR NON-PERMITTED SEXUALLY ORIENTED BUSINESS IN ORDER TO ASCERTAIN WHETHER IT IS IN COMPLIANCE WITH APPLICABLE ORDINANCES. THE MAYOR, TOWN COUNCIL, MEMBERS OF THE PLANNING AND ZONING COMMISSION, POLICE OFFICERS AND CITIZENS OF THE TOWN OF ELSINORE ARE RESPONSIBLE TO INSPECT THE SEXUALLY ORIENTED BUSINESS TO ASCERTAIN WHETHER IT IS IN COMPLIANCE WITH APPLICABLE STATUTES AND ORDINANCES.

AN APPLICATION FOR A PERMIT MUST BE MADE ON A FORM PROVIDED BY THE TOWN. ANY PERSON DESIRING TO OPERATE A SEXUALLY ORIENTED BUSINESS SHALL FILE WITH THE TOWN AN ORIGINAL AND TWO COPIES OF A SWORN PERMIT APPLICATION ON THE STANDARD APPLICATION FORM SUPPLIED BY THE TOWN OR DESIGNEE.

THE COMPLETE APPLICATION SHALL CONTAIN THE FOLLOWING INFORMATION AND SHALL BE ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

IF THE APPLICANT IS:

- AN INDIVIDUAL, THE INDIVIDUAL SHALL STATE HIS/HER LEGAL NAME AND ANY ALIASES AND SUBMIT SATISFACTORY PROOF THAT HE/SHE IS EIGHTEEN YEARS OF AGE.
- A PARTNERSHIP, THE PARTNERSHIP SHALL STATE ITS COMPLETE NAME, AND THE NAMES OF ALL PARTNERS, WHETHER THE PARTNERSHIP IS GENERAL OR LIMITED, AND A COPY OF THE PARTNERSHIP AGREEMENT, IF ANY;
- A CORPORATION, THE CORPORATION SHALL STATE ITS COMPLETE NAME, THE DATE OF ITS INCORPORATION, EVIDENCE THAT THE CORPORATION IS IN GOOD STANDING UNDER THE LAWS OF UTAH, THE NAMES AND CAPACITY OF ALL OFFICERS, DIRECTORS AND PRINCIPAL STOCKHOLDERS, AND THE NAME OF THE REGISTERED CORPORATE AGENT AND THE ADDRESS OF THE REGISTERED OFFICE FOR SERVICE OF PROCESS.
- IF THE APPLICANT INTENDS TO OPERATE THE SEXUALLY ORIENTED BUSINESS UNDER A NAME OTHER THAN THAT OF THE APPLICANT; HE MUST STATE (1) THE SEXUALLY ORIENTED BUSINESS'S FICTITIOUS NAME AND (2) SUBMIT THE REQUIRED UTAH REGISTRATION DOCUMENTS.
- WHETHER THE APPLICANT OR ANY OF THE OTHER INDIVIDUALS LISTED PURSUANT TO THIS ORDINANCE HAS, WITHIN THE TEN (10) YEAR PERIOD AS SPECIFIED IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, BEEN CONVICTED OF A SPECIFIED CRIMINAL ACT, AND, IF SO, THE SPECIFIED CRIMINAL ACT INVOLVED, THE DATE OF CONVICTION AND THE PLACE OF CONVICTION:
- WHETHER THE APPLICANT OR ANY OF THE OTHER INDIVIDUALS AND/OR LICENSES OF THIS ORDINANCE HAS HAD A PREVIOUS PERMIT UNDER ORDINANCE OR OTHER SIMILAR SEXUALLY ORIENTED BUSINESS ORDINANCES FROM ANOTHER TOWN OR COUNTY DENIED, SUSPENDED OR REVOKED, INCLUDING THE NAME AND LOCATION OF THE SEXUALLY ORIENTED BUSINESS FOR WHICH THE PERMIT WAS DENIED, SUSPENDED OR REVOKED, AS WELL AND THE DATE OF THE DENIAL, SUSPENSION OR REVOCATION, AND WHETHER THE APPLICANT OR ANY OTHER INDIVIDUALS LISTED HAS BEEN A PARTNER IN A PARTNERSHIP OR AN OFFICER, DIRECTOR OR PRINCIPAL STOCKHOLDER OF A CORPORATION THAT IS PERMITTED UNDER THIS ORDINANCE WHOSE PERMIT HAS PREVIOUSLY BEEN DENIED, SUSPENDED OR REVOKED, INCLUDING THE NAME AND LOCATION OF THE SEXUALLY ORIENTED BUSINESS FOR WHICH THE PERMIT WAS DENIED, SUSPENDED OR REVOKED AS WELL AS THE DATE OF DENIAL, SUSPENSION OR REVOCATION.
- WHETHER THE APPLICANT OR ANY OTHER INDIVIDUAL LISTED HOLDS ANY OTHER PERMITS AND/OR LICENSES UNDER THIS ORDINANCE OR OTHER SIMILAR SEXUALLY ORIENTED BUSINESS ORDINANCE

FROM ANOTHER TOWN OR COUNTY AND, IF SO, THE NAMES AND LOCATIONS OF SUCH OTHER PERMITTED BUSINESSES.

- THE SINGLE CLASSIFICATION OF PERMIT FOR WHICH THE APPLICANT IS FILING.
- THE LOCATION OF THE PROPOSED SEXUALLY ORIENTED BUSINESS, INCLUDING A LEGAL DESCRIPTION OF THE PROPERTY, STREET ADDRESS, AND TELEPHONE NUMBER(S), IF ANY.
- THE APPLICANT'S MAILING ADDRESSES AND RESIDENTIAL ADDRESS.
- RECENT, GOOD QUALITY, COLOR PHOTOGRAPHS, 8 1/2" X 12", SHOWING FRONTAL AND SIDE VIEWS OF THE HEAD AND FACE.
- THE APPLICANT'S DRIVER'S PERMIT NUMBER, SOCIAL SECURITY NUMBER, AND HIS/HER STATE OF FEDERALLY ISSUED TAX IDENTIFICATION NUMBER.
- A SKETCH OF DIAGRAM SHOWING THE CONFIGURATION OF MARKED DIMENSIONS OF THE INTERIOR OF THE PREMISES TO AN ACCURACY OF PLUS OR MINUS SIX (6) INCHES.
- A PROFESSIONALLY PREPARED ENGINEERING PLAT IN FULL COMPLIANCE WITH TOWN OF ELSINORE SUBDIVISION ORDINANCES AND THE PLANNING AND ZONING COMMISSION REQUIREMENTS UNDER APPLICABLE ZONING ORDINANCES.
- A CURRENT CERTIFICATE AND STRAIGHT-LINE DRAWING PREPARED WITHIN THIRTY (30) DAYS PRIOR TO APPLICATION BY A UTAH REGISTERED LAND SURVEYOR DEPICTING THE PROPERTY LINES AND THE STRUCTURES CONTAINING ANY ESTABLISHED EXISTING USES REGULATED BY THIS ORDINANCE WITHIN 5,280 FEET OF THE PROPERTY TO BE CERTIFIED; THE PROPERTY LINES OF ANY ESTABLISHED RELIGIOUS INSTITUTION/SYNAGOGUE, SCHOOL, OR PUBLIC PARK OR RECREATION AREA WITHIN 5,280 FEET OF THE PROPERTY TO BE CERTIFIED; AND THE PROPERTY LINES OF ANY RESIDENTIALLY ZONED AREA OR RESIDENTIAL PROPERTY WITHIN 5,280 FEET OF THE PROPERTY TO BE CERTIFIED. FOR PURPOSES OF THIS SECTION, A USE SHALL BE CONSIDERED EXISTING OR ESTABLISHED IF IT IS IN EXISTENCE AT THE TIME AN APPLICATION IS SUBMITTED.
- IF A PERSON WHO WISHES TO OPERATE A SEXUALLY ORIENTED BUSINESS IS AN INDIVIDUAL, HE/SHE MUST SIGN THE APPLICATION FOR A PERMIT AS APPLICANT. IF A PERSON WHO WISHES TO OPERATE A SEXUALLY ORIENTED BUSINESS IS OTHER THAN AN INDIVIDUAL, EACH INDIVIDUAL WHO HAS A ONE PERCENT (1%) OR GREATER INTEREST IN THE BUSINESS MUST SIGN THE APPLICATION FOR A PERMIT APPLICANT. IF A CORPORATION IS LISTED AS OWNER OF A SEXUALLY ORIENTED BUSINESS OR AS THE ENTITY WHICH WISHES TO OPERATE SUCH A BUSINESS, EACH INDIVIDUAL HAVING A ONE PERCENT (1%) OR GREATER INTEREST IN THE CORPORATION MUST SIGN THE APPLICATION FOR A PERMIT AS APPLICANT.
- IF A PERSON WISHES TO OPERATE A SEXUALLY ORIENTED BUSINESS WHICH SHALL EXHIBIT ON THE PREMISES FILMS, VIDEO CASSETTES, OR OTHER VIDEO REPRODUCTIONS WHICH DEPICT SPECIFIED SEXUAL ACTIVITIES OR SPECIFIED ANATOMICAL AREA, THEN SAID PERSON SHALL COMPLY WITH THE APPLICATION REQUIREMENTS STATED IN THIS ORDINANCE.

APPLICANTS FOR A PERMIT UNDER THIS SECTION SHALL HAVE A CONTINUING DUTY TO PROMPTLY SUPPLEMENT APPLICATION INFORMATION REQUIRED BY THIS SECTION IN THE EVENT THAT SAID INFORMATION CHANGES IN ANYWAY FROM WHAT IS STATED ON THE APPLICATION. THE FAILURE TO COMPLY WITH SAID CONTINUING DUTY WITHIN THIRTY (30) DAYS FROM THE DATE OF SUCH CHANGE, BY SUPPLEMENTING THE APPLICATION ON FILE WITH THE TOWN MANAGER OR HIS/HER DESIGNEE, SHALL BE GROUNDS FOR DENIAL OF A PERMIT.

THE APPLICANT MUST BE QUALIFIED ACCORDING TO THE PROVISIONS OF THIS ORDINANCE AND THE PREMISES MUST BE INSPECTED AND FOUND TO BE IN COMPLIANCE WITH HEALTH, FIRE AND BUILDING CODES AND LAWS.

THE APPLICANT SHALL BE REQUIRED TO PAY A NON-REFUNDABLE APPLICATION FEE OF TWENTY-FIVE THOUSAND DOLLARS (25,000.00) AT THE TIME OF FILING AN APPLICATION UNDER THIS SECTION OF THIS ORDINANCE. THE FILING FEE SHALL BE USED FOR INVESTIGATIONS NECESSARY TO VERIFY INFORMATION FURNISHED IN THE BUSINESS APPLICATION. IF ADDITIONAL FUNDS ARE REQUIRED AS SUCH COULD BE THE CASE WITH A MULTIPLE OWNER CORPORATION, THE

REQUIREMENT WILL BE IDENTIFIED. ACTION TO ISSUE THE PERMIT SHALL STOP UNTIL RECEIPT OF ADDITIONALLY REQUIRED FUNDS.

PRIOR TO OBTAINING ANY PERMIT OR LICENSE TO OPERATE ANY SEXUALLY ORIENTED BUSINESS DEFINED IN THIS ORDINANCE AND AS PART OF ANY APPLICATIONN FOR A PERMIT UNDER THIS SECTION, THE APPLICANT SHALL OBTAIN FROM THE TOWN OR ITS DESIGNEE A CERTIFICATION THAT THE PROPOSED LOCATION OF SUCH BUSINESS COMPLIES WITH THE LOCATIONAL REQUIREMENTS OF THIS ORDINANCE.

THE FACT THAT A PERSON POSSESSES OTHER TYPES OF STATE OR TOWN PERMITS AND/OR LICENSES DOES EXEMPT HIM/HER FROM THE REQUIREMENT OF OBTAIN A SEXUALLY ORIENTED BUSINESS PERMIT.

BY APPLYING FOR A PERMIT UNDER THIS ORDINANCE, THE APPLICANT SHALL BE DEEMED TO HAVE CONSENTED TO THE PROVISIONS OF THIS ORDINANCE AND TO THE EXERCISE BY THE POLICE, MAYOR, THE TOWN COUNCIL, AND/OR ANY OTHER TOWN OFFICIAL CHARGED WITH ENFORCING THE LAWS, ORDINANCES AND CODES APPLICABLE IN THE TOWN OF THEIR RESPECTIVE RESPONSIBILITIES UNDER THIS ORDINANCE.

THE APPLICANT SHALL BE REQUIRED TO PROVIDE THE TOWN WITH THE NAMES OF ANY AND ALL EMPLOYEES WHO ARE REQUIRED TO BE LICENSED. THIS SHALL BE A CONTINUING REQUIREMENT EVEN AFTER A PERMIT IS GRANTED OR RENEWED.

INVESTIGATION AND APPLICATION

UPON RECEIPT OF AN APPLICATION PROPERLY FILED WITH THE TOWN AND UPON PAYMENT OF THE NON-REFUNDABLE APPLICATION FEE, THE TOWN, OR ITS DESIGNEE, SHALL IMMEDIATELY MAKE THE APPLICATION AS RECEIVED. INVESTIGATION SHALL BE COMPLETED WITHIN 180 DAYS OF RECEIPT OF THE APPLICATION BY THE TOWN OR ITS DESIGNEE.

THE PLANNING COMMISSION, MAYOR AND/OR TOWN COUNCIL SHALL DISAPPROVE AN APPLICATION IF IT FINDS THAT THE PROPOSED SEXUALLY ORIENTED BUSINESS WILL BE IN VIOLATION OF ANY PROVISION OF ANY STATUTE, CODE, ORDINANCE, REGULATION OR OTHER LAW IN EFFECT IN THE TOWN.

ISSUANCE OF PERMIT

THE MAYOR AND/OR TOWN COUNCIL OR ITS DESIGNEES, SHALL GRANT OR DENY AN APPLICATION FOR A PERMIT WITHIN 180 DAYS FROM THE DATE OF ITS PROPER FILING.

GRANT OF APPLICATION FOR PERMIT.

THE MAYOR AND/OR TOWN COUNCIL SHALL GRANT THE APPLICATION UNLESS ONE OR MORE OF THE CRITERIA SET FORTH IN SECTION C BELOW IS PRESENT.

THE PERMIT, IF GRANTED, SHALL STATE ON ITS FACE THE NAME OF THE PERSON OR PERSONS TO WHOM IT IS GRANTED, THE EXPIRATION DATE, AND THE ADDRESS OF THE SEXUALLY ORIENTED BUSINESS. THE PERMIT SHALL ALSO INDICATE THAT THE SEXUALLY ORIENTED BUSINESS WHETHER PERMITTED OR NOT MAY BE SUBJECT TO INDECENCY PURSUANT TO THE UNITED STATES SUPREME COURT DECISION IN BARNES V GLEN THEATER, INC., 111 S. CT. 2456 (JUNE 21, 1991). THE PERMIT SHALL BE POSTED IN A CONSPICUOUS PLACE AT OR NEAR THE ENTRANCE TO THE SEXUALLY ORIENTED BUSINESS SO THAT IT CAN BE READ EASILY AT ANY TIME.

DENIAL OF APPLICATION FOR PERMIT.

THE MAYOR AND/OR TOWN COUNCIL SHALL DENY THE APPLICATION FOR ANY OF THE FOLLOWING REASONS:

AN APPLICANT IS UNDER EIGHTEEN YEARS OF AGE.

AN APPLICANT OR AN APPLICANT'S SPOUSE IS OVERDUE ON HIS/HER PAYMENT TO THE TOWN OR STATE OF TAXES, FEES, FINES OR PENAL TIES ASSESSED AGAINST HIM/HER OR IMPOSED UPON HIM/HER IN RELATION TO A SEXUALLY ORIENTED BUSINESS.

AN APPLICANT IS RESIDING WITH A PERSON WHO HAS BEEN DENIED A PERMIT BY THE TOWN TO OPERATE A SEXUALLY ORIENTED BUSINESS WITHIN THE PRECEDING TWELVE (12) MONTHS OR RESIDING WITH A PERSON WHOSE PERMIT TO OPERATE A SEXUALLY ORIENTED BUSINESS HAS BEEN REVOKED WITHIN THE PRECEDING TWELVE (12) MONTHS.

AN APPLICANT HAS FAILED TO PROVIDE INFORMATION REQUIRED BY THIS SECTION OR PERMIT APPLICATION FOR THE ISSUANCE OF THE PERMIT OR HAS FALSELY ANSWERED A QUESTION OR REQUEST FOR INFORMATION ON THE APPLICATION FORM.

THE PREMISES TO BE USED FOR THE SEXUALLY ORIENTED BUSINESS HAVE NOT BEEN APPROVED AS BEING IN COMPLIANCE WITH HEALTH, FIRE AND BUILDING CODES BY THE DEPARTMENT OR AGENCY RESPONSIBLE UNDER LAWS FOR INVESTIGATION OF SAID COMPLIANCE.

IF THE APPLICATION OR PERMIT FEES REQUIRED BY THIS ORDINANCE HAVE NOT BEEN PAID.

AN APPLICANT OF THE PROPOSED BUSINESS IS IN VIOLATION OF, OR IS NOT IN COMPLIANCE WITH, ANY OF THE PROVISIONS OF THIS ORDINANCE INCLUDING, BUT NOT LIMITED TO, THE ZONING LOCATIONAL REQUIREMENTS FOR A SEXUALLY ORIENTED BUSINESS.

THE GRANTING OF THE APPLICATION WOULD VIOLATE A STATUTE, ORDINANCE, OR COURT ORDER.

THE APPLICANT HAS A PERMIT UNDER THIS ORDINANCE WHICH HAS BEEN SUSPENDED OR REVOKED.

AN APPLICANT HAS BEEN CONVICTED OF A "SPECIFIED CRIMINAL" ACT FOR WHICH LESS THAN TEN (10) YEARS HAVE ELAPSED SINCE THE DATE OF CONVICTION OR THE DATE OF RELEASE FROM CONFINEMENT, WHICHEVER IS THE LATER DATE, IF THE CONVICTION IS OF A MISDEMEANOR OFFENSE FOR THE "SPECIFIED CRIMINAL" ACTS WHICH ARE SEXUAL CRIMES AGAINST CHILDREN, SEXUAL ABUSE, RAPE OR CRIMES CONNECTED WITH ANOTHER SEXUALLY ORIENTED BUSINESS INCLUDING, BUT NOT LIMITED TO, DISTRIBUTION OF OBSCENITY OR MATERIAL HARMFUL TO MINORS, PROSTITUTION, PANDERING, OR TAX VIOLATIONS;

LESS THAN TEN (10) YEARS HAVE ELAPSED SINCE THE DATE OF CONVICTION OR THE DATE OF RELEASE FROM CONFINEMENT, WHICHEVER IS THE LATER DATE, IF THE CONVICTION IS OF A FELONY OFFENSE; FOR THE "SPECIFIED CRIMINAL" ACTS WHICH ARE SEXUAL CRIMES AGAINST CHILDREN, SEXUAL ABUSE, RAPE OR CRIMES CONNECTED WITH ANOTHER SEXUALLY ORIENTED BUSINESS INCLUDING, BUT NOT LIMITED TO, DISTRIBUTION OF OBSCENITY OR MATERIAL HARMFUL TO MINORS, PROSTITUTION, PANDERING, OR TAX VIOLATIONS;

LESS THAN TEN (10) YEARS HAVE ELAPSED SINCE THE DATE OF CONVICTION OR THE DATE OF RELEASE FROM CONFINEMENT, WHICHEVER IS THE LATER DATE, IF THE CONVICTIONS ARE OF TWO OR MORE MISDEMEANOR OFFENSES FOR "SPECIFIED CRIMINAL" ACTS WHICH ARE SEXUAL CRIMES AGAINST CHILDREN, SEXUAL ABUSE, RAPE OR CRIMES CONNECTED WITH ANOTHER SEXUALLY ORIENTED BUSINESS INCLUDING, BUT NOT LIMITED TO, DISTRIBUTION OF OBSCENITY OR MATERIALS HARMFUL TO MINORS, PROSTITUTION, PANDERING OR TAX VIOLATIONS; OFFENSES OCCURRING WITHIN ANY TWENTY-FOUR (24) MONTH PERIOD;

THE FACT THAT A CONVICTION IS BEING APPEALED SHALL HAVE NO EFFECT ON DISQUALIFICATION OF THE APPLICANT;

AN APPLICANT KNOWINGLY HAS IN HIS OR HER EMPLOY, AN EMPLOYEE WHO DOES NOT HAVE A VALID LICENSE AS REQUIRED.

IF A PERSON APPLIES FOR A PERMIT FOR A PARTICULAR LOCATION WITHIN A PERIOD OF TWELVE (12) MONTHS FROM THE DATE OF DENIAL OF A PREVIOUS APPLICATION FOR A PERMIT AT THE LOCATION, AND THERE HAS NOT BEEN AN INTERVENING CHANGE IN THE CIRCUMSTANCES WHICH COULD REASONABLY BE EXPECTED TO LEAD TO A DIFFERENT DECISION REGARDING THE FORMER REASONS FOR DENIAL, THE APPLICATION SHALL BE DENIED.

ANNUAL PERMIT FEE.

ONE HUNDRED THOUSAND DOLLARS (\$100,000.00). THE ANNUAL FEE WILL BE EXPENDED AS REQUIRED AND DIRECTED BY THE TOWN COUNCIL TO PROVIDE, BUT NOT BE LIMITED BY THE FOLLOWING: POLICE NECESSARY TO INSURE ORDINANCE COMPLIANCE; POLICE NECESSARY TO ASSIST IN INSURING THE HEALTH AND SAFETY OF PICKETS PROTESTING THE OPERATION OF A SEXUALLY ORIENTED BUSINESS; SERVICES/EQUIPMENT/PERSONNEL DEEMED TO BE NECESSARY TO PROTECT HEALTH AND SAFETY; ADDITIONAL POLICE REQUIRED TO INSURE SAFETY TO THE CITIZENS OF THE TOWN AND FOR ANY OTHER AS YET UNIDENTIFIED NEED THAT HAS AN ASSOCIATION WITH PORNOGRAPHY.

INSPECTION

AN APPLICANT OR PERMITTEE SHALL PERMIT THE INSPECTION OF THE PREMISES OF A SEXUALLY ORIENTED BUSINESS FOR THE PURPOSE OF INSURING COMPLIANCE WITH THE LAW, AT ANY TIME IT IS OCCUPIED OR OPEN FOR BUSINESS.

IT SHALL BE UNLAWFUL, AND A PERSON WHO OPERATES A SEXUALLY ORIENTED BUSINESS OR HIS/HER AGENT OR EMPLOYEE COMMITS A MISDEMEANOR, IF HE/SHE REFUSES TO PERMIT SUCH LAWFUL INSPECTION OF THE PREMISES AT ANY TIME THAT IT IS OCCUPIED OR OPEN FOR BUSINESS.

EXPIRATION OF PERMIT

EACH PERMIT SHALL EXPIRE ONE (1) YEAR FROM THE DATE OF ISSUANCE AND MAY BE RENEWED ONLY BY MAKING APPLICATION. APPLICATION FOR RENEWAL SHALL BE MADE AT LEAST THIRTY (30) DAYS BEFORE THE EXPIRATION DATE, AND WHEN MADE LESS THAN THIRTY (30) DAYS BEFORE THE EXPIRATION DATE, THE PERMIT WILL EXPIRE. WHEN THE MAYOR AND/OR THE TOWN COUNCIL DENIES RENEWAL OF THE PERMIT, THE APPLICANT SHALL NOT BE ISSUED A PERMIT UNDER THIS ORDINANCE FOR ONE (1) YEAR FROM THE DATE OF DENIAL.

REVOCATION

THE MAYOR AND/OR TOWN COUNCIL SHALL REVOKE A PERMIT IF IT IS DETERMINED THAT A PERMITTEE, OR AN EMPLOYEE OF A PERMITTEE HAS:

VIOLATED OR IS NOT IN COMPLIANCE WITH ANY SECTION OF THIS ORDINANCE; OR
BEEN UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES WHILE WORKING IN THE SEXUALLY ORIENTED BUSINESS PREMISES; OR

REFUSED TO ALLOW AN INSPECTION OF SEXUALLY ORIENTED BUSINESS PREMISES AS AUTHORIZED BY THIS ORDINANCE; OR

KNOWINGLY PERMITTED GAMBLING BY ANY PERSON ON THE SEXUALLY ORIENTED BUSINESS PREMISES; OR

OPERATED THE SEXUALLY ORIENTED BUSINESS IN VIOLATION OF A BUILDING, FIRE, HEALTH, OR ZONING STATUTE, CODE, ORDINANCE OR REGULATION, WHETHER FEDERAL, STATE OR LOCAL, SAID DETERMINATION BEING BASED ON INVESTIGATION BY THE DIVISION, DEPARTMENT OR AGENCY CHARGED WITH ENFORCING SAID RULES OR LAWS. IN THE EVENT OF SUCH STATUTE, CODE, ORDINANCE OR REGULATION VIOLATION, THE TOWN OR ITS DESIGNEE SHALL PROMPTLY NOTIFY THE PERMITTEE OF SUSPENSION.

ENGAGED IN PERMIT TRANSFER CONTRARY TO SECTION 1800 OF THIS ORDINANCE. IN THE EVENT THAT THE TOWN OR ITS DESIGNEE SUSPENDS A PERMIT ON THE GROUND THAT A PERMITTEE ENGAGED IN A PERMIT TRANSFER TO SECTION 1800 OF THIS ORDINANCE, THE MAYOR AND THE TOWN COUNCIL SHALL FORTHWITH NOTIFY THE PERMITTEE OF THE REVOCATION.

OPERATING THE SEXUALLY ORIENTED BUSINESS IN VIOLATION OF THE HOURS OF OPERATION.

THE MAYOR AND/OR TOWN COUNCIL SHALL REVOKE A PERMIT UPON DETERMINING THAT:

A PERMITTEE GAVE FALSE OR MISLEADING INFORMATION IN THE MATERIAL SUBMITTED DURING THE APPLICATION PROCESS THAT TENDED TO ENHANCE THE APPLICANT'S OPPORTUNITY FOR OBTAINING A PERMIT;
OR

A PERMITTEE OR AN EMPLOYEE HAS KNOWINGLY ALLOWED POSSESSION, USE OR SALE OF CONTROLLED SUBSTANCES IN OR ON THE PREMISES; OR

A PERMITTEE OR AN EMPLOYEE HAS KNOWINGLY ALLOWED PROSTITUTION ON THE PREMISES; OR

PERMITTEE HAS BEEN CONVICTED OF A "SPECIFIED CRIMINAL ACT" FOR WHICH THE TIME PERIOD REQUIRED IN SECTION 1100 OF THIS ORDINANCE HAS NOT ELAPSED; OR

ON TWO OR MORE OCCASIONS WITHIN A TWELVE (12) MONTH PERIOD, A PERSON OR PERSONS COMMITTED AN OFFENSE, OCCURRING IN OR ON THE PERMITTED PREMISES, CONSTITUTING A SPECIFIED CRIMINAL ACT.

A PERMITTEE IS CONVICTED OF TAX VIOLATIONS FOR ANY TAXES OR FEES RELATED TO A SEXUALLY ORIENTED BUSINESS, OR

A PERMITTEE OR AN EMPLOYEE HAS KNOWINGLY ALLOWED ANY ACT OF SEXUALLY INTERCOURSE, SODOMY, ORAL COPULATION, MASTURBATION, OR ANY OTHER SPECIFIED SEXUAL ACTIVITIES OR OCCUR IN OR ON THE PERMITTED PREMISES.

A PERMITTEE HAS BEEN OPERATING MORE THAN ONE SEXUALLY ORIENTED BUSINESS UNDER A SINGLE ROOF.

REVIEW OF PERMIT DENIAL OR REVOCATION.

AFTER DENIAL OF AN APPLICATION, OR DENIAL OF A RENEWAL OF AN APPLICATION, OR REVOCATION OF A PERMIT, THE APPLICANT OR PERMITTEE MAY SEEK REVIEW OF SUCH ADMINISTRATIVE ACTION THROUGH THE TOWN COUNCIL.

TRANSFER OF PERMIT.

A PERMITTEE SHALL NOT OPERATE A SEXUALLY ORIENTED BUSINESS UNDER THE AUTHORITY OF A PERMIT AT ANY PLACE OTHER THAN THE ADDRESS DESIGNATED IN THE APPLICATION FOR PERMIT.

A PERMITTEE SHALL NOT TRANSFER HIS/HER PERM TO ANOTHER PERSON.

SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE.

EACH INDIVIDUAL TO BE EMPLOYED IN A SEXUALLY ORIENTED BUSINESS, AS DEFINED IN THIS ORDINANCE, WHO ENGAGES IN THE SERVICES RENDERED BY A SEMI-NUDE MODEL, STUDIO, ESCORT OR ESCORT AGENCY, SEXUAL ENCOUNTER ESTABLISHMENT, MASSAGE PARLOR, OR A LIVE PERFORMER OR ENTERTAINER SHALL BE REQUIRED TO OBTAIN A SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE. EACH APPLICANT SHALL PAY A PERMIT FEE OF ONE HUNDRED DOLLARS (\$100.00). SAID FEE WILL PAY FOR ADMINISTRATIVE COSTS AND POLICE DEPARTMENT VERIFICATION OF APPLICANT'S INFORMATION. WILL PAY FOR ADMINISTRATIVE COSTS AND POLICE DEPARTMENT VERIFICATION OF APPLICANT'S INFORMATION.

BEFORE ANY APPLICANT MAY BE ISSUED A SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE THE APPLICANT SHALL SUBMIT ON A FORM TO BE PROVIDED BY THE TOWN THE FOLLOWING INFORMATION:

THE APPLICANT'S NAME OR ANY OTHER NAMES (INCLUDING "STAGE" NAMES) OR ALIASES USED BY THE INDIVIDUAL:

- AGE, DATE AND PLACE OF BIRTH;
- HEIGHT, WEIGHT, HAIR AND EYE COLOR;
- PRESENT RESIDENCE ADDRESS AND TELEPHONE NUMBER;
- PRESENT BUSINESS ADDRESS AND TELEPHONE NUMBER;
- STATE DRIVER'S LICENSE OR IDENTIFICATION NUMBER;
- SOCIAL SECURITY NUMBER; AND
- ACCEPTABLE WRITTEN PROOF THAT THE INDIVIDUAL IS AT LEAST EIGHTEEN (18) YEARS OF AGE.
- RECENT, GOOD QUALITY, 8 X 10, COLOR PHOTOGRAPHS SHOWING FRONTAL AND SIDE VIEWS OF THE HEAD AND FACE AND THE APPLICANT'S FINGERPRINTS OF A FORM PROVIDED BY THE POLICE DEPARTMENT. ANY FEES FOR THE PHOTOGRAPHS AND FINGERPRINTS SHALL BE PAID BY THE APPLICANT.
- A STATEMENT DETAILING THE LICENSE OR PERMIT HISTORY OF THE APPLICANT FOR THE TEN (10) YEARS IMMEDIATELY PRECEDING THE DATE OF THE FILING OF THE APPLICATION, INCLUDING WHETHER SUCH APPLICANT PREVIOUSLY OPERATING OR SEEKING TO OPERATE, IN THIS OR ANY OTHER COUNTY, TOWN, STATE, OR COUNTY HAS EVER HAD A LICENSE, PERMIT, OR AUTHORIZATION TO DO BUSINESS DENIED, REVOKED, OR SUSPENDED, OR HAD ANY PROFESSIONAL OR VOCATIONAL LICENSE OR PERMIT DENIED, REVOKED, OR SUSPENDED. IN THE EVENT OF ANY SUCH DENIAL, REVOCATION, OR SUSPENSION, STATE THE DATE, THE NAME OF THE ISSUING OR DENYING JURISDICTION, AND DESCRIBE IN FULL THE REASONS FOR THE DENIAL, REVOCATION OR SUSPENSION. A COPY OF ANY ORDER OF DENIAL, REVOCATION, OR SUSPENSION SHALL BE ATTACHED TO THE APPLICATION.

WHETHER THE APPLICANT HAS BEEN CONVICTED OF A "SPECIFIED CRIMINAL" ACT AS DEFINED IN THIS ORDINANCE. THIS INFORMATION SHALL INCLUDE THE DATE, PLACE, NATURE OF EACH CONVICTION OR PLEA OR NOLO CONTENDERE AND IDENTIFYING THE CONVICTING JURISDICTION.

THE MAYOR OR HIS DESIGNEE SHALL REFER THE SEXUALLY ORIENTED BUSINESS: EMPLOYEE LICENSE APPLICATION TO THE POLICE FOR AN INVESTIGATION TO BE MADE OF SUCH INFORMATION AS IS CONTAINED ON THE APPLICATION. THE APPLICATION PROCESS SHALL BE COMPLETED WITHIN THIRTY (30) WORKING DAYS FROM THE DATE THE COMPLETED APPLICATION IS FILED. AFTER THE INVESTIGATION, THE MAYOR OR HIS OR HER DESIGNEE SHALL ISSUE A LICENSE UNLESS THE REPORT FROM THE POLICE DEPARTMENT FINDS THAT ONE OR MORE OF THE FOLLOWING FINDINGS IS TRUE:

THE APPLICANT HAS KNOWINGLY MADE ANY FALSE, MISLEADING, OR FRAUDULENT STATEMENT OF A MATERIAL FACT IN THE APPLICATION FOR A LICENSE, OR IN ANY REPORT OR RECORD REQUIRED TO BE FILED WITH THE POLICE OR OTHER DEPARTMENT OF THE TOWN;

THAT THE APPLICANT IS UNDER EIGHTEEN (18) YEARS OF AGE;

THAT THE APPLICANT HAS BEEN CONVICTED OF A "SPECIFIED CRIMINAL ACT" AS DEFINED IN THIS ORDINANCE;

THAT THE SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE IS TO BE USED FOR EMPLOYMENT IN A BUSINESS PROHIBITED BY LOCAL OR STATE LAW, STATUTE, REGULATION, OR PROHIBITED BY PARTICULAR PROVISIONS OF THIS ORDINANCE;

THAT THE APPLICANT HAS HAD A SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE REVOKED WITHIN FIVE (5) YEARS OF THE DATE OF THE CURRENT APPLICATION;

RENEWAL OF LICENSE:

A LICENSE GRANTED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO ANNUAL RENEWAL BY THE TOWN UPON THE WRITTEN APPLICATION OF THE APPLICANT AND A FINDING BY THE TOWN AND THE POLICE THAT THE APPLICANT HAS NOT

BEEN CONVICTED OF ANY "SPECIFIED CRIMINAL ACT" AS DEFINED IN THIS ORDINANCE OR COMMITTED ANY ACT DURING THE EXISTENCE OF THE PREVIOUS LICENSE PERIOD WHICH WOULD BE GROUNDS TO DENY THE INITIAL PERMIT APPLICATION.

THE RENEWAL OF THE LICENSE SHALL BE SUBJECT TO PAYMENT OF A \$100 FEE.

REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIDEO BOOTHS.

A PERSON WHO OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, OTHER THAN A SEXUALLY ORIENTED MOTEL/HOTEL AND REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED TO SAID BUSINESS UNDER THIS ORDINANCE, WHICH EXHIBITS ON THE PREMISES IN A VIEWING ROOM OF LESS THAN FIVE HUNDRED (500) SQUARE FEET OF FLOOR SPACE, A FILM, VIDEO CASSETTE OR OTHER VIDEO REPRODUCTION WHICH DEPICTS SPECIFIED SEXUAL ACTIVITIES OR SPECIFIED ANATOMICAL AREAS, SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

UPON APPLICATION FOR A SEXUALLY ORIENTED BUSINESS PERMIT, THE APPLICATION SHALL BE ACCOMPANIED BY A DIAGRAM OF THE PREMISES SHOWING A PLAN THEREOF SPECIFYING THE LOCATION OF ONE OR MORE MANAGER'S STATIONS, THE LOCATION OF ALL OVERHEAD LIGHTING FIXTURES AND DESIGNATING ANY PORTION OF THE PREMISES IN WHICH PATRONS WILL NOT BE PERMITTED. A MANAGER'S STATION MAY NOT EXCEED SIXTEEN (16) SQUARE FEET OF FLOOR AREA WITH NO DIMENSION GREATER THAN FIVE (5) FEET. THE DIAGRAM SHALL ALSO DESIGNATE THE PLACE AT WHICH THIS PERMIT WILL BE CONSPICUOUSLY POSTED, IF GRANTED. A PROFESSIONALLY PREPARED DIAGRAM IN THE NATURE OF AN ENGINEER'S OR ARCHITECT'S BLUEPRINT SHALL BE REQUIRED. EACH DIAGRAM SHOULD BE ORIENTED THE NORTH OR TO SOME DESIGNATED STREET OR OBJECT AND SHOULD BE DRAWN TO A DESIGNATED SCALE WITH MARKED DIMENSIONS SUFFICIENT TO SHOW THE VARIOUS INTERNAL DIMENSION OF ALL AREAS OF THE INTERIOR OF THE PREMISES TO AN ACCURACY OF PLUS OR MINUS SIX (6) INCHES.

THE APPLICATION SHALL BE SWORN TO BE TRUE AND CORRECT BY THE APPLICANT.

NO ALTERATION IN THE CONFIGURATION OF LOCATION OF A MANAGER'S STATION MAY BE MADE WITHOUT THE PRIOR APPROVAL OF THE TOWN OR ITS DESIGNEE.

IT IS THE DUTY OF THE OWNERS AND OPERATOR (S) OF THE PREMISES TO INSURE THAT AT LEAST ONE EMPLOYEE IS ON DUTY AND SITUATED AT EACH MANAGER'S STATION AT ALL TIMES THAT ANY PATRON IS PRESENT INSIDE THE PREMISES.

THE INTERIOR OF THE PREMISES SHALL BE CONFIGURED IN SUCH A MANNER THAT THERE IS AN ACCESS FOR ANY PURPOSE, EXCLUDING RESTROOMS. RESTROOMS MAY NOT CONTAIN VIDEO REPRODUCTION EQUIPMENT. IF THE PREMISES HAVE TWO OR MORE MANAGER'S STATIONS DESIGNATED, THEN THE INTERIOR OF THE PREMISES SHALL BE CONFIGURED IN SUCH A MANNER THAT THERE IS AN UNOBSTRUCTED VIEW OF EACH AREA OF THE PREMISES TO WHICH ANY PATRON IS PERMITTED ACCESS FOR ANY PURPOSE FROM AT LEAST ONE OF THE MANAGER'S STATIONS. THE VIEW REQUIRED IN THIS SUBSECTION MUST BE BY DIRECT LINE OF SIGHT FROM THE MANAGER'S STATION.

IT SHALL BE THE DUTY OF THE OWNERS AND OPERATOR, AND IT SHALL ALSO BE THE DUTY OF ANY AGENTS AND EMPLOYEES PRESENT ON THE PREMISES TO INSURE THAT THE VIEW AREA SPECIFIED IN SUBSECTION 5 REMAINS UNOBSTRUCTED BY ANY DOORS, WALLS, MERCHANDISE, DISPLAY RACKS OR OTHER MATERIALS OR PERSONS AT ALL TIMES AND TO INSURE THAT NO PATRON IS PERMITTED ACCESS TO ANY AREA OF THE PREMISES WHICH HAS BEEN DESIGNATED AS AN AREA IN WHICH PATRONS WILL NOT BE PERMITTED IN THE APPLICATION FILED PURSUANT TO SUBSECTION A. OF THIS SECTION.

NO VIEWING ROOM MAY BE OCCUPIED BY MORE THAN ONE PERSON AT ANY ONE TIME. NO HOLES, COMMONLY KNOWN AS "GLORY HOLES" SHALL BE PERMITTED IN THE WALLS OR PARTITION SEPARATING EACH VIEWING ROOM FROM AN ADJOINING VIEWING ROOM, RESTROOM OR ANY OTHER ROOM ON THE PREMISES. NO DOOR MAY BE ATTACHED OR INSTALLED ON ANY VIEWING ROOM.

THE PREMISES SHALL BE EQUIPPED WITH OVERHEAD LIGHTING FIXTURES OF SUFFICIENT INTENSITY TO ILLUMINATE EVERY PLACE TO WHICH PATRONS ARE PERMITTED ACCESS AND AN ILLUMINATION OF NOT LESS THAN TEN (10) FOOT CANDLE AS MEASURE ANYWHERE.

IT SHALL BE THE DUTY OF THE OWNERS AND OPERATOR AND IT SHALL ALSO BE THE DUTY OF ANY AGENTS AND EMPLOYEES PRESENT ON THE PREMISES TO ENSURE THAT THE ILLUMINATION DESCRIBED ABOVE IS MAINTAINED AT ALL TIMES THAT ANY PATRON IS PRESENT ON THE PREMISES.

A PERSON HAVING A DUTY COMMITS A MISDEMEANOR IF HE/SHE KNOWINGLY FAILS TO FULFILL THAT DUTY.

PROHIBITIONS REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES.

A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE, AND KNOWINGLY OR WITH REASONABLE CAUSE TO KNOW, PERMIT, SUFFER, OR ALLOW:

ADMITTANCE OF A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO THE BUSINESS PREMISES;

. A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO REMAIN AT THE BUSINESS PREMISES;

. A PERSON UNDER EIGHTEEN (18) YEARS OF AGE TO PURCHASE GOODS OR SERVICES AT THE BUSINESS PREMISES; OR

A PERSON WHO IS UNDER EIGHTEEN (18) YEARS OF AGE TO WORK AT THE BUSINESS PREMISES AS AN EMPLOYEE.

ADVERTISING REGULATIONS.

IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSE TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OF NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE AND ADVERTISES THE PRESENTATION OF ANY ACTIVITY PROHIBITED BY ANY APPLICABLE STATE STATUTE OR LOCAL ORDINANCE.

IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE, AND DISPLAYS OR OTHERWISE EXHIBITS THE MATERIALS AND/OR PERFORMANCES AT SUCH SEXUALLY

ORIENTED BUSINESS IN ANY ADVERTISING WHICH IS VISIBLE OUTSIDE THE PREMISES. THIS PROHIBITION SHALL NOT EXTEND TO ADVERTISING OF THE EXISTENCE OR LOCATION OF SUCH SEXUALLY ORIENTED BUSINESS.

THE PERMITTEE SHALL NOT ALLOW ANY PORTION OF THE INTERIOR PREMISES TO BE VISIBLE FROM OUTSIDE THE PREMISES.

ALL OFF-STREET PARKING AREAS AND PREMISE ENTRIES OF THE SEXUALLY ORIENTED BUSINESS SHALL BE ILLUMINATED FROM DUSK TO CLOSING HOURS OF OPERATION WITH A LIGHTING SYSTEM WHICH PROVIDES AN AVERAGE MAINTAINED HORIZONTAL ILLUMINATION OF THE (10) FOOT CANDLES OF LIGHT ON THE PARKING SURFACE AND/OR WALKWAYS, THIS REQUIRED LIGHTING LEVEL IS ESTABLISHED IN ORDER TO PROVIDE SUFFICIENT ILLUMINATION OF THE PARKING AREAS AND WALKWAYS SERVING THE SEXUALLY ORIENTED BUSINESS FOR THE PERSONAL SAFETY OF PATRONS AND EMPLOYEES AND

TO REDUCE THE INCIDENCE OF VANDALISM AND CRIMINAL CONDUCT. THE LIGHTING SHALL BE SHOWN ON THE REQUIRED SKETCH OR DIAGRAM OF THE PREMISES.

NOTHING CONTAINED IN THIS SECTION OF THE ORDINANCE SHALL RELIEVE THE OPERATOR(S) OF A SEXUALLY ORIENTED BUSINESS FROM COMPLYING WITH THE REQUIREMENTS OF THE TOWN OF ELSINORE, COMMONLY KNOWN AS THE SEXUALLY ORIENTED BUSINESS ORDINANCE, AS IT MAY BE AMENDED FROM TIME TO TIME, OR ANY SUBSEQUENTLY ENACTED TOWN ORDINANCES OR REGULATIONS.

HOURS OF OPERATION.

IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE AND ALLOWS SUCH BUSINESS TO REMAIN OPEN FOR BUSINESS, OR TO PERMIT ANY EMPLOYEE TO ENGAGE IN A PERFORMANCE, SOLICIT A PERFORMANCE, MAKE A SALE, SOLICIT A SALE, PROVIDE A SERVICE, OR SOLICIT A SERVICE, BETWEEN THE HOURS OF 11:00 AM. AND 10:00 P.M. OF ANY PARTICULAR DAY.

IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF WORKING AS AN EMPLOYEE OF A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE, SAID EMPLOYEE ENGAGES IN A PERFORMANCE, SOLICITS A PERFORMANCE, MAKES A SALE, SOLICITS A SALE, PROVIDES A SERVICE, OR SOLICITS A SERVICE BETWEEN THE HOURS OF 11 :00 AM. AND 10:00 P.M. OF ANY PARTICULAR DAY.

NUDITY AT SEXUALLY ORIENTED BUSINESSES NOT OFFERING FOR SALE ALCOHOLIC BEVERAGES: SUBJECT TO PROHIBITION PURSUANT TO THE U. S. SUPREME COURT DECISION IN THE BARNES V. GLEN THEATER. INC.

THE UNITED STATE SUPREME COURT DECISION IN BARNES V GLEN THEATER., INC ,501_111 S.CT. 2456, (JUNE 21, 1991) WHICH UPHELD THE RIGHTS OF CITIES TO PROHIBIT LIVE PUBLIC EXPOSURE OF A PERSON'(S) PRIVATE PARTS, SPECIFICALLY APPLIES TO SEXUALLY ORIENTED BUSINESSES (REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED TO SAID BUSINESSES UNDER THIS ORDINANCE), INCLUDING SAID BUSINESSES WHERE NO ALCOHOLIC BEVERAGES ARE SOLD, SERVED, OR CONSUMED AT THE PREMISES.

PUBLIC NUDITY IS PROHIBITED WITHIN THE TOWN OF ELSINORE INCLUDING ANY SEXUALLY ORIENTED BUSINESS. ANY SEXUALLY ORIENTED BUSINESS WHICH IS FOUND IN VIOLATION OF THIS SECTION SHALL HAVE ITS PERMIT REVOKED PURSUANT TO THE PROVISIONS IN THIS ORDINANCE.

ADDITIONAL CRIMINAL PROHIBITIONS FOR THE OPERATION OF A SEXUALLY ORIENTED BUSINESS WITHOUT A VALID PERMIT

IN ADDITION TO THE CRIMINAL PROVISIONS FOUND AT OTHER SECTIONS OF THIS ORDINANCE, THE FOLLOWING ADDITIONAL CRIMINAL PROVISIONS SHALL ALSO APPLY TO SEXUALLY ORIENTED BUSINESSES.

IT SHALL BE UNLAWFUL AND A PERSON COMMITS A MISDEMEANOR IF HE/SHE OPERATES OR CAUSES TO BE OPERATED A SEXUALLY ORIENTED BUSINESS, REGARDLESS OF WHETHER OR NOT A PERMIT HAS BEEN ISSUED FOR SAID BUSINESS UNDER THIS ORDINANCE, AND SAID PERSON KNOWS, OR SHOULD KNOW THAT:

(1) THE BUSINESS DOES NOT HAVE A SEXUALLY ORIENTED BUSINESS PERMIT UNDER THIS ORDINANCE FOR ANY APPLICABLE CLASSIFICATION;

(2) THE BUSINESS HAS A PERMIT WHICH HAS BEEN REVOKED; OR

(3) THE BUSINESS HAS A PERMIT WHICH HAS EXPIRED.

CRIMINAL PENALTIES AND ADDITIONAL LEGAL, EQUITABLE, AND INJUNCTIVE RELIEF. IN ADDITION TO WHATEVER

PENALTIES ARE APPLICABLE UNDER THE STATE OF UTAH PENAL CODE, IF A PERSON FAILS OR REFUSES TO OBEY OR COMPLY WITH OR VIOLATES ANY OF THE CRIMINAL PROVISIONS OF THIS ORDINANCE, SUCH PERSON UPON CONVICTION OF SUCH OFFENSE, SHALL BE GUILTY OF A MISDEMEANOR AND SHALL BE PUNISHED BY A FINE NOT TO EXCEED FIVE THOUSAND DOLLARS (\$5,000.00) OR BY IMPRISONMENT NOT TO EXCEED ONE HUNDRED EIGHTY (180) DAYS IN THE JAIL, OR BOTH, IN THE DISCRETION OF THE COURT. EACH VIOLATION OR NON-COMPLIANCE SHALL BE CONSIDERED A SEPARATE AND DISTINCT OFFENSE. FURTHER, EACH DAY OF CONTINUED VIOLATION OR NON-COMPLIANCE SHALL BE CONSIDERED AS A SEPARATE OFFENSE.

NOTHING HEREIN CONTAINED SHALL PREVENT OR RESTRICT THE TOWN FROM TAKING SUCH OTHER LAWFUL ACTION IN ANY COURT OF COMPETENT JURISDICTION AS IS NECESSARY TO PREVENT OR REMEDY ANY VIOLATION OR NON-COMPLIANCE. SUCH OTHER LAWFUL ACTIONS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, AND EQUITABLE ACTION FOR INJUNCTIVE RELIEF OR AN ACTION AT LAW FOR DAMAGES.

FURTHER, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE TOWN FROM PROSECUTING ANY VIOLATION OF THIS ORDINANCE.

ALL REMEDIES AND PENALTIES PROVIDED FOR IN THIS SECTION SHALL BE CUMULATIVE AND INDEPENDENTLY AVAILABLE TO THE TOWN AND THE TOWN SHALL BE AUTHORIZED TO PURSUE ANY AND ALL REMEDIES SET FORTH IN THIS SECTION TO THE FULL EXTENT ALLOWED BY LAW.

IMMUNITY FROM PROSECUTION.

THE TOWN, ITS EMPLOYEES, POLICE, PERSONNEL RESPONDING TO HEALTH AND SAFETY ISSUES CREATED BY THE OPERATION OF THE SEXUALLY EXPLICIT BUSINESS AND CITIZENS OF THE TOWN OF ELSINORE EXERCISING THEIR RIGHTS TO ENSURE ENFORCEMENT OF ORDINANCES WILL BE IMMUNE FROM PROSECUTION, CIVIL OR CRIMINAL, FOR REASONABLE, GOOD FAITH TRESPASS UPON A SEXUALLY ORIENTED BUSINESS.

PROHIBITION OF DISTRIBUTION OF SEXUAL DEVICES.

IT IS UNLAWFUL FOR ANYONE TO DISTRIBUTE, FOR COMMERCIAL PURPOSES, SELL OR OFFER FOR SALE ANY DEVICE, INSTRUMENT OR PARAPHERNALIA DESIGNED OR MARKETING PRIMARILY FOR STIMULATION OF HUMAN GENITAL ORGANS OR FOR SADOMASOCHISTIC USE OR ABUSE OF THEMSELVES OR OTHERS.

SUCH DEVICES, INSTRUMENTS OR PARAPHERNALIA INCLUDE BUT ARE NOT LIMITED TO, PHALLIC SHAPED VIBRATORS, DILDO'S, MUZZLES, WHIPS, CHAINS, BATHING RESTRAINTS, RACKS, ENEMA KITS, BODY PIERCING IMPLEMENTS (EXCLUDING EARRINGS OR OTHER DECORATIVE JEWELRY) OR OTHER TOOLS OF SADOMASOCHISTIC ABUSE.

A VIOLATION OF THIS SECTION IS A MISDEMEANOR PUNISHABLE BY A FINE OF UP TO \$1,000.00- AND SIX-MONTHS INCARCERATION, OR BOTH.

SEVERABILITY.

IF ANY SECTION, SUBSECTION OR CLAUSE OF THIS ORDINANCE SHALL BE DEEMED TO BE UNCONSTITUTIONAL OR OTHERWISE INVALID, THE VALIDITY WITH THE REMAINING SECTION, SUBSECTION AND CLAUSES SHALL NOT BE AFFECTED THEREBY.

CONFLICTING ORDINANCE REPEALED.

ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY REPEALED

