

FILED FOR RECORD
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K. HARNESS

AN ORDINANCE TO CLASSIFY SEXUALLY
ORIENTED BUSINESSES AS CONDITIONAL
USES; PROVIDING RESTRICTIONS ON THE
LOCATION OF SEXUALLY ORIENTED BUSINESSES;
PROVIDING PENALTIES FOR VIOLATIONS;
DECLARING AN EMERGENCY; AND OTHER PURPOSES.

WHEREAS, the City Council of Tontitown, Arkansas deems it necessary to provide regulation for sexually oriented businesses, which could be implemented in keeping with other adopted City Ordinances, to promote the health, safety, and general welfare of the citizens of the City of Tontitown, Arkansas; and

WHEREAS, the Tontitown City Council has prepared an ordinance to provide for regulation of sexually oriented businesses;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TONTITOWN, ARKANSAS IN REGULAR SESSION ASSEMBLED:

SECTION 1. PURPOSE AND INTENT. It is the purpose of this ordinance to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of the City of Tontitown, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City of Tontitown. The provisions of this section 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 section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors, and exhibitors of sexually oriented entertainment to their intended market, unless otherwise restricted by law.

SECTION 2. SEXUALLY ORIENTED BUSINESSES - CLASSIFICATION.
The following list of uses shall be classified as Sexually oriented businesses:

- A. Adult Arcade
- B. Adult Bookstores and Adult Video Stores
- C. Adult Cabarets
- D. Adult Motion Picture Theaters
- E. Adult Theaters

SECTION 3. CONDITIONAL USE. Sexually oriented businesses shall not be allowed in any zoning district except C-Commercial, where they may be allowed as conditional uses subject to the following:

- A. No sexually oriented business may be operated within 1320 feet of:
 - 1. A Church.
 - 2. A public or private elementary, secondary or post-secondary school, pre-school or child care facility.
 - 3. A public park.
- B. No sexually oriented business may be operated within 660 feet of:
 - 1. A residential zone or any residential use.

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2. A residential zone or any residential use as measured by automobile travel distance, measured on the roadway, from the exit of a sexually oriented business property to the property line of the residential zone or use.
- C. No sexually oriented business may be operated within 1320 feet of another sexually oriented business or within 1320 feet of any room, building, place or establishment that sells or dispenses alcohol or beer.
- D. For the purposes of subsection A. , a measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where sexually oriented business is conducted, to the nearest property line of the premises of a church, or public or private elementary, or secondary school, or to the nearest boundary of an affected public park.
- E. Ordinance No. 92, the same being the Zoning Ordinance for the City of Tontitown, Arkansas, governs application of conditional uses and procedures and shall apply in addition to the specific requirements set forth above.

SECTION 4. PENALTIES.

- A. Any person operating or causing to be operated any sexually oriented business in violation of any part of this ordinance, upon conviction, shall be punishable by a fine not to exceed one thousand dollars (\$1000.00).
- B. If the violation is in its nature, continuous in respect to time, the penalty for allowing the continuance thereof is a fine not to exceed five hundred dollars (\$500.00) for each day that the same is unlawfully continued.
- C. A person who operates or causes to be operated a sexually oriented business in violation of this ordinance will be subject to a suit for injunction as well as prosecution for criminal violations.

SECTION 5. SEVERABILITY. If any paragraph, sentence or clause of this ordinance shall be declared invalid by a court of competent jurisdiction, such determination of invalidity shall not affect the remaining portion of this ordinance.

SECTION 6. EMERGENCY CLAUSE. The City Council hereby determines that this Ordinance is necessary to provide regulation of sexually oriented businesses within the City of Tontitown, Arkansas; and that encroachment of commercial development such as hotels, motels, and convention centers from outside of the City limits, will create a demand for, and a proliferation of Adult sexually oriented entertainment businesses and that provision of this Ordinance is essential to protect the health, safety, and welfare of the public; and that the immediate passage of this Ordinance is necessary to adequately accomplish these purposes. Therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the public welfare shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 3rd DAY OF March 1998.

ATTEST: John A. Franco
TREASURER/RECORDER

Fredie P. Talley
MAYOR



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