



SEXUALLY ORIENTED BUSINESS INFORMATION SHEET

The Zoning Ordinance requires a Sexually-Oriented Business to obtain both a business license and a Sexually Oriented Business Permit. Special regulation of these uses is necessary to ensure that potential adverse effects will not impact neighborhoods in the vicinity of the Sexually-Oriented Businesses. It is not the intent of this permit to restrict the content of communicative material, nor to deny access by adults to Sexually-Oriented Materials protected by the first amendment, nor to deny access by the distributors of Sexually-Oriented Materials to their intended market.

The property owner, or authorized agent of the property owner, is eligible to request a Sexually-Oriented Business permit. A public hearing is required before the Planning Commission. The Transportation Commission may also review any proposed Sexually-Oriented Business permit, if determined necessary by the Director of Community Development. If the Planning Commission finds that the findings in section 2-28-5 of the Zoning Ordinance (see attached copy) can be made, the permit application will be approved.

No Sexually-Oriented Business permit may be sold or transferred. Any change in the nature of the business shall also render the permit null and void. A Sexually-Oriented Business permit shall only be valid for the exact location specified on the permit.

When a permit has been approved, the permittee must allow officers of the City of Irvine, the County of Orange, and each of their authorized representatives to conduct unscheduled inspections of the premises of the Sexually-Oriented Business for the purpose of ensuring compliance with the law.

A Sexually-Oriented Business permit is valid for one year and may be renewed on a year-to-year basis provided that the permittee continues to meet the requirements set forth in section 2-28 of the Zoning Ordinance. A copy of this section, along with the relevant definitions, has been attached for your information. Please review these materials carefully to determine whether the Sexually Oriented Business permit process would apply to your proposed business. The information requested below is required at the time a Sexually-Oriented Business permit application is submitted to the Community Development Department. If you have any questions about this permit, please call the Development Assistance Center at (949) 724-6308.

SECTION A - City Documents

_____ Development Case Application (This serves as the Sexually Oriented Business Application required by the Zoning Ordinance.)

_____ Developer Deposit Case Setup Form

SECTION B - Letter of Justification

_____ This letter should be addressed to the City. It should describe the project or business in your own words and explain how it would meet the findings outlined in section 2-28-5 of the Zoning Ordinance (copy attached). To expedite the review of your application, please use the same format as the outlined in the Zoning Ordinance.

SECTION C - Deposit Check payable to the City of Irvine

_____ A deposit of \$3,000.00 is required.

SECTION D - Project Plans These must be legible and must be drawn to scale to clearly illustrate the components of the project. Remember that the staff and the Planning Commission are not familiar with the property and will need this information to evaluate your project. **If the plans are not legible, or do not contain the information listed below, your application will not be accepted for processing.** Submit ten sets of project plans, folded to approximately 8 1/2" x 14". Use the checklist to be sure your plans include the following **required** elements:

- _____ scale (for example 1:20, or 1/8" = 1')
- _____ vicinity map, showing all parcels within a 2300 foot radius (to verify findings B, C and D)
- _____ north arrow
- _____ building location(s) ("footprints") showing floor plan and access points
- _____ dimensioned property lines
- _____ notes labeling existing and proposed on-site uses
- _____ notes labeling surrounding land uses
- _____ parking lot layout and circulation, showing dimension of parking spaces and drive aisles
- _____ adjacent streets, street names and intersections, showing striping and medians
- _____ existing and proposed bus turn-out locations (if any)
- _____ all access points (driveways), existing or proposed; label access type (i.e. curb return or apron)
- _____ note distance from each driveway to the nearest access of adjacent properties
- _____ sidewalks
- _____ site and parking summary table as contained on Page 2 of the Development Case Application
- _____ one set of 11" x 17" reduced project site plan

SECTION E - Public Notice Materials Please note that the homeowners' associations which govern property in the vicinity will be notified of your project as required by the City's Zoning Ordinance. Staff suggests that you advise them of your intent to develop a project as soon as possible to receive their comments and address their concerns. Should you wish City staff to generate the mailing labels; staff time will be charged at the hourly rate to the project case.

_____ An electronic list of all names and addresses for all of the following:

- a. Each property owner and residential tenant, and all homeowners' and community associations governing property within five hundred (500) feet of the property line of the proposed project. Commercial tenants within 500 feet shall be included in the following instances only: 1) the subject of the application is a residential development which is proposed within 1000 feet of where businesses use, store, transport and/or manufacture hazardous materials or waste; or 2) the subject of the application is a heavy manufacturing use which involves the use, storage, transportation, and/or manufacture of hazardous materials or waste. This information shall be provided from the latest equalized assessment roll of Orange County.
- b. Each local agency expected to provide water, sewage, schools, or other essential facilities or services to the project.

c. The property owner or the owner's duly authorized agent.

d. The project applicant.

_____ A map which is keyed to the above labels (stet).

_____ Electronic mailing (stet labels) may be submitted in any one of the following formats:

- Excel TEXT format with separate fields of information on a CD **or**
- Excel with separate fields of information on a CD
NOTE: MS Word, Work Perfect, and other common formats will not work
- Each field of information (Assessor's Parcel Number, complete name, complete street address, city, state, zip code) must be separated by a tab key, tab delimited (preferred), or comma, comma-delimited.
- Project number and number of entries on the above list should be printed on the disk label,

Example of Preferred Format:

Cell 1 APN	Cell 2 Attention	Cell 3 Name	Cell 4 Company	Cell 5 Complete Address	Cell 6 Complete Address	Cell 7 City	Cell 8 State	Cell 9 Zip Code
123	J Jones	Payroll	Alton Ctr	567 Alton PkwY	PO Box 19575	Irvine	CA	92623

For information or questions on formatting, please call the City of Irvine's Mail Center at (949) 724-6012.

SECTION F - Additional Materials

_____ Technical studies for noise, traffic, parking, hazardous materials or other issues may be required according to City policy.

The Director of Community Development may require additional materials to determine that your application is complete. You will be notified promptly if any additional materials will be necessary to complete this application.

(Note: The following definitions relevant to the Sexually Oriented Business regulations have been extracted from the Zoning Ordinance)

1-2-1 Definitions

Adult Bookstore: Any establishment, which as a regular and substantial portion of its business, displays and/or distributes Adult Merchandise, books, periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, films, or other visual representations which are distinguished or characterized by an emphasis on a matter depicting, describing or related to Specified Sexual Activities or Specified Anatomical Parts. See "Sexually-Oriented Business" for definition of regular and substantial portion of its business. (Ord. No. 92-22, ' 2, 12-8-92)

Adult Cabaret: A nightclub, bar, restaurant or similar establishment or concern which features any type of live entertainment which is not prohibited by title IV, division L, section [chapter] 5 of the Irvine City Code but is characterized by its

emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. (Ord. No. 92-22, ' 2, 12-8-92)

Adult Hotel/Motel: A Hotel or Motel, which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television or other medium, material which is distinguished or characterized by the emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts and/or which rents, leases, or lets any room for less than a twelve-hour period or rents, leases or lets any single room more than once in a twenty- four-hour period and/or which advertise any of the above. See ``Sexually-Oriented Business" for definition of regular and substantial course of conduct. (Ord. No. 92-22, ' 2, 12-8-92)

Adult Model Studio: Any premises where there is conducted the business or transaction of furnishing, providing, or procuring figure models who pose in any manner which is not prohibited under title IV, division L, chapter 5 of the Irvine City Code but is still characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts for the purpose of being observed or viewed by any person or being sketched, painted, drawn, sculptured, photographed, filmed, videotaped, or otherwise similarly depicted before persons who pay a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe a figure model or as a condition of remaining on the premises. ``Adult model studio" shall not include any studio or classroom which is operated by any public agency, or any public or private educational institution authorized under section 94300 et seq. of the Education Code of the state to issue and confer a diploma or degree or any live art class. (Ord. No. 92-22, ' 2, 12-8-92)

Adult Motion Picture Arcade: Any business establishment or concern containing coin- or slug-operated or manually or electronically controlled still or motion picture machines, projectors or other image-producing devices that are maintained to display images to individuals in individual viewing areas or to groups of between ten (10) and thirty (30) persons in other viewing areas when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. (Ord. No. 92-22, ' 2, 12-8-92)

Adult Theater: A business establishment or concern which presents motion pictures, video cassettes, slide photographs, or other pictures which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts or presents any type of live entertainment which is not prohibited under title IV, division L, chapter 5 of the Irvine City Code, but is nonetheless characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts. (Ord. No. 92-22, ' 2, 12-8-92)

Sexually-Oriented Business: Any business establishment or concern which as a regular and substantial course of conduct performs as an Adult Bookstore, Adult Theater, Adult Motion Picture Arcade, Adult Cabaret, Escort Bureau, stripper, Adult Model Studio, Adult Motel/Hotel, or sells or distributes Adult Merchandise or sexually-oriented material, or any other business or concern which offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts but not including those uses or activities, the regulation of which is preempted by state law. ``Sexually-oriented business" shall also include any establishment which, as a regular and substantial course of conduct provides or allows performers, models, or employees to appear in any place in lingerie. For the purposes of this section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts as a regular and substantial course of conduct when one (1) or more of the following conditions exist:

- a. The area devoted to Adult Merchandise and/or Sexually-Oriented Material exceeds more than fifteen (15) percent of the total display or floor space area open to the public.
- b. The business or concern presents any type of live entertainment which is not prohibited by title IV, division L, chapter 5 of the Irvine City Code, but is nonetheless characterized by an emphasis on specified sexual activity or Specified Anatomical Parts at least four (4) times in any month in any given year.
- c. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts. (Ord. No. 92-22, ' 2, 12-8-92)

Sexually-Oriented Material: Any element of adult merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, or other visual representation characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts. (Ord. No. 92-22, ' 2, 12-8-92)

Sexually-Oriented Merchandise: Sexually-oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually-oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery-operated vaginas, and similar sexually-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity. (Ord. No. 92-22, ' 2, 12-8-92)

Specified Sexual Activities:

- a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship, any of the following depicted sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- c. Use of human or animal ejaculation, sodomy, oral copulation coitus, or masturbation; or
- d. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- e. Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or
- f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, vaginal or anal irrigation.
- h. Striptease or the removal of clothing to the point where Specified Anatomical Parts are minimally clad. (Ord. No. 92-22, ' 2, 12-8-92)

2-28 Sexually-oriented business permit.

2-28-1 Intent.

The intent of this section is to regulate uses which, because of their very nature, are believed to have any of the recognized significant secondary effects on the community which include, but are not limited to: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of Sexually-Oriented Businesses; interference with residential property owners' enjoyment of their property when such property is located in the vicinity of Sexually-Oriented Businesses due to increased crime, debris, noise and vandalism; higher crime rates in the vicinity of Sexually-Oriented Businesses; and blighting conditions such as low-level maintenance of commercial premises and parking lots which thereby have a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the Sexually-Oriented Businesses. It is neither the intent nor effect of this section to impose limitations or restrictions on the content of any communicative material. Similarly it is neither 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 or exhibitors of Sexually-Oriented Materials to their intended market.

Nothing in this section is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful exposure, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

2-28-2 Permit Required.

No Sexually-Oriented Business shall be permitted to operate, engage in, conduct or carry on business within the City unless the owner of the business first obtains both a Sexually-Oriented Business permit and a business license from the City of Irvine.

2-28-3 Application Requirements.

Persons Eligible: The property owner, or authorized agent of the property owner, is eligible to request a Sexually-Oriented Business permit.

The information requested below is required at the time a Sexually-Oriented Business permit application is submitted to the Community Development Department:

- A. A complete Sexually-Oriented Business permit application signed by the property owner or its authorized representative.
- B. A nonrefundable deposit or fee as set forth by ordinance or resolution of the City Council.
- C. A letter of justification describing the proposed project and explaining how it will satisfy the findings in zoning code section 2-28-5
- D. Information required for public meetings and hearings (see section 2-23)
- E. All other information as required by City of Irvine Sexually-Oriented Business Permit Information Sheet.

2-28-4 Meetings, Hearing and Notice.

- A. See section 2-23 for noticing requirements of public meetings and hearings.
- B. The Transportation Commission may review any proposed Sexually-Oriented Business permit, if determined necessary by the Director of Community Development. If review by this commission is necessary, at least one (1) public meeting shall be held, and its recommendations shall be prepared for consideration by the Planning Commission.
- C. The Planning Commission shall hold at least one (1) public hearing, in accordance with section 2-23 of this chapter and, within forty-five (45) days of the application being deemed complete, shall adopt a resolution approving or denying a Sexually-Oriented Business permit application based on the findings in section 2-28-5.

2-28-5 Findings.

The Planning Commission shall approve and issue a Sexually-Oriented Business permit if the Planning Commission finds that:

- A. The Sexually-Oriented Business is located in the General Industrial or IBC Industrial zones.
- B. The Sexually-Oriented Business is not proposed to be located within twenty-three hundred (2300) feet of any residential zone or residential use approved by the Cities of Irvine, Lake Forest, Laguna Hills, and Tustin, or the United States Marine Corps.
- C. The Sexually-Oriented Business is not proposed to be located within twenty-three hundred (2300) feet of any lot upon which there is located a religious institution, Public Park Facility, Child Care Center or School.
- D. The Sexually-Oriented Business is not proposed to be located within twenty-three hundred (2300) feet of either the City of Irvine Multi-Modal Transportation Center or the James Musick Facility.
- E. The Sexually-Oriented Business is not proposed to be located within five hundred (500) feet of another Sexually-Oriented Business.
- F. The distance of separation required by findings A, B, C and D shall be made using a straight line, without regard to intervening structures or objects, from the property line of the Lot on which the Sexually-Oriented Business shall be located to the nearest property line of the Lot upon which is located a residential use, religious institution, Irvine Multi-Modal Transportation Center, the James Musick Facility, Public Park Facility, School, Child Care Center or Sexually-Oriented Business. If the use to which the measurement is being taken is located on the same lot as the Sexually-Oriented Business, the distance between the two shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects.

- G. The Sexually-Oriented Business complies with the City's parking standards for the underlying use. Where no City parking standards exist for a particular use, a parking study shall be prepared and completed for the use in question. The study shall demonstrate that the Sexually-Oriented Business for which the applicant is seeking approval satisfies the City-established parking requirement for the particular underlying use.
- H. The Sexually-Oriented Business is not proposed to be located completely, or partially, within any Manufactured Structure or Pushcart.
- I. The Sexually-Oriented Business will not stage any Special Events, promotions, festivals, concerts or the like that would increase the demand for parking beyond the approved number of spaces for the particular use.
- J. The Sexually-Oriented Business will not conduct any massage, acupuncture, tattooing, acupressure, fortune-telling or escort services on the premises.
- K. The Sexually-Oriented Business provides a security system that visually records and monitors parking lot areas. All indoor areas of the Sexually-Oriented Business shall be open to public view at all times with the exception of restroom facilities. "Accessible to the public" shall include those areas which are only accessible to members of the public who pay a fee and/or join a private club or organization.
- L. The Sexually-Oriented Business complies with the City's sign regulations as contained in section 2-31 et seq. of the Zoning Ordinance.
- M. The Sexually-Oriented Business complies with the development and design requirements of the planning area in which it is to be located.
- N. The Sexually-Oriented Business will not display any Sexually-Oriented Material or Sexually-Oriented Merchandise which would be visible from any location other than from within the Sexually-Oriented Business.
- O. The Sexually-Oriented Business will not be accessible to any person under the age of eighteen (18) if no liquor is served, or twenty-one (21) if liquor is served.
- P. The Sexually-Oriented Business shall not operate between the hours of 10:00 p.m. and 7:00 a.m.
- Q. Neither the applicant, if an individual, nor any of the officers or general partners, if a corporation or partnership, of the Sexually-Oriented Business have been found guilty within the past seven (7) years of a misdemeanor or felony classified by the state as a sex or sex-related offense and have not violated any of the provisions of a Sexually-Oriented Business permit or similar permit or license in any city, county, territory, or state.
- R. The Sexually-Oriented Business shall provide separate restroom facilities for male and female patrons. The restrooms shall be free from Sexually-Oriented Materials and Sexually-Oriented Merchandise. Only one (1) person shall be allowed in the restroom at any time.
- S. All viewing areas within the Sexually-Oriented Business shall be visible from a continuous and accessible main aisle in a public portion of the establishment, and are not obscured by any door, curtain, wall, two-way mirror or other device which would prohibit a person from seeing into the viewing area from the main aisle. A manager shall be stationed in the main aisle at a location from which the inside of all viewing areas are visible at all times in order to enforce all rules and regulations. No viewing area shall be designed or operated to permit occupancy of either more than one (1) person or fewer than ten (10) persons. "Viewing area" shall mean any area in which a person views performances, pictures, movies, videos or other presentations.
- T. All areas of the Sexually-Oriented Business shall be illuminated at a minimum of one and twenty-five one-hundredths (1.25) footcandles, minimumly maintained and evenly distributed at ground level.
- U. The individual viewing areas of the Sexually-Oriented Business shall be operated and maintained with no holes or other openings or means of direct visual or physical access between the interior space of two (2) or more individual viewing areas. "Individual viewing area" shall mean a viewing area designed for occupancy by one (1) person.
- V. The Sexually-Oriented Business complies with all the requirements of section 2-28 et seq. of the Zoning

Ordinance.

- W. A traffic study has been prepared for the Sexually-Oriented Business in conformance with the City of Irvine Traffic Study Guidelines. The applicant shall make all necessary improvements to reduce all project-related traffic impacts which exceed the applicable planning area's adopted trip cap or any street, roadway or arterial's adopted level of service are reduced to the adopted levels. Said improvements have been made conditions of project approval.
- X. The Sexually-Oriented Business shall comply with the noise element of the general plan, including figure F-5, interior and exterior noise standards, and any mitigation measures necessary to reduce the project's noise impacts to the City's articulated noise standard.
- Y. The Sexually-Oriented Business shall comply with the adopted air installations compatible use zone study (AICUZ) for MCAS El Toro which limits the number of persons which may occupy a building located in an aircraft potential zone (APZ) I and II to one hundred (100) and two hundred (200) people, respectively.

2-28-7 Permit Duration.

A Sexually-Oriented Business permit shall be valid for a period of one (1) year from the date of project approval.

2-28-8 Permit Renewal.

A Sexually-Oriented Business permit may be renewed on a year-to-year basis provided that the permittee continues to meet the requirements set forth in this section. A request for permit renewal must be accompanied by a completed Sexually-Oriented Business permit application. If said application conforms to the previously approved application and the Sexually-Oriented Business has not changed, the permit shall be renewed by the Director of Community Development for another year. Any change or alteration in that nature or operation of the Sexually-Oriented Business will require the renewal to be reviewed by the Planning Commission through the public hearing process. The Planning Commission shall grant the permit renewal if the findings contained in section 2-28-5 have been satisfied. The renewal fee for a Sexually-Oriented Business permit shall be established by ordinance or resolution of the City Council.

2-28-9. Permits Nontransferable; Use Specific.

No Sexually-Oriented Business permit may be sold, transferred, or assigned by any permittee or by operation of law, to any other person, group, partnership, corporation or any other entity. Any such sale, transfer, or assignment or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall be thereafter null and void. A Sexually-Oriented Business permit held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the Sexually-Oriented Business from one element of a Sexually-Oriented Business use to another element of a Sexually-Oriented Business shall also render the permit null and void. A Sexually-Oriented Business permit shall only be valid for the exact location specified on the permit.

2-28-. Enforcement and Revocation.

- A. *Inspections:* The permittee shall permit officers of the City of Irvine, the County of Orange, and each of their authorized representatives to conduct unscheduled inspections of the premises of the Sexually-Oriented Business for the purpose of ensuring compliance with the law at any time the Sexually-Oriented Business is open for business or occupied.
- B. *Revocation Grounds:* The Director of Community Development may revoke a Sexually-Oriented Business permit when he or she discovers that any of the following have occurred:
 - (1) Any of the findings contained in sections 2-28-5 above ceases to be satisfied;
 - (2) The application contains incorrect, false or misleading information;
 - (3) The applicant is convicted of any felony or misdemeanor which is classified as a sex or sex-related offense, any violation of the City's Zoning Ordinance, any violation of the City's massage ordinance, or any violation of any other adult business ordinance of any other city, county, or state; or
 - (4) Individual viewing areas are being operated with more than one (1) occupant at any one (1) time, or are being

maintained with holes or other openings or means of direct visual access between the interior space of two (2) or more individual viewing areas. For the purpose of this section, "individual viewing area" shall mean a viewing area designed for single occupancy.

- (5) Any person has been convicted of a sex-related offense as a result of his or her activity on the premises of the Sexually-Oriented Business.
- C. *Revocation Notice:* Upon determining that the grounds for permit revocation exist, the Director of Community Development shall furnish written notice of the proposed revocation to the permittee. Such notice shall summarize the principal reasons for the proposed revocation, shall state that the permittee must request a public hearing within fifteen (15) calendar days of the postmarked date on the notice and shall be delivered both by posting the notice at the location of the Sexually-Oriented Business and by sending the same, certified mail, return receipt requested and postage prepaid, addressed to the permittee as that name and address appears on the permit. Within fifteen (15) calendar days after the latter of the mailing or posting of the notice, the permittee may file a request for public hearing with the City Clerk. If the request for a public hearing is filed within fifteen (15) calendar days of the mailing or posting of the notice referenced above, the hearing shall be provided as contained in subsection D below.
- D. *Revocation Hearing:* Upon receipt of a written request for a public hearing, the director of community development shall appoint a hearing officer, who shall conduct a hearing within thirty (30) calendar days of receipt of such request. Notice of the public hearing shall be in accordance with section 2-23 of the Zoning Ordinance. Notice of time and place of the hearing shall be sent to the permittee via certified mail, return receipt requested and postage prepaid, at least fifteen (15) calendar days in advance of the date set for the public hearing. At the public hearing, the permittee and the City shall be entitled to present relevant evidence, testify under oath, and call witnesses who shall testify under oath. The public hearing officer shall not be bound by the traditional rules of evidence in the hearing, except that hearsay evidence may not be the sole basis for the determination of the hearing officer.
- E. *Ruling:* Within ten (10) calendar days of the termination of the hearing, the hearing officer shall make a decision on whether the grounds for revocation exist and shall submit a written report to the Director of Community Development. Such written report shall contain a brief summary of the evidence considered and shall state findings, conclusions and directives to the Director on whether the permit is to be revoked. All such reports shall be filed with the City Clerk, and shall be considered public records. A copy of such report shall be forwarded by certified mail, return receipt requested and postage prepaid, to the permittee on the day it is filed with the City Clerk. If the hearing officer determines that any grounds for revocation exist, as provided in subsection B above, the Director of Community Development, based upon the report of the hearing officer, or if no hearing is conducted, based upon the report of the City staff, shall immediately revoke the permittee's Sexually-Oriented Business permit. The decision of the hearing officer shall be final.
- F. *Reapplication After Revocation:* No person, corporation, partnership or member thereof or any other entity may obtain a Sexually-Oriented Business permit once its permit has been revoked.

2-28-11. Violation and Penalty.

- (1) Every person, whether acting as an individual owner, employee of the owner, permittee, or operator or employee of the permittee, or whether acting as a mere helper for the owner, permittee employer, or operator, or whether acting as a participant or worker in any way, who operates or conducts an activity referred to in this section without first obtaining a Sexually-Oriented Business permit from the City, or who violates any provisions of this section, shall be guilty of a misdemeanor. Any person violating any of the provisions of this section shall be fined not more than one thousand dollars (\$1,000.00) for each offense or imprisoned for not more than six (6) months in the County jail for each offense, or both. Each day the violation continues shall be regarded as a separate offense for which the full penalty may be imposed.
- (2) Any establishment operated, conducted or maintained contrary to the provisions of this section is unlawful and a public nuisance; and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such Sexually-Oriented Business and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this chapter.