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## Article 1 - Business Registration

### 801 Purpose

Because each business establishment located in the Village is a basic part of and affects the physical and economic well being of the Village, such business establishments shall in all respects be in full compliance with the provisions contained herein. This Section is designed to keep a current listing of businesses operating in the Village, aid the Police and Departments in its responsibilities, ensure zoning compliance and provide a cross check of sales tax collections.

### 802 Rules

It shall be unlawful for any person to engage in any businesses or business activities in the Village without first having registered with the Village. If a business is renting or leasing the building, or a part of a building which it is physically locate, the owner of the property upon which the business is operating shall notify the Village of the new business

### 803 Procedure and Duration

All businesses with buildings, premises or operating from a residence, in the Village, shall register with the Village, no later than January 1<sup>st</sup> of each year or at such time as the business desires to commence operation in the Village. Registration forms shall be made available by the Village.

When an applicant has not registered the business until after the expiration of part of the current registration year, the owner of the business shall register the business within 15 days of the date that the business operation commences. If the owner of the business does not register within this 15 day period, the registration fee shall be imposed upon the owner of the business, and the registration fee shall be prorated by quarters and the fee shall be paid within 30 days after the business begins operation.

### 804 Annual Registration Fee

The annual registration fee is \$25.00 per business. However, this registration fee shall be waived by the Village if the registration form is completed and returned to the Village Clerk on or before January 1<sup>st</sup> of the registration year.

### 805 Duties of Registrant

It shall be the responsibility of the registrant to provide new and updated registration information at the annual renewal date. A renewed business registration will not be issued by the Village until an updated registration form is completed and all the required information is provided.

## 806 Posting Registration Certificate

It shall be the duty of any person conducting a registered business in the Village to keep his or her registration posted in a prominent place on the premises used for such business at all times.

## 807 Penalty

Any business or person violating this Article shall be fined not less than \$50.00 nor more than \$500.00 for each violation. For the purposes of this Article, each 24 hour period a violation exists shall be considered a separate violation.

## Article 2 - Solicitors

### 808 Definitions

For the purposes of this Article, the following terms as used in this Article shall be construed according to the definitions given below.

**Soliciting.** Any one or more of the following activities constitute the act of soliciting:

- A. Seeking to obtain orders, including but not limited to the distribution of coupons, for the goods, wares, merchandise, foodstuffs, services of any kind, character of description whatever, for any kind of consideration whatever; or
- B. Seeking to obtain prospective customers for application or purchase of insurance of any type, or kind of character.
- C. Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.

**Residence.** Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

**Registered Solicitor.** Any person who has obtained a valid certificate of registration as hereinafter provided, and which certificate is in the possession of the solicitor on his person while engaged in soliciting.

### 809 Registration of Solicitors

Every person, other than a charitable or non-profit association, organization, corporation or project formally organized as such under the laws of the State of Illinois or any other State, desiring to engage in soliciting as herein defined from persons in residences within this village, is hereby required to make written application for a certificate of registration as hereinafter provided.

## 810 Application for Certificate of Registration

Application for a Certificate of Registration shall be made upon a form provided by the Village Clerk and filed with the Village Clerk. The applicant shall truthfully state in full the information requested on the application and provide the following information:

- 810.1 Name and address of present place of residence, length of residence at such address, business address if other than residence address, social security number and date of birth.
- 810.2 Address of place of residence during the past 3 years if other than present address.
- 810.3 Physical description of the applicant, by way of a state-issued photo identification, and description of applicant's vehicle including its license plate number.
- 810.4 Name and address of the person, firm or corporation or association whom the applicant is employed by or represents; and the length of time of such employment or representation.
- 810.5 Name and address of employer during the past 3 years other than the present employer.
- 810.6 Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in.
- 810.7 Period of time for which the certificate is applied for.
- 810.8 The date, or approximate date, of the latest previous application for certificate under this Article, if any.
- 810.9 A statement of whether a certificate of registration issued to the applicant under this Article was ever revoked.
- 810.10 A statement of whether the applicant was ever convicted of a violation of any provision of this Article, or the ordinance of any other Illinois municipality regulating soliciting.
- 810.11 A statement of whether the applicant was ever convicted of the commission of a felony under the laws of the State of Illinois or any other state or federal law of the United States.
- 810.12 Such additional information as the Village Clerk or Chief of Police may deem necessary to process the application.

### **811 Fingerprinting**

The Village Clerk shall require every applicant to submit to fingerprinting by the Police Department in connection with the application for certificate.

### **812 Fee**

The fee for such licenses shall be \$50.00 per day for each individual seeking to obtain orders for purchase, prospective customers, obtaining subscriptions of any type of publications as described in this Article.

### **813 Record Keeping**

The Village Clerk shall cause to be kept in his/her office an accurate record of every applicant received and acted upon, together with all other information and data pertaining thereto and all certificates of registration issued under the provisions of this Article, and of the denial of applications. Applications for certificates shall be numbered in consecutive order as filed, and every certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

### **814 Certificate of Registration**

No certificate of registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other state or federal law of the United States, within 5 years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Article, nor to any person whose certificate of registration issued hereunder has previously been revoked as herein provided.

### **815 Issuance and Revocation of Certificate**

815.1 The Village Clerk, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such certificate as herein required, and that the issuance of a certificate of registration to the applicant would not be in accord with the intent and purpose of this Article. The Chief of Police shall make enforcement upon the application of the denial of the application. When the applicant is found to be fully qualified, the certificate of registration shall be issued forthwith. The certificate of registration shall state the expiration date thereof.

815.2 Any certificate of registration issued shall be revoked by the Village Clerk if the holder of the certificate is convicted of a violation of this Article, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a certificate of registration. Immediately upon such revocation, written notice hereof shall be given by the Village Clerk to the holder of the certificate in person, or by certified U.S. mail addressed to his/her residence address set forth in the application. Immediately upon the mailing of such notice, the certificate of registration shall become null and void.

### **816 Policy on Soliciting**

It is the policy of the Board of Trustees that the occupants of the residences in this Village shall make the determination of whether solicitors shall be, or shall not be, invited to their respective residence.

### **817 Notice Regulating Soliciting**

Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article, shall comply with the following directions, to-wit.

Notice of the determination by the occupant of giving invitation to solicitors, or the refusal of invitation to solicitors to any residence, shall be giving in the manner following.

A weatherproof card, approximately 3 inches by 4 inches in size shall be exhibited upon or near the main entrance door to the residence, indication the determination by the occupant, containing the applicable words, as follows.

**"ONLY SOLICITORS REGISTERED IN SPRING GROVE INVITED"**  
or  
**"NO SOLICITORS INVITED"**

The letters shall be at least one-third inch in height. For the purpose of uniformity, the Village Clerk shall provide the cards to persons requesting same, at the cost of \$2.00. Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

## **818 Duty of Solicitors**

- 818.1 It shall be the duty of every solicitor upon going onto any premises in the Village, upon which a residence as herein defined is located, to first examine the notice provided for in this Section, if any is attached, and be governed by the statement contained on the notice. If the notice states "Only Solicitors Registered in Spring Grove Invited," then the solicitor not possessing a valid certificate of registration as herein provided shall immediately and peacefully depart from the premises. If the notice stated, "No Solicitors Invited," then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.
- 818.2 Any solicitor who has gained entrance to any resident, whether or not invited, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

## **819 Uninvited Soliciting**

It is unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of this Section.

## **820 Hours of Soliciting**

It is unlawful and shall constitute as nuisance for any person whether registered under this Article or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to 9:00 a.m. or after 7:00 p.m. of any week day, or at any time on a Sunday or on a state or national holiday.

## **821 Penalty**

Any person, organization, or corporation which solicits without obtaining a license, as required under this Article, or is otherwise in violation of this Article, shall be subject to a fine of not less than \$50.00 for said violation. In addition, any person, organization or corporation found to be in violation of this Article by a court of competent jurisdiction shall also be required, in addition to said fine, to pay to the Village of the license fee of \$50.00 each day that a person, organization or corporation solicits without a license shall be considered a separate and distinct offense.



## Article 3 - Tobacco Dealers

### 822 Definitions

For the purposes of this Article, the following terms as used in this Article shall be construed according to the definition given below.

**Tobacco Products.** Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

### 823 License Required

No person, firm or corporation shall engage in the sale at retail of cigars or tobacco in any form, or maintain a vending device for the sale or distribution of the same, without obtaining a license as provided in this article. Applications for such licenses shall be made in writing to the Chief of Police, and shall cause an inspection to be made of the character of the applicant. All people who engage in the sale at retail of cigars or tobacco in any form shall wear a name tag, which identifies them by their actual full name, first name or last name. *(Revised Ord. 2007-49)*

### 824 Fee

The annual fee shall be \$100.00.

### 825 Sale to Minors

It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or exchange any tobacco products and/or all types of pipes, cigarette papers, and any other materials used for smoking including, but not limited to, all types of smoking paraphernalia, to any person under eighteen (18) years of age.

### 826 Minimum Age to Sell Tobacco Product

It shall be unlawful for any licensee or any officer, associate, member, representative, agent or employee of such licensee, to engage, employ or permit any person under eighteen (18) years of age to sell tobacco products upon or in any premises licensed pursuant to this Article.

### 827 Possession by Minors Prohibited

It shall be unlawful for any person under eighteen (18) years of age to possess any tobacco products; provided that the possession by a person under eighteen (18) years of age is under the direct supervision of the parent or guardian of such person in the privacy of the parent's or guardian's home shall not be prohibited.

## 828 Penalty

Except as otherwise provided in this Article, any person, firm or corporation found by a court of competent jurisdiction to have violated any regulation set forth in this Article shall be fined in the amount of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000). Each day that a violation is found to have existed shall be deemed as a separate violation.

## Article 4 - Licensing of Sexually Oriented Businesses

### 829 Purpose and Findings

829.1 **Title.** This Article shall be known as and may be cited as the Spring Grove Sexually Oriented Business Licensing Ordinance, and is also referred to herein as this Ordinance.

829.2 **Purpose.** The purpose of this Ordinance is to establish reasonable and uniform regulations to minimize and control the negative secondary effects of sexually oriented businesses within the municipality in order to promote the health, safety, and welfare of the citizens of the municipality. The provisions of this Ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials or communication, including sexually oriented entertainment. Similarly, it is not the purpose nor effect of this Ordinance to restrict or deny access by adults to sexually oriented entertainment protected by the First Amendment, or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market. Furthermore, it is not the intent or effect of this Ordinance to condone or legitimize the distribution or exhibition of entertainment that is obscene.

829.3 **Findings.** Based on evidence concerning the adverse secondary effects of sexually oriented businesses presented to the municipality from findings incorporated in the cases of *City of Erie v. Pap's A.M.*, 529 U.S. 277, 120 S.Ct. 1382 (2000); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986) *Young v. American Mini Theaters*, 426 U.S. 50 (1976), *Berg v. Health and Hospital Corporation*, 865 F.2d 797 (7<sup>th</sup> Cir 1989); *Ellwest Stereo Theaters v. Wenner*, 681 F.2d 1243 (9<sup>th</sup> Cir. 1982); *Bamon Corp v. City of Dayton*, 730 F.Supp 80 (S.D. Ohio, 1990) and *EWAP Inc. v. City of Los Angeles*, 97 Cal. App. 3d 179, 158 Cal. Rptr. (1979), and on studies in other cities including the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* (Minnesota, 1989); *Memorandum re: Adult Entertainment Ordinance*, of the Assistant Chief of Police of the Tucson, Arizona (May 1, 1990); Hecht, Peter R., Ph.D., *Report to the American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses* (March 31, 1996); *Adult Entertainment Businesses in Indianapolis, An Analysis* (1984) and McCleary, Richard, Ph.D. and Meeker, James

W., Ph.D., *Final Report to the City of Garden Grove: The Relationship Between Crime and Adult Business Operations on Garden Grove Boulevard*, (Garden Grove, CA, October 23, 1991), this Legislative body finds:

- A. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities.
- B. Sexual acts, including masturbation, oral sex and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or rooms for viewing films, videos, or live sexually oriented entertainment. Such activities may result in spreading communicable diseases such as syphilis, gonorrhea, and human immunodeficiency virus (HIV).
- C. Offering sexually oriented entertainment under conditions that encourage such activities creates unhealthy conditions.
- D. Sanitary conditions in some sexually oriented businesses are unhealthy, in part because of the failure of owners and operators to regulate those activities and maintain their facilities.
- E. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view sexually oriented films concealed from public view.
- F. The findings noted in Section 829.3 subparagraphs number A through E raise compelling and substantial governmental concerns.
- G. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those compelling and substantial governmental concerns.
- H. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on operators to see that sexually oriented businesses are run in a manner consistent with the health, safety and welfare of patrons and employees, as well as the citizens of the municipality. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, and fully in possession and control of the premises and activities occurring therein.

- I. The regulation of nudity, semi-nudity, and physical contact between employees and patrons in sexually oriented businesses will further the compelling and substantial governmental interests in preventing prostitution and other sex-related crimes, including illegal sex acts, and protecting the public health, safety, and welfare.
- J. Requiring open sight lines in sexually oriented businesses and requiring sufficient lighting will advance the compelling and substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented businesses and will facilitate enforcement of the provisions of this Ordinance and other federal, state and local laws, thereby furthering the compelling and substantial governmental interest in protecting the public health, safety, and welfare.
- K. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of sexually oriented businesses, and by employees of such businesses, will facilitate the enforcement of the provisions of this Ordinance and other federal, state and local laws, and will thereby further the compelling and substantial government interest in protecting the public health, safety, and welfare.
- L. A person who recently has been convicted of a sexually related crime is not an appropriate individual to operate or be employed in a sexually oriented business.
- M. Barring such individuals from the management of and employment in sexually oriented businesses for a period of years serves as a deterrent to and prevents the commission of sexually related criminal acts, including conduct which leads to the transmission of sexually transmitted diseases.

## 830 Definitions

For the purposes of this Ordinance, the following terms as used in this Ordinance shall be construed according to the definitions given below.

**Employee.** A natural person who performs any service or work on the premises of a sexually oriented business, including but not limited to providing entertainment, performing work of a management or supervisory nature, or performing support functions, on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person on the premises exclusively for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**Employee Station.** An area on the premises of a sexually oriented business designated for occupancy exclusively by one or more employees whose duties include assuring compliance with the provisions of this Ordinance.

**Excretory Functions.** Urination, defecation, lactation, ejaculation and menstruation. It shall not mean urination and defecation performed in a public or employee-only restroom in the manner in which those facilities are intended to be used, and when not performed or presented for a commercial purpose. It shall not mean lactation as part of breast-feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast-feeding an infant.

**Enforcement Officer.** The President of the Village of Spring Grove or his or her designee.

**Licensee.** A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the sexually oriented business. With respect to a sexually oriented business employee license issued under this ordinance, licensee means a natural person in whose name a license has been issued authorizing employment in a sexually oriented business.

**Municipality.** The Village of Spring Grove, Illinois.

**Nudity or Nude.** Exposing to view specified anatomical areas or any device, costume, or covering that gives the appearance of or simulates any specified anatomical areas.

**Operate or Cause to be Operated.** To control or hold primary responsibility for the operation of a sexually oriented business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. It shall also mean to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

**Operator.** Any person who operates or causes to be operated a sexually oriented business.

**Patron.** Any natural person who is not an employee.

**Person.** A natural person, proprietorship, partnership, limited liability company, firm, association, joint stock company, joint venture, corporation or combination of individuals of whatever form or character.

**Semi-Nudity or Semi-Nude.** Exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

**Sexually Oriented Business.** Any of the following when done in a place where the public is invited or permitted, or when done for any commercial purpose including sale and rental, regardless of who pays or receives the consideration therefor, and regardless of the form of consideration:

- A. Live exhibition or display of a natural person or people in the state of nudity or semi-nudity, or engaged in specified sexual activities or excretory functions;
- B. Engaging in, promoting or permitting a natural person or people to engage in specified sexual activities or excretory functions.
- C. Offering of physical contact in the form of wrestling or tumbling between natural persons of the opposite sex, when one or more of the persons is nude or semi-nude.
- D. Offering of products, services or activities by or with a natural person or people when one or more of the people, whether a patron, agent, employee or otherwise, is in a state of nudity or semi-nudity.
- E. Displaying or offering to others any recorded depiction of a natural person, or created image or character, as in cartoons and animation, by any medium, including without limitation film, videotape, closed-circuit television, digital video disc (DVD), laser disc, compact disc (CD), floppy disc, photograph, slide, television, book, magazine, and computer software, which is:
  - 1. Characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas; or
  - 2. Advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas, including without limitation, the use of the term “adult” and the use of the designation of one or more “X” such as, but not limited to, “XXX”.
- F. The display and offering to others of novelties, instruments, devices, or paraphernalia that are designed primarily for use in connection with specified sexual activities or that give the appearance of or simulate any of the specified anatomical areas.
- G. The term sexually oriented business shall exclude the following:
  - 1. The display and offering to others of condoms, spermicide or other non-prescription contraceptives;

2. The display and offering to others of drugs, instruments or devices which require a prescription, that are designed primarily for use in connection with specified sexual activities, and which are in fact dispensed by or under the supervision of a pharmacist licensed by the State of Illinois;
3. The display and offering to others of instruments, devices, or paraphernalia that are designed primarily for use in connection with specified sexual activities if they are displayed and offered to others on the premises where a pharmacist licensed by the State of Illinois is employed to dispense prescription drugs, instruments or devices;
4. Breast-feeding an infant, unless performed or displayed for a commercial purpose other than education and training in the art, science or technique of breast-feeding an infant;
5. The display and offering to others of motion pictures, by any format, which have received a rating from the Motion Picture Association of America of G, PG, PG-13, R or NC-17, when offered or displayed substantially in their entirety;
6. Libraries and museums funded in whole or in part by federal, state or local governmental funds.
7. The display and offering to others of items described in paragraph E above of this Ordinance, if and only if the display and offering are done for a commercial purpose, and all of the following apply to the business displaying and offering such items to others:
  - a. Less than 5% of its gross income comes from the sale, rental or exhibition of the following types of items:
    - i. items which are characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof, and
    - ii. items which are advertised or otherwise held out to the public as being characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof, including without limitation, the use of the term "adult" and the use of the designation of one or more "X" such as, but not limited to, "XXX"; and

- b. Less than 5% of its display space is used for the sale, rental or exhibition of the items described in paragraph (a)(i) and (ii) above; and
- c. Less than 5% of the items it offers to others are the items described in paragraph (a)(i) and (ii) above; and
- d. The items described paragraph (a)(i) and (ii) above are segregated from all other displays and retail areas of the premises by a solid partition from floor to ceiling with no openings or windows and with entrance and egress by means of a solid door posted with a sign not less than one foot by one foot with the words “UNDER 18 NOT ADMITTED” lettered on the sign, except that magazines characterized or distinguished by an emphasis on the depiction or description of specified sexual activities, excretory functions, or specified anatomical areas or any combination thereof may be displayed on racks or other display cases only if the magazine is encased or otherwise covered up and concealed from common view of anything other than the magazine title or text or other materials which would not be described as sexually oriented.

H. Certain uses which fall within the definition of sexually oriented business may also constitute uses which are illegal under local, state or federal law, such as obscenity or child pornography. Even if such illegal uses constitute a sexually oriented business under the definition set forth in this ordinance, they shall not be permitted to receive a sexually oriented business license.

**Specified Anatomical Areas.** The human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, any portion of the areola of the female breast if less than a fully and opaquely covered; and the male genitals in a discernibly turgid state, even if entirely covered by an opaque covering. In determining whether any of the foregoing portions of the anatomy are fully and opaquely covered, coverage by make-up, paint, or similar matter applied directly to the skin, shall not be considered to be fully and opaquely covered.

**Specified Criminal Activity.**

- A. Any of the following offenses, as set forth in the Illinois Criminal Code of 1961, as amended, or any substantially similar offenses to those set forth below under the criminal or penal code of any local jurisdiction, state, country, or international law: Indecent Solicitation of a Child, Indecent Solicitation of an Adult, Adultery, Fornication, Public Indecency, Sexual Exploitation of a Child, Custodial Sexual Misconduct, Presence Within School Zone By Child Sex Offenders Prohibited, Sexual Relations Within Families, Bigamy, Marrying a Bigamist, Prostitution, Solicitation of a Sexual Act, Soliciting for a Prostitute, Soliciting for a Juvenile Prostitute, Pandering, Keeping a Place of Prostitution, Keeping a Place of Juvenile



Prostitution, Patronizing a Prostitute, Patronizing a Juvenile Prostitute, Pimping, Juvenile Pimping, Exploitation of a Child, Obscenity, Child Pornography, Commercial Film and Photographic Print Processor - Reports, Harmful Material, Tie-in Sales of Obscene Publications to Distributors, Criminal Sexual Assault, Aggravated Criminal Sexual Assault, Predatory Criminal Sexual Assault of a Child, Criminal Sexual Abuse, Aggravated Criminal Sexual Abuse, Criminal Transmission of HIV, Ritualized Abuse of a Child, Female Genital Mutilation, violation of the Sex Offender Registration Act, Stalking (if the basis of the conviction is the threat of immediate or future sexual assault, or placing a person in reasonable apprehension of immediate or future sexual assault), First Degree Murder (if the basis for the conviction is 720 ILCS 5/9-1(a)(3), commonly known as felony murder, where the predicate felony is any felony otherwise set forth in this definition), Burglary (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), Residential Burglary (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), Armed Violence (if the basis for the conviction is an intent to commit any felony otherwise set forth in this definition), Attempt to commit any of the foregoing crimes, Conspiracy to commit any of the foregoing crimes, and any other felony or misdemeanor for which an element of the offense is the commission of any of the foregoing crimes or an intent to commit any of the foregoing crimes.

- B. For which: (1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor, business offense or petty offense; or (2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
- C. The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this Ordinance.

**Specified Sexual Activities.** Any of the following, whether actual or simulated:

- A. The fondling or other erotic touching of human genitals, pubic area, perineum, anus, anal cleft or cleavage, pubic hair, buttocks, or female breasts, regardless of whether the performer or recipient is clothed, in a state of nudity or in a state of semi-nudity;
- B. The manipulation of the human body of another, including massage, by the use of any portion of manipulator's body, whether covered or uncovered, or by any device, if the person performing the manipulation or the person receiving the manipulation is in a state of nudity or semi-nudity.

- C. Sex acts, normal or perverted, heterosexual, homosexual or bisexual, including without limitation intercourse, fellatio, cunnilingus, analingus, masturbation, bestiality, sodomy, bondage and discipline, sadism and masochism, and any other act intended to cause sexual arousal;
- D. Sex acts between animals when offered or displayed for the purpose or with the intent of causing the sexual arousal of a human viewer.

**Transfer of Ownership or Control.**

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfers by bequest or other operation of law upon the death of the person possessing the ownership or control.

**831 Sexually Oriented Business License Required**

- 831.1 No person shall operate a sexually oriented business without a valid sexually oriented business license issued by the municipality pursuant to this Ordinance.
- 831.2 No person shall, in connection with operating a sexually oriented business, retain the services of a person as an employee who is not licensed as a sexually oriented business employee by the municipality pursuant to this Ordinance.

**832 Sexually Oriented Business Employee License Required**

No person shall act as an employee on the premises of a sexually oriented business without having secured a sexually oriented business employee license pursuant to this Ordinance.

**833 Sexually Oriented Business License Application**

- 833.1 An application for a sexually oriented business license shall be submitted to the Village Clerk on a form provided by the enforcement officer. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the municipality to determine whether the applicant meets the qualifications established in this Ordinance.
- 833.2 An application for a sexually oriented business license shall identify the following persons and be signed under oath by said persons that the information contained therein is true:

- A. If the business entity is a sole proprietorship, that sole proprietor;
- B. If the business entity is a corporation, each officer and Director of the corporation and each individual with a 10% or greater ownership interest in the corporation;
- C. If the business entity is a partnership, each general partner, and each limited partner who owns 10% or more of total limited partnership interest;
- D. If the business is a limited liability company, each manager, and each member with a 10% or greater ownership interest in the company. If the limited liability company does not have any managers, then each member.

833.3 An application for a sexually oriented business license must designate one or more natural persons who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one natural person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each natural person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this ordinance, and shall be considered a licensee if a license is granted.

833.4 An application for a sexually oriented business license shall be completed according to the instructions of the application form, which shall require the following:

- A. If the applicant is:
  - 1. an individual, state the legal name, address, date of birth, social security number, and any aliases of such individual;
  - 2. a partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any, and the information specified in Section 833.4.A.1 for each partner;
  - 3. a corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation and of Illinois, and state the names and capacity of all officers and directors, all persons owning 10% or more of the stock of the corporation, the name of the registered corporate agent, and the address of the registered office for service of process, and the information specified in Section 833.4.A.1 for each officer, director and owner of 10% or more of the stock;

4. a limited liability company, state the complete name of the company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization and of Illinois, and state the names and capacity of all members, owners and managers, the name of the registered agent, and the address of the registered office for service of process, and the information specified in Section 833.4.A.1 for each member, owner and manager;
- B. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.
- C. State whether any applicant has been convicted of a specified criminal activity, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.
- D. State whether any applicant has had a previous license under this Ordinance or other similar regulation of another jurisdiction 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 the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director, or 10% or greater owner of a corporation, or a member or manager of a limited liability company, licensed under this Ordinance whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- E. State whether any applicant holds any other licenses under this Ordinance or other similar regulation from this or another jurisdiction and, if so, the names and locations of other such licensed businesses.
- F. State the nature of the sexually oriented business for which the applicant is filing.
- G. State the location of the proposed sexually oriented business, including a legal description of the property (*i.e.*, block and lot), street address, telephone number(s), e-mail address and internet website URL, if any.
- H. State the mailing address of each applicant and each person signing the application.

- I. For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed sexually oriented business.
- J. Submit proof that each applicant who is a natural person is at least eighteen (18) years old.
- K. Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business, including the location of all stages, walls, partitions, designated sales areas, book cases, and patron seating, and a statement of total floor space occupied by the business. The diagram shall also designate the place at which the sexually oriented business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus one (1) foot.

#### **834 Issuance of a Sexually Oriented Business License**

- 834.1 Upon receipt of a completed application for a sexually oriented business license, the Village Clerk shall immediately file a copy of the completed application with the enforcement officer.
- 834.2 Upon receipt of a copy of a completed application for a sexually oriented business license, the enforcement officer, or any peace officer designated by the enforcement officer, shall promptly investigate the information provided in the application concerning the criminal background of the applicants and shall record the results of the investigation in writing within five (5) days of the completion of the investigation. If the investigation is done by a peace officer designated by the enforcement officer, then the written results of the investigation shall also be filed with the enforcement officer within five (5) days of the completion of the investigation.
- 834.3 Within five (5) days of receipt of a copy of a completed application for a sexually oriented business license, the enforcement officer shall notify the municipality's fire chief and building department of such application. In making such notification, the enforcement officer shall request that the fire chief and the building department promptly inspect the premises for which the sexually oriented business license is sought to assess compliance with the regulations under their respective jurisdictions.
- 834.4 The Fire Chief shall provide to the enforcement officer a written certification of whether the premises are in compliance with the Fire Code within five (5) days of completing the inspection.

- 834.5 The Building Department shall provide the enforcement officer a written certification of whether the premises are in compliance with the Building Code, the Zoning Ordinance, and the provisions of this Ordinance related to physical characteristics of the premises within five (5) days of completing the inspection.
- 834.6 The enforcement officer shall approve the issuance of a license to an applicant unless the enforcement officer determines by a preponderance of the evidence that one or more of the following findings is true:
- A. An applicant is a natural person is under eighteen (18) years of age.
  - B. An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has provided false information.
  - C. An applicant has been denied a sexually oriented business license or has had a license to operate a sexually oriented business revoked within the preceding twelve (12) months by any jurisdiction.
  - D. An applicant has been convicted of a specified criminal activity.
  - E. The proposed sexually oriented business or the premises on which it would operate would violate or fail to be in compliance with any provisions of the Zoning Code, the provisions of this Ordinance related to physical characteristics of the premises, or any state or federal law.
  - F. The application and investigation fee required by this Ordinance has not been paid.
  - G. An applicant is otherwise in violation of or is not in compliance with any provision of this Ordinance.
- 834.7 If the enforcement officer determines that no grounds for denial of a license exist under this section, the enforcement officer shall not delay approval of the application.
- 834.8 A sexually oriented business license, 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 licensed sexually oriented business. All sexually oriented business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

834.9 The enforcement officer shall advise the applicant in writing of the reasons for any license denial. The written license denial shall be either served on the applicant personally or by placing it in a sealed envelope, addressed to the applicant at the address set forth in the application, and depositing it with the United States Postal Service, proper first class postage prepaid. The enforcement officer may, but is not required to, serve the written license denial by certified or registered mail, as set forth above.

### **835 Sexually Oriented Business Employee License Application**

835.1 An application for a sexually oriented business employee license shall be submitted to the Village Clerk on a form provided by the enforcement officer. The application may request and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the municipality to determine whether the applicant meets the qualifications established in this Ordinance.

835.2 An application for a sexually oriented business employee license shall be completed according to the instructions of the application form, signed by the applicant under oath that the information contained therein is true, and shall require the following:

- A. State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.
- B. State the applicant's date and place of birth.
- C. State the applicant's height, weight, and hair and eye color.
- D. Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed sexually oriented business.
- E. State the applicant's present and intended business address and telephone number, identifying the sexually oriented business at which the applicant intends employment.
- F. Submit proof that the applicant is at least eighteen (18) years old.
- G. Provide a statement detailing the sexually oriented business employee license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a sexually oriented business, in this or any other jurisdiction, and whether the applicant has ever had a sexually oriented business license or a sexually oriented business employee license, permit, or

authorization to do business denied, revoked, or suspended by this or any other jurisdiction. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.

- H. State whether the applicant has been convicted of a specified criminal activity and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction, and the date of release from confinement, if any, for such conviction.

### **836 Issuance of Sexually Oriented Business Employee License**

836.1 Upon receipt of a completed application for a sexually oriented business employee license, the Village Clerk shall immediately file a copy of the completed application with the enforcement officer.

836.2 Upon receipt of a copy of a completed application for a sexually oriented business employee license, the enforcement officer, or any peace officer designated by the enforcement officer, shall promptly investigate the information provided in the application concerning the criminal background of the applicant and shall record the results of the investigation in writing within five (5) days of the completion of the investigation. If the investigation is done by a peace officer designated by the enforcement officer, then the written results of the investigation shall also be filed with the enforcement officer within five (5) days of the completion of the investigation.

836.3 The enforcement officer shall approve the issuance of a license to an applicant unless the enforcement officer determines by a preponderance of the evidence that one or more of the following findings is true:

- A. The applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has given false information.
- B. The applicant is under eighteen (18) years of age.
- C. The applicant has been convicted of a specified criminal activity.
- D. The sexually oriented business employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.



- E. The sexually oriented business where the applicant intends employment is not a licensed sexually oriented business pursuant to this Ordinance.
- F. The applicant has been denied a sexually oriented business license or a sexually oriented business employee license, or has had a sexually oriented business license or a sexually oriented business employee license revoked within the preceding twelve (12) months by any jurisdiction.

836.4 The enforcement officer shall advise the applicant in writing of the reasons for any license denial. The written license denial shall be either served on the applicant personally or by placing it in a sealed envelope, addressed to the applicant at the address set forth in the application, and depositing it with the United States Postal Service, proper first class postage prepaid. The enforcement officer may, but is not required to serve the written license denial by certified or registered mail, as set forth above.

### 837 Fees

837.1 Every application for a new sexually oriented business license shall be accompanied by a \$5,000.00 non-refundable application and investigation fee.

837.2 Every application for renewal of a sexually oriented business license shall be accompanied by a \$2,500.00 non-refundable application and investigation fee.

837.3 In addition to the application and investigation fee required in Sections 837.1 and 837.2, every applicant that is granted a sexually oriented business license (new or renewal) shall pay to the municipality an annual, non-refundable license fee of \$1,500.00 prior to or at the time of issuance or renewal.

837.4 Every application for a new sexually oriented business employee license shall be accompanied by an annual, non-refundable application, investigation, and license fee of \$250.00.

837.5 Every application for renewal of a sexually oriented business employee license shall be accompanied by an annual, non-refundable application, investigation, and license fee of \$200.00.

## 838 Expiration and Renewal of License

- 838.1 Each license issued pursuant to this Ordinance shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than twenty-eight (28) days before the expiration date. If application is made less than twenty-eight (28) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.
- 838.2 An application for renewal of a sexually oriented business license or sexually oriented business employee license shall be submitted to the Village Clerk on a form provided by the enforcement officer. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the municipality to determine whether the applicant meets the qualifications established in this Ordinance. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial sexually oriented business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.
- 838.3 The enforcement officer shall make the determination concerning the approval of license renewals based on the same criteria and using the same procedures used to evaluate applications for new licenses under this Ordinance.
- 838.4 The enforcement officer shall advise the applicant in writing of the reasons for any renewal denial, and shall the written renewal denial on the applicant in the same manner as a denial of an initial application.
- 838.5 When the enforcement officer denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial.

## 839 Suspension

- 839.1 The enforcement officer shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if the enforcement officer determines that a licensee: (1) has violated or is not in compliance with any section of this ordinance except as set forth in Section 839.2.; or (2) has knowingly allowed an employee to violate or fail to comply with any section of this Ordinance.

839.2 The enforcement officer shall suspend a sexually oriented business employee license for a period not to exceed thirty (30) days if the enforcement officer determines that a licensee has violated or is not in compliance with any section of this Ordinance, except as set forth in Section 839.3.

839.3 The enforcement officer shall advise the licensee in writing of the reasons for any suspension. The written suspension shall be either served on the applicant personally on or before five days before the suspension is to take effect, or by placing it in a sealed envelope, addressed to the licensee at the address set forth in the application, and depositing it with the united states postal service, proper first class postage prepaid, on or before five days before the suspension is to take effect. The enforcement officer may, but is not required to serve the written suspension by certified or registered mail, as set forth above.

#### **840 Revocation**

840.1 The enforcement officer shall revoke a sexually oriented business license or sexually oriented business employee license if a cause for suspension under Section 839 of this Ordinance occurs and the license has been suspended two times within the preceding twelve (12) months.

840.2 The enforcement officer shall revoke a sexually oriented business license if he/she determines that:

- A. A licensee gave false or misleading information in the material submitted during the application or renewal process;
- B. A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- C. A licensee has knowingly allowed any specific criminal activity, or the commission of any felony on the premises;
- D. A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was pending initial application, expired or suspended;
- E. A licensee has knowingly allowed one or more specified sexual activities to occur in or on the licensed premises;
- F. A licensee has been convicted of a specified criminal activity during the term of the license; or

G. A licensee is delinquent in payment to the municipality for any taxes or fees past due that were assessed or imposed in relation to any business or business property.

840.3. The enforcement officer shall revoke a sexually oriented business employee license if he/she determines that:

A. The licensee gave false or misleading information in the material submitted during the application or renewal process;

B. The licensee has knowingly acted as an employee on the premises of a sexually oriented business during a period of time when the licensee's license was pending initial application, expired or suspended; or

C. The licensee has been convicted of a specified criminal activity during the term of the license.

840.4 The enforcement officer shall advise the licensee in writing of the reasons for any revocation. The written revocation shall be either served on the applicant personally on or before five days before the revocation is to take effect, or by placing it in a sealed envelope, addressed to the licensee at the address set forth in the application, and depositing it with the united states postal service, proper first class postage prepaid, on or before five days before the revocation is to take effect. The enforcement officer may, but is not required to serve the written revocation by certified or registered mail, as set forth above.

840.5 When the enforcement officer revokes a license, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.

## 841 Appeal Rights

841.1 Any denial, suspension, or revocation of a new or renewal license under this Ordinance may be appealed to the President by written notice filed with the Village Clerk within ten (10) days of the effective date of such denial, suspension, or revocation.

841.2 The President shall notify the appellant in writing of the date for the hearing on the appeal. The written notice shall be either served on the appellant personally on or before five days before the hearing, or by placing it in a sealed envelope, addressed to the appellant at the address set forth in the application, and depositing it with the United States Postal Service, proper first class postage prepaid, on or before seven days before the hearing. The President may, but is not required to serve the written notice by certified or registered mail, as set forth above.

- 841.3 The President shall conduct a hearing on the appeal within fourteen (14) days of receipt of the written notice of appeal by the Village Clerk, at which hearing the appellant may present witnesses or other evidence opposing the denial, suspension or revocation. The enforcement officer may also present witnesses or other evidence supporting the denial, suspension or revocation. Both parties shall have the right to cross-examine witnesses.
- 841.4 The President shall determine whether the preponderance of the evidence presented at the hearing supported the decision of
- 841.5 The President shall issue a written decision setting forth his findings regarding the evidence presented at the hearing, and his decision to affirm or overrule the decision of the enforcement officer. The President shall serve a copy of his written decision on the appellant and the enforcement officer in writing. The written decision shall be either served on the parties personally on or before five days after the date of the hearing, or by placing it in a sealed envelope, addressed to the respective parties at the address set forth in the application and at the enforcement officer's ordinary business address, and depositing it with the United States Postal Service, proper first class postage prepaid, on or before five days after the hearing. The President may, but is not required to serve the written decision by certified or registered mail, as set forth above.
- 841.6 The written decision of the President shall be considered a final decision.

## **842 Transfer of License**

- 842.1 A sexually oriented business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a sexually oriented business license shall automatically and immediately revoke that license.
- 842.2 A sexually oriented business employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed sexually oriented business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the enforcement officer within fifteen (15) days after such transfer.

## **843 Additional Regulations Concerning the Operation of Sexually Oriented Businesses**

- 843.1 No employee on the premises of a sexually oriented business may engage in any specified criminal activity, specified sexual activities or excretory functions.

- 843.2 Any employee appearing on the premises of a sexually oriented business, in a place that can be viewed by patrons, when said employee is in a state of nudity or semi-nudity must be on a stage that is at least 45 inches from the floor, and at a distance at least 72 inches from all parts of a clearly designated area in which patrons will be present, and no patron shall be permitted in any area closer than 72 inches from the stage.
- 843.3 No employee appearing on the premises of a sexually oriented business in a state of nudity or semi-nudity may intentionally or knowingly touch a patron or a patron's clothing or permit himself or herself to be touched by a patron or a patron's clothing. No employee may intentionally or knowingly touch a patron's genitals, pubic area, perineum, anus, anal cleft or cleavage, buttocks, pubic hair, or female breast either directly or through clothing or other covering. No employee may intentionally or knowingly permit a patron to touch the employee's genitals, pubic area, perineum, anus, anal cleft or cleavage, buttocks, pubic hair, or female breast either directly or through clothing or other covering. For purposes of this subsection, touching need not be accomplished by the hand, and includes the touching by any part of the toucher's body, clothing or device held by the toucher.
- 843.4 **Dressing Rooms.** All sexually oriented businesses that offer live entertainment must provide separate dressing room facilities for female and male employees, and which shall not be occupied or used in any way by any one other than employees.
- 843.5 **Minors Prohibited.** No person under the age of eighteen (18) years shall be permitted on the premises of a sexually oriented business. Mistake of age is not a defense to a charge under this section, unless the person under the age 18 who was permitted on the premises exhibited to the employee a driver's license or other apparently official government-issued identification card bearing the patron's photograph, and purporting to show that the person was eighteen years of age or over, and the employee to whom that document was exhibited did not otherwise have reasonable cause to believe that the person seeking admittance was under eighteen years.
- 843.6 **Hours of Operation.** No sexually oriented business shall remain open at any time between the hours of 12:00 a.m. and 7:00 a.m. on weekdays and Saturdays, and 12:00 a.m. and noon (12:00 p.m.) on Sundays, nor shall any entertainment, service, or product be provided to a patron on the premises of a sexually oriented business during those hours.

### 843.7 Minimum Lighting Level

1. The premises of every sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than one hundred fifty (150) foot-candles as measured at floor level.
2. The illumination described in subsection (1) above shall be maintained at all times that any patron is present in the premises. In the event of a power failure, the business shall stop operating immediately and all patrons shall be cleared from the premises. The premises shall not be reopened until the minimum illumination level is restored.

843.8 **Exterior Display.** No sexually oriented business shall be operated in any manner that permits the observation from outside the premises of any image, material or entertainment depicting or describing excretory functions, specified sexual activities or specified anatomical areas or any person in a state of nudity or semi-nudity, whether by means of display, decoration, sign, window or any other means.

### 844 Penalty

844.1 Any person who violates or who intentionally or knowingly permits the violation of any Section of this Ordinance shall be fined the amount of \$750.00 and may additionally be sentenced to a term of incarceration not to exceed 6 months.

844.2 Each day that a sexually oriented business or employee operates in violation of this Ordinance shall constitute a separate offense or violation.

### 845 Injunction

Any person who operates or causes to be operated a sexually oriented business in violation of this Ordinance is subject to a suit for injunction as well as prosecution for ordinance violations as provided in Section 844.

### 846 Effect of Partial Invalidity

If any section, subsection, clause or phrase of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, clauses and phrases shall not be affected.

## Article 5 - Transient Merchants and Itinerant Vendors

### 847 Definitions

**Itinerant Vendor.** Any person who transports tangible personal property for retail sale within the Village who does not maintain in the Village an established office, distribution house, sales house, warehouse, services center or residence from which such business is conducted, this Article does not apply to any person who delivers tangible personal property within the Village who is fulfilling an order for such property which was solicited or placed by mail or other means.

**Person.** Any individual, corporation, partnership, trust, firm, association or other entity.

**Transient Merchant.** Any person who is engaged temporarily in the retail sale of goods, wares or merchandise in the Village. A vendor who maintains in the Village an established office, distribution house, sales house, warehouse, services center or residence from which retail sales are conducted who temporarily conducts such business from another location within the Village shall fall within the definition of transient merchant.

### 848 Prerequisites to Conduct Business

It is a violation of this Article for any person, either as a principal or agent, to conduct business as a transient merchant or itinerant vendor in this Village without first complying with the requirements of the Retailers' Occupation Tax Act by obtaining a certificate of registration and without having obtained a license under this Article. Any transient merchant or itinerant vendor seeking to sell food in the Village must also obtain the appropriate permit from the McHenry County Health Department to allow such sale.

### 849 License

- 849.1 Any person who wishes to obtain a license as a transient merchant or itinerant vendor shall file a written license application with the appropriate licensing agency as provided in this Section.
- 849.2 The application shall be filed with the Village of Spring Grove Police Department and the Village of Spring Grove Police Department shall be the licensing agency.
- 849.3 The license application shall include the applicant's name, permanent business address (which must include a street address), residence address of the principal (and, if the applicant is a corporation, the residence addresses of its officers), the location at which the applicant intends to do business, the nature of the business the applicant intends to conduct, a copy of the applicant's certificate of registration under the Retailers' Occupation Tax Act, a complete inventory of the goods the applicant intends to offer for sale, and a list of all licenses to conduct business as a transient merchant or an itinerant vendor obtained by the applicant in the State of Illinois in



the twelve (12) months preceding the date of filing the application.

849.4 A license issued under this Article shall be valid for one (1) day only. The licensing agency shall collect a license application fee of fifty dollars (\$50.00) from any person wishing to conduct business as either a transient merchant or itinerant vendor under this Article. A separate license application fee shall be collected for each day for which a license is sought.

849.5 If it is determined that any of the information provided in Section 849.3 is false, the licensing agency has the authority to revoke the license issued to the transient merchant or itinerant vendor. If the license is revoked, the license application fee shall not be returned.

849.6 No license shall be issued for dates on which Village sponsored events are being held.

## **850 Holding Inventory**

If any person makes retail sales as a transient merchant or itinerant vendor without having obtained a license under Section 849, the licensing agency may hold the inventory, truck or other personal property of the person until he or she obtains a license to conduct business as a transient merchant or itinerant vendor. If the property has been held by the licensing agency for more than sixty (60) days and the person whose property is being held has not obtained a license under Section 849, the Village may petition the Circuit Court of McHenry County, Illinois for an order for the sale of the property being held. If the Court finds that the person whose property is held has not obtained a license under Section 849, the Court shall order the licensing agency or unit of government to sell the property. Proceeds of the sale of the property shall be deposited in the general fund of the Village of Spring Grove.

## **851 Prima Facie Evidence**

It shall be prima facie evidence that a person is a transient merchant or itinerant vendor under this Article if the person does not conduct business from a fixed location or if the person does not own, or lease for a term of at least six (6) months, the property from which business is conducted.

## **852 Penalty**

In addition to the action that the Village may take under Section 850, any person found to be in violation of this Article shall pay a fine of no less than \$50.00 nor more than \$750.00. Each day that any person conducts business within the Village in violation of this Article is a separate offense.