

AN ORDINANCE DEFINING AND CLASSIFYING SEXUALLY ORIENTED BUSINESS; MAKING SEXUALLY ORIENTED BUSINESS CONDITIONAL USES; PROVIDING RESTRICTIONS ON THE LOCATION OF SEXUALLY ORIENTED BUSINESS; AND PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENLAND, ARKANSAS:

Section 1. PURPOSE AND INTENT. It is the purpose of this Ordinance to regulate sexually oriented business, to promote the health, safety and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the City. The provisions of this chapter 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 BUSINESS - DEFINITIONS.

A. Adult Arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled image-producing devices are maintained to show images to five or fewer viewers at one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" (j) or "specific anatomical areas" (k).

B. Adult Bookstore or Adult Video Store. A commercial establishment whose principal business purposes is to offer for sale or rental for any form of consideration any one or more of the following:

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" (j) or "specified anatomical areas" (k), or

2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities" (j).

C. **Adult Cabaret.** A nightclub, bar, restaurant or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or
2. Live performances which are characterized by the exposing of “specified sexual activities” (j) or “specified anatomical areas” (k); or
3. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction of “specified sexual activities” (j) or “specified anatomical areas”(k).

D. **Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown, excluding those which are rated by the Motion Picture Association of America, which emphasize “specified sexual activities” (j) or “specified anatomical areas” (k)

E. **Adult Theaters.** 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 sexual activities” (j) or “specified anatomical areas” (k).

F. **Nudity or State of Nudity.**

1. The appearance of the bare human buttock, anus, male genitals, female genitals, or female breast.
2. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

G. **Person.** An individual, proprietorship, partnership, corporation, association, limited liability company, or other legal entity.

H. **Semi-nude.** A state of dress in which clothing covers no more than the genitals, pubic region and/or the female breast, as well as portions of the body covered by supporting straps or devices.

I. **Sexually Oriented Business.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motion picture theater, or adult theater whose inventory, merchandise, or performances are characterized by a preponderance of “specified sexual activities” (j) or

specified anatomical areas” (k) as the same are defined herein.

J. Specified Sexual Activities.

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

K. Specified Anatomical Areas.

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

L. Residential District. Any land within the city limits of Greenland, Arkansas, zoned R-1 Low Density Residential or R-2 Medium Density Residential, as defined by the City of Greenland Zoning Code.

Section 3. SEXUALLY ORIENTED BUSINESS - CLASSIFICATION. Sexually oriented businesses are classified as follows:

- A. Adult arcade;
- B. Adult Bookstores and adult video stores;
- C. Adult cabarets;
- D. Adult motion picture theaters;
- E. Adult theaters.

Section 4. LOCATION OF SEXUALLY ORIENTED BUSINESSES. Sexually oriented businesses shall not be allowed in any zoning district except C-General Commerical where they may be allowed as conditional uses subject to the following:

- A. No sexually oriented business may be operated within 750 feet of:

A church or other religious facility;

2. A public, charter, or private elementary, secondary or post-secondary school; pre-school or child care facility;
3. A public park;
4. A boundary of a residential zone, R, or any single-family or multiple-family residential use;
5. A hospital or other medical facility;
6. Properties listed on the National Register of Historical Places or local history districts as identified by the Arkansas Historic Preservation Program;
7. Another sexually oriented business.

B No sexually oriented business may be operated within 1,000 feet of any room, building, premises, place or establishment that sells or dispenses alcohol or beer.

C. For the purpose of subsection (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 a sexually oriented business is conducted, to the nearest property line of the premises of a church or public, charter or private elementary or secondary or post-secondary school, or to the nearest boundary of an affected public park, residential district, residential lot, hospital or other medical facility, or properties listed on the National Historic Register or local historic districts as identified by the Arkansas Historic Preservation Program.

D For the purposes of subsection (A) of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located to the closest exterior wall of the structure which the other sexually oriented business is located.

E. A person commits an offense if he causes or permits the operation, establishment, or maintenance of a sexually oriented business (1) within seven hundred fifty feet (750') of the places listed at Section 4, subsection A (1 through 7) or (2) within one thousand feet (1000') of any room, building premises, place or establishment that sells or dispenses alcohol or beer.

Section 5. NONCOMFORMING SEXUALLY ORIENTED BUSINESSES. A sexually

oriented business lawfully operating as a conforming use is not rendered nonconforming use by the subsequent location of a church, public, charter or private elementary or secondary school, public park, residential district or residential lot within seven hundred fifty feet (750') of the sexually oriented business. This provision applies only to an ongoing sexually oriented business, not to a sexually oriented business that has been terminated for any reason or discontinued for a period of ninety (90) days or more subsequent to the location of the church, public, charter or private elementary or secondary school, public park, residential district, or residential lot.

Section 6. PENALTIES.

A. Any person operating or causing to be operated any sexually oriented business in violation of any part of this Ordinance, upon conviction, is punishable by a fine not to exceed five hundred and no/100 Dollars (\$500.00).

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 two hundred fifty and no/100 Dollars (\$250.00) 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.

PASSED AND APPROVED this 13 of December, 1999.

APPROVED:

BY:

Patsy Cox
PATSY COX, Mayor

ATTEST

Donna Cheevers
DONNA CHEEVERS, Recorder/Treasurer