

18  
COM. COURT ITEM NO  
MAY 28 2024  
REEVES COUNTY

STATE OF TEXAS §  
COUNTY OF REEVES §

The Commissioners Court of Reeves County, Texas, met in regular session at its regular term at the Reeves County Courthouse in the City of Pecos, Texas, on 5/28/2024 with all members present except NONE.

A quorum was present. Among other business, the following was transacted:

**ORDER ADOPTING REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES  
IN THE UNINCORPORATED AREA OF REEVES COUNTY**

Commissioner T. Trujillo <sup>CM</sup> introduced an order and moved that Commissioners Court adopt the order. Commissioner Judge Hung seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Leo Hung	[✓]	[ ]	[ ]
Comm. Rojelio "Roy" Alvarado	[✓]	[ ]	[ ]
Comm. Israel Campos	[✓]	[ ]	[ ]
Comm. Paul Hinojos	[✓]	[ ]	[ ]
Comm. Tony Trujillo	[✓]	[ ]	[ ]

The meeting chair announced that the motion had duly and lawfully carried, and this order was duly and lawfully adopted. The order adopted follows:

The County Attorney working with the Reeves County Sheriff and other County Departments has drafted the attached Regulations for Sexually Oriented Businesses (SOB or SOBs) in the Unincorporated Area of Reeves County, Texas for Commissioners Court consideration pursuant to Chapter 234 and 243 of the Texas Local Government Code.

The Commissioners Court finds that the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity. The attached Regulations are being adopted pursuant to that finding.

Therefore, **IT IS ORDERED** as follows:

1. The Regulations for Sexually Oriented Businesses in the Unincorporated Area of Reeves County, Texas are hereby adopted.
2. The effective date of the SOB Regulations is May 28, 2024.
3. All Reeves County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.

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**THE REGULATIONS FOR SEXUALLY ORIENTED BUSINESSES  
IN THE UNINCORPORATED AREA OF REEVES COUNTY, TEXAS**

**SECTION 1.  
GENERALLY.**

**1.1. AUTHORITY TO REGULATE.**

(a) These Regulations are promulgated pursuant to and in conformity with Chapter 234 of the Texas Local Government Code and Chapter 243 of the Texas Local Government Code, as amended.

(b) It is the purpose of the Reeves County Commissioners Court to exercise its police power, as established under Chapter 234 of the Texas Local Government Code, to prohibit Massage Parlors in order to promote and protect the health, safety, and general welfare of the citizens of Unincorporated Reeves County, and to prohibit business activities which merely serve as a front for criminal activities, including but not limited to, prostitution and the promotion of prostitution.

(c) It is the purpose of the Reeves County Commissioners Court to exercise its police power, as established under Chapter 243 of the Texas Local Government Code, to establish reasonable and uniform regulations of Sexually Oriented Businesses ("SOB" or "SOBs") to promote and protect the health and safety, and general welfare of the citizens of Unincorporated Reeves County, since SOBs have been found to be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity.

(d) The provisions of these Regulations have neither the intent nor the effect of imposing limits or restrictions on the content of any communicative material, including sexually oriented material. Similarly, these Regulations are not intended to restrict or deny consenting adults access to sexually oriented material that is otherwise protected by the First Amendment, or to deny the distributors or retailers of sexually oriented materials access to their intended market.

(e) These Regulations do not legalize anything prohibited under the Texas Penal Code and any other state law(s) or regulation(s).

**1.2 ADMINISTRATION.**

(a) The Reeves County Commissioners Court hereby designates and directs any law enforcement agency to investigate for violations of these Regulations. All Peace Officers certified by the State of Texas may enforce these Regulations.

(b) The Reeves County Commissioners Court hereby designates the Reeves County Sheriff, or his/her duly authorized agent, as the SOB Permit Administrator for Unincorporated Reeves County. The SOB Permit Administrator shall supervise, control,

and operate the SOB Permit Office. The SOB Permit Administrator shall investigate, deny, issue, attach conditions to, administratively suspend, and/or revoke SOB Permits issued pursuant to these Regulations.

(c) Pursuant to Section 243.010(b) of the Texas Local Government Code—as amended—a person commits an offense if the person violates a county regulation adopted under Chapter 243. An offense under this Section is a Class A misdemeanor.

(d) Pursuant to Section 243.010(a) of the Texas Local Government Code—as amended—a county may sue in the district court for an injunction to prohibit the violation of a regulation adopted under Section 243.

(e) The Reeves County Commissioners Court allows incorporated cities or towns in Reeves County that have executed interlocal agreements with Reeves County to designate their own SOB Permit Administrator. The SOB Permit Administrator shall supervise, control, and operate the Permit Office. The SOB Permit Administrator shall investigate, deny, issue, attach conditions to, administratively suspend, and/or revoke SOB Permits issued pursuant to these Regulations.

### **1.3 AREAS COVERED BY THESE REGULATIONS.**

(a) Pursuant to Section 243.003(c) of the Texas Local Government Code, these Regulations apply to SOBs located in the parts of Reeves County outside the corporate limits of a municipality.

(b) These Regulations apply to Massage Parlors located in unincorporated area of Reeves County.

### **1.4 GENERAL DEFINITIONS.**

(a) ***“Applicant”*** means an individual, business, company, corporation, or other legal entity that is required to obtain—or has applied for—a Class 1 or Class 2 SOB Permit.

(b) ***“Child Care Facility”*** means a facility, building, or portion of a building, whether situated within Reeves County or not, used as a day nursery, children’s boarding home, child placement agency, or other place for the care and/or custody of children under fifteen (15) years of age.

(c) ***“Church” and/or “Regular Place of Religious Worship”*** means a facility, building, or portion of a building, whether situated within Reeves County or not, in which person(s) regularly assemble for religious worship and said building or portion of said building is intended primarily for purposes connected with such worship of for propagating a particular form of religious belief.

(d) ***“Enterprise”*** see Sexually Oriented Business.

- (e) ***“Enterprise Operator”*** a manager or other natural person principally in charge of a Sexually Oriented Business.
- (f) ***“Fire Safety Official”*** means the Reeves County Fire Marshall or the department official having competent jurisdiction to conduct a fire and life safety inspection.
- (g) ***“Reeves County”*** means the parts of Reeves County, Texas outside the corporate limits of a municipality.
- (h) ***“Interlocal Agreement”*** and/or ***“Cooperative Agreement”*** means a cooperative agreement between Reeves County and an incorporated municipality.
- (i) ***“Live Entertainment”*** means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion, or other similar purpose by a person or persons who are physically present when providing an activity to a patron or group of patrons who are physically present.
- (j) ***“Nude”*** or ***“Nudity”*** means wearing no clothes; naked--a state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple.
- (k) ***“Regulations”*** or ***“the Regulations”*** or ***“these Regulations”*** means these Regulations of Reeves County for the operation of SOBs.
- (l) ***“Residential Neighborhood”*** means any home, house, or other structure, whether situated within Reeves County or not, in which a person lives and/or resides.
- (m) ***“Recipient”*** the person for whom a Class II SOB is intended to permit to conduct business at the enterprise.
- (n) ***“School”*** means a facility, including all attached playgrounds, dormitories, stadiums, or other appurtenances that are part of the facility, whether situated within Reeves County or not, used for the primary purpose of instruction or education, including primary and secondary schools, colleges, and universities, both public and private.
- (o) ***“Sexually Oriented Business”*** (“SOB” or “SOBs”) means a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.
- (p) ***“SOB Customer”*** or ***“SOB Patron”*** means any person who:
  - (1) is allowed to enter a SOB in return for the payment of an admission fee or any other form of consideration or gratuity;

- (2) enters a SOB and purchases, rents, or otherwise partakes in any merchandise, goods, entertainment, or other services offered therein; or,
  - (3) is a member of, and on the premises of, a SOB.
- (q) **“SOB Employee”** means any person who does one (1) or more of the following at a SOB:
- (1) operates a cash register, cash drawer, virtual currency, or other depository on the premises of a SOB where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the SOB or the activities conducted therein are kept;
  - (2) displays or takes orders from any patron for any merchandise, goods, entertainment, or other services offered on the premises of the SOB;
  - (3) delivers or provides to any patron any merchandise, goods, entertainment, or other services offered on the premises of the SOB;
  - (4) offers a service or sells, rents, or exhibits devices or any other items intended to provide sexual stimulation or sexual gratification on the premises of the SOB;
  - (5) acts as a door attendant to regulate entry of patrons or other persons onto the SOB;
  - (6) provides security services at a SOB;
  - (7) works as a cook, chef, kitchen worker, restroom attendant, parking lot attendant, or house mom at a SOB;
  - (8) works as a dancer, entertainer, or other service provider at a SOB;
  - (9) supervises or manages other persons in the performance of any of the foregoing activities on the premises of the SOB;
  - (10) acts as an in-house accountant at a SOB; or,
  - (11) applies for a Class 2 SOB Permit.
- (r) **“SOB Owner”** means an individual, business, company, corporation, or other legal entity that:
- (1) has an ownership interest in, or receives profits from, a SOB;
  - (2) is a partner, director, designated agent, or officer of a business, company, corporation, or other legal entity that has an ownership interest in a SOB;
  - (3) is a shareholder that holds more than ten (10) percent of the outstanding shares of a business, company, corporation, or other legal entity that has an ownership interest in a SOB;

- (4) has been issued by the County Clerk an assumed name certificate for a business that owns a SOB;
  - (5) signs a lease for a SOB;
  - (6) receives a certificate of occupancy for a SOB;
  - (7) pays for advertising for a SOB;
  - (8) signs an alarm permit for a SOB;
  - (9) opens an account for utilities for a SOB;
  - (10) signs for, or applies for, a license issued by the Texas Alcoholic Beverage Commission for a SOB; or,
  - (11) applies for a Class 1 SOB Permit.
- (s) ***“SOB Permit Administrator”*** means the Sheriff of Reeves County, the Sheriff’s designated agent, or the designated official for a cooperating municipality.
- (t) ***“SOB Permit Office”*** means the location which has been designated by the SOB Permit Administrator where commercial businesses and/or individuals apply for Class 1 or Class 2 SOB Permit.
- (u) ***“Specified Anatomical Areas”*** means and includes any of the following:
- (1) human genitals, pubic region or pubic hair;
  - (2) buttock;
  - (3) areola of the breast; or
  - (4) any combination of the foregoing.
- (v) ***“Specified Sexual Activities”*** means and includes any of the following:
- (1) the fondling or other erotic touching of another's or one's own human genitals, pubic region, pubic hair, perineum, buttocks, anus, or female breasts;
  - (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
  - (3) masturbation, actual or simulated on oneself, or another; or,
  - (4) excretory functions as part of or in connection with any of the activities set forth in (1)-(3) above.
- (w) ***“State of Nudity” or “Semi-Nude”*** means any state of dress which fails to cover a human buttock, anus, genitalia, and/or areola of the breast.

**SECTION 2.  
CLASS 1 SOB PERMITS.**

**2.1 APPLICATION.**

- (a) It shall be unlawful for any person, individual, business, company, corporation, or other legal entity to operate a SOB in Reeves County--for any period of time--that has not been issued a Class 1 SOB Permit pursuant to these Regulations. Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates a SOB in violation of this Subsection. Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection against any SOB Owner, SOB Employee, or against any other person or entity who maintains, owns, uses, is a party to the use, or who owns the real property where the violation or threatened violation of this Subsection is occurring and/or has occurred.
  
- (b) A complete application shall be filed with the SOB Permit Administrator for each separate SOB. The application shall be filed on the form provided by the SOB Permit Administrator. The SOB Permit Administrator shall establish the hours when an application can be submitted.
  - (1) The Applicant(s) shall apply in person.
  - (2) The Applicant(s) shall be the SOB's Owner(s).
  - (3) The SOB Permit Administrator shall provide the fee schedule to the Applicant(s). Pursuant to Section 243.009 of the Texas Local Government Code, the fees must be based on the cost of processing the applications and investigating the applicants.
  - (4) Incomplete applications will result in denial of the application and forfeiture of the application fee.
  - (5) Once a complete application has been received, the SOB Permit Administrator shall conduct up to three (3) inspections of the Applicant(s)' proposed SOB to ensure compliance with these Regulations. The Applicant(s) must be present in person during these inspections. It shall be the responsibility of the Applicant(s) to provide an interpreter if necessary during these inspection(s).
    - (i) After the initial inspection, the Applicant(s) will be informed in writing of what corrections must be made to the proposed SOB in order to comply with these Regulations.
    - (ii) A second inspection will be performed if necessary. The Applicant(s) will again be informed in writing of what corrections must be made to the proposed SOB in order to comply with these Regulations.



- (iii) If after the third and final inspection the Applicant(s)' proposed SOB fails to comply with these Regulations, the SOB Permit Administrator will deny the application.
    - (iv) If the proposed SOB passes inspection, the SOB Administrator shall approve the application.
  - (6) The applicant(s) has ninety (90) days from the initial inspection to complete the inspection process. Failure to complete the inspection process within these ninety (90) days shall result in denial of the application. It is the obligation of the Applicant to ensure the process is complete in the requisite ninety (90) days.
  - (7) Failure to provide any information required by this Section or a determination by the SOB Permit Administrator that inaccurate, erroneous, or incomplete information has been submitted, shall be grounds for denial of the application.
- (c) In municipalities which have elected to adopt the Reeves County SOB Regulations, and where Reeves County Commissioners Court has approved an Interlocal Agreement between the municipality and Reeves County, the municipality shall designate an entity to receive and process SOB Permit applications. The municipality shall adopt a common operating procedure with requirements and processes pursuant to these Regulations.
- (d) Each complete Class 1 SOB Permit application shall be accompanied by:
- (1) a current annual fire inspection report from a fire safety official showing compliance with all applicable fire safety codes and with all corrections ordered;
  - (2) a copy of the certificate of compliance issued by the appropriate entity for the proposed SOB;
  - (3) a copy of the diagram and/or floorplan to include the designed occupancy load prepared by a licensed architect or engineer and approved by the entity with competent jurisdiction;
  - (4) a copy of the proposed SOB's TABC license(s) and/or permit(s) (if applicable);
  - (5) a true and correct copy of the assumed name certificate filed in the office of the Reeves County Clerk, bearing the file mark or stamp that evidences its filing, if the SOB will be operating under an assumed name;
  - (6) a copy of the formative legal documents for the applicable legal entity(s) (e.g., the Articles of Incorporation);
  - (7) a non-refundable application fee (cashier's check or money order only) as determined by the SOB Permit Administrator;

- (8) a color photocopy of the Applicant's driver's license or government-issued photo identification;
  - (9) proof that the proposed SOB is in compliance with the applicable distance restrictions which are set forth in the applicable Section(s) of these Regulations;
  - (10) a complete and accurate list of all SOB Employees along with color photocopies of the individual(s) driver's license or government-issued identification papers;
  - (11) proof, as required by Section 3 of these Regulations, that all SOB Owners and/or Employees of the Proposed SOB have applied for a valid Class 2 SOB Permit pursuant to these Regulations;
  - (12) a copy of the current and valid lease agreement between the Applicant and the owner of the real property where the proposed SOB is planning to operate from, with the Applicant listed as the owner of the proposed SOB, or proof that the Applicant owns the real property where the proposed SOB is planning to operate;
  - (13) Proof of general liability insurance with limits of insurance of not less one million dollars (\$1,000,000.00) per occurrence (bodily injury and/or property damage claims) and not less than one million dollars (\$1,000,000.00) per offense (personal and advertising injury claims) and excess insurance over such general liability insurance with limits of insurance of not less than nine million (\$9,000,000.00) either in a single policy or in a combination of umbrella or excess policies.
  - (14) Proof of liquor liability insurance coverage that covers all claims related to alcohol service, including but not limited to assault and battery coverage, with limits of not less than ten million dollars (\$10,000,000.00) per occurrence (bodily injury and/or property damage claims) either in a single policy or in a combination of underlying and umbrella or excess policies.
  - (15) a certification that all the contents of the application, and the material presented above are true and correct under the penalty of Perjury as defined by Section 37.02 of the Texas Penal Code. Additionally, any misrepresentation by the Applicant(s) on his/her application is a third degree felony offense as defined by Section 37.10 of the Texas Penal Code.
- (e) A Class 1 SOB Permit application shall be denied upon failure to produce all documents and information required by Subsection 2.1(d) (1)-(15).
  - (f) A SOB SHALL NOT OPERATE DURING THE PENDENCY OF THE APPLICATION AND SHALL NOT OPERATE UNTIL THE CLASS 1 SOB PERMIT APPLICATION HAS BEEN APPROVED AND THE CLASS 1 SOB PERMIT ISSUED & DISPLAYED.
  - (g) A Class 1 SOB Permit, in accordance with these Regulations, is not transferable, assignable, or divisible, and it is a violation of the Regulations for any person to attempt to

do so. If ownership of a SOB changes, the SOB shall be deemed unpermitted and the new SOB Owner(s) must reapply and be issued a Class 1 SOB Permit before the SOB may operate.

- (1) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person transfers, assigns, or divides a Class 1 SOB Permit in violation of this Subsection.
- (h) Pursuant to Section 243.0075 of the Texas Local Government Code, Applicant(s) seeking a Class 1 SOB Permit for a location not currently licensed or permitted shall, not later than the 60<sup>th</sup> day before the date the application is filed, prominently post an outdoor sign at the location stating that a SOB is intended to be located on the premises and providing the name and business address of the Applicant(s). The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size.

## **2.2 DENIAL OF A CLASS 1 SOB PERMIT.**

- (a) A class 1 SOB Permit shall be denied upon a finding the SOB Permit Administrator of the following facts:
  - (1) The proposed SOB has violated, or is not in compliance with, any applicable Section or Subsection of these Regulations;
  - (2) The Applicant(s), or if the applicant is a corporation, partnership, limited liability company or other business entity, any officer, director, member, partner, or participant required to be identified in the application, has been convicted of, entered a plea of nolo contendere or guilty, received deferred adjudication, or who is currently charged with, any of the following offenses:
    - (i) prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by child, or possession of child pornography as described by Chapter 43 of the Texas Penal Code;
    - (ii) a criminal offense as described in Chapter 20 of the Texas Penal Code;
    - (iii) a criminal offense as described in Chapter 20A of the Texas Penal Code;
    - (iv) a criminal offense as described in Chapter 21 of the Texas Penal Code;
    - (v) sexual assault or aggravated assault as described in Chapter 22 of the Texas Penal Code;
    - (vi) incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of Texas Penal Code;

- (vii) gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia as described in Chapter 47 of the Texas Penal Code;
- (viii) forgery, credit card abuse or commercial bribery as described in Chapter 32 of the Texas Penal Code;
- (ix) a criminal offense as described in Chapter 481 Subchapter D of the Health and Safety Code;
- (x) a criminal offense as described in Chapter 34 of the Texas Penal Code;
- (xi) a criminal offense as described in Chapter 352, Subchapter B of the Texas Local Government Code;
- (xii) a violation of Chapter 455 of the Texas Occupations code;
- (xiii) a violation of any Reeves County and/or Town of Pecos City regulation or ordinance; or,
- (xiv) criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or, any other offense to the laws of another state or of the United States that, if committed in this State, would have been punishable as one or more of the aforementioned offenses; and,
  - A. less than two (2) years has elapsed since the date of the violation, or of the conviction, or of the date of release from confinement imposed by the conviction, whichever is the later date if the violation or conviction was a misdemeanor offense;
  - B. Less than five (5) years has elapsed since the date of the violation, or conviction, or the date of release from the confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a felony offense; or,
  - C. Within 5 years of the final disposition of any of the above offenses, applicant is convicted of two or more misdemeanor offenses within a 24-month period.
- (3) the Applicant(s) made a misleading statement in the application for a SOB Permit, provided false, fraudulent, or untruthful information in the application for a SOB Permit, and/ or withheld pertinent information in the application for a SOB Permit;
- (4) the Applicant(s) is under eighteen (18) years of age;

- (5) the Applicant(s) has had a Class 1 or Class 2 SOB Permit denied within the three hundred and sixty-five (365) day period immediately preceding the date the application was filed;
  - (6) the Applicant(s) has had a Class 1 or Class 2 SOB Permit revoked within the three hundred and sixty-five (365) day period immediately preceding the date the application was filed;
  - (7) the Applicant(s) and/or Applicant's spouse is delinquent in the payment to the county of taxes, fees, fines, or penalties assessed or imposed regarding the operation of a SOB;
  - (8) the Applicant(s) and/or Applicant's spouse is delinquent in the payment to any taxing entity(ies) in Reeves County of taxes, fees, fines, or penalties assessed or imposed by such entity;
  - (9) an application or renewal fee required by the Regulations has not been paid;
  - (10) the inspection process was not completed within the ninety (90) day period described in Subsection 2.1 of these Regulations; and/or,
  - (11) the Applicant(s) has operated any business that has been sued, and judgment entered against the business, pursuant to Chapter 125 of the Texas Civil Practice and Remedies Code within five (5) years immediately preceding the date the application was filed.
- (b) If any of the stated events or conditions providing a basis for denial of a Class 1 SOB Permit have occurred, the SOB Permit Administrator shall document the reason for denial in a denial letter and provide notice to the Applicant(s) by posting a copy of the denial letter on an entrance door of the SOB within thirty (30) days from the date on which the denial letter was drafted by the SOB Permit Administrator. The denial letter shall provide the reason(s) for this action.

### **2.3 REVOCATION OR SUSPENSION OF A CLASS 1 SOB PERMIT.**

- (a) The Permit Administrator shall have the authority to revoke or suspend a permit for the following reasons:
  - (1) the SOB has violated, or is not in compliance with, any applicable Section or Subsection of these Regulations;
  - (2) the Applicant(s) made a misleading statement in the application for a Class 1 SOB Permit, provided false, fraudulent, or untruthful information in the application for a Class 1 SOB Permit, and/or withheld pertinent information in the application for a Class 1 SOB Permit; or,

- (3) the Class 1 SOB Permit should not have been issued pursuant to these Regulations.
- (b) If any of the stated events or conditions providing a basis for revocation or suspension of a Class 1 SOB Permit have occurred, the SOB Permit Administrator shall document the violation in a revocation or suspension letter, and provide notice to the SOB Owner(s) by posting a copy of the revocation or suspension letter on an entrance door of the SOB within thirty (30) days from the date on which the revocation or suspension letter was drafted by the SOB Permit Administrator. The revocation or suspension letter shall provide the reason(s) for the action. A revocation or suspension of a Class 1 SOB Permit by the SOB Permit Administrator shall become final on the seventh (7<sup>th</sup>) day after the revocation or suspension letter is posted on an entrance door of the SOB.

#### **2.4 CLASS 1 SOB PERMIT APPEALS.**

- (a) If the SOB Permit Administrator denies a Class 1 SOB Permit Application, revokes a Class 1 SOB Permit, or suspends a Class 1 SOB Permit, the Applicant(s) or SOB Owner(s) shall have the opportunity to make a written request for a hearing before a hearing examiner appointed by the Reeves County Commissioners Court. The hearing examiner shall not have participated in any investigation of the alleged grounds for denial, revocation, or suspension of the Class 1 SOB Permit.
- (b) All requests for hearings must be in writing and delivered to the SOB Permit Administrator within thirty (30) days from the date when the denial, revocation, or suspension letter was posted at an entrance door of the SOB by the SOB Permit Administrator. The Applicant(s) or SOB Owner(s) waive the right to a Class 1 SOB Permit appeal hearing if the request is not timely received by the SOB Permit Administrator.
- (c) The Applicant(s) or SOB Owner(s) shall be provided an opportunity to present evidence, cross-examine witnesses and be represented by legal counsel. The formal rules of evidence do not apply.
- (d) It shall be the responsibility of the Applicant(s) or SOB Owner(s) to provide a court reporter and an interpreter if necessary for the Class 1 SOB Permit appeal hearings before the hearing examiner.
- (e) The Applicant(s) or SOB Owner(s) shall be present in person at the Class 1 SOB Permit appeal hearings. If the Applicant(s) or SOB Owner(s) are not present in person at the Class 1 SOB Permit appeal hearing, the Class 1 SOB Permit shall be automatically denied or revoked.
- (f) The hearing examiner has the power to uphold or reverse the denial of a Class 1 SOB Permit.
- (g) The hearing examiner has the power to uphold, reverse, or modify the suspension of a Class 1 SOB Permit by ordering a shorter or longer suspension.

- (h) The hearing examiner has the power to uphold, modify or reverse the revocation of a Class 1 SOB Permit and instead order a suspension. However, if the hearing examiner finds that a violation of a particular Section or Subsection of these Regulations has occurred and that the specific violation calls for mandatory revocation, the hearing examiner shall strictly abide by that determination and shall not retroactively modify or change the status of that revocation.
- (i) The decision of the hearing examiner shall be final.
- (j) The hearing examiner shall issue a written order memorializing his/her decision within thirty (30) days from the date of the Class 1 SOB Permit appeal hearing. The written order shall be distributed to the Applicant(s) or SOB Owner(s), and SOB Permit Administrator via certified mail or e-mail.
- (k) A SOB SHALL NOT OPERATE DURING THE PENDENCY OF AN APPEAL TO THE HEARING EXAMINER.

**2.5 DISTRICT COURT APPEALS FOR CLASS 1 SOB PERMITS.**

- (a) On final decision by the hearing examiner, the losing party may appeal the decision by filing a petition in a district court in the county with jurisdiction within thirty (30) days after the date of the decision by the hearing examiner.
- (b) Appeals to the district court shall be governed by the substantial evidence rule defined by Section 2001.174 of the Texas Government Code.
- (c) If the Applicant(s) or SOB Owner(s)' appeal to the hearing examiner is successful, the SOB may resume operation and may operate during the pendency of an appeal by the County to the district court. However, if the Applicant(s) or SOB Owner(s) appeal to the hearing examiner is unsuccessful, the SOB may not resume operation and may not operate during the pendency of an appeal by the SOB to the district court.

**2.6 REAPPLICATION FOR A CLASS 1 SOB PERMIT.**

- (a) After the hearing examiner's final ruling of the denial or revocation of a Class 1 SOB Permit, an Applicant(s) may reapply for a Class 1 SOB Permit after the expiration of three hundred and sixty-five (365) days from the date of the hearing examiner's ruling.
- (b) The application will be considered a new application in regard to the timelines and fee established in Subsection 2.1, and for any applicable distance requirements set forth in these Regulations.

**2.7 RENEWAL OF A CLASS 1 SOB PERMIT.**

- (a) A Class 1 SOB Permit may be renewed for the following year starting ninety (90) days before the expiration of the current permit by filing a complete application of a Class 1

SOB Permit and paying the applicable fee set forth in these Regulations.

- (b) A renewal application shall be subject to the same requirements in these Regulations as are required for a Class 1 SOB Permit application. As long as the completed renewal application was submitted within this ninety (90) day period, the previous Class 1 SOB Permit will remain in effect until the SOB Permit Administrator makes a determination in accordance with these Regulations as to whether the Class 1 SOB Permit will be renewed.

## **2.8 CONTENTS OF A CLASS 1 SOB PERMIT.**

- (a) A Class 1 SOB Permit is valid for three hundred and sixty-five (365) days.
- (b) When the application process is complete and the proposed SOB has met all the requirements set forth in these Regulations, the SOB Permit Administrator shall issue the proposed SOB a Class 1 SOB Permit.
- (c) The Class 1 SOB Permit shall contain the following:
  - (1) the date the Permit was issued;
  - (2) the date the Permit expires;
  - (3) the name of the SOB;
  - (4) the type of commercial enterprise the SOB is operating as (e.g., "an Adult Cabaret");
  - (5) the physical address of the SOB;
  - (6) the name of the SOB Owner(s);
  - (7) the maximum occupancy as established by the fire official; and,
  - (8) the signature of the SOB Permit Administrator.
- (d) The SOB Permit Administrator shall keep a signed copy of the Class 1 SOB Permit for the SOB Permit Administrator's records.

## **2.9 CLASS 1 SOB PERMIT DISPLAYED.**

- (a) A SOB shall post and display its current valid Class 1 SOB Permit conspicuously in plain sight in a common area accessible to the public and patrons.
- (b) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates in violation of the Subsection.



- (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of the Subsection.
- (d) A violation of this Subsection may be grounds for denial, revocation, or suspension of the Class 1 SOB Permit.

## **2.10 DISTANCE RESTRICTIONS.**

- (a) A SOB shall not be located:
  - (1) within 2,000 feet from any existing or planned school, regular place of religious worship, child care facility, and/or residential neighborhood. "Planned" means that steps have been taken toward the facility's or structure's development including but not limited to a Permit received, a plat approved, design work started, a bond received, or an order approved by a governmental entity's governing body; or,
  - (2) within a distance of 2,000 feet from where two (2) or more SOBs are located.
- (b) For the purposes of this Subsection, measurements shall be made in a straight line from the nearest property line upon which the SOB sits to the nearest property line used for the purposes identified in Subsection (a)(1) and Subsection (a)(2) above.
- (c) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates in violation of this Subsection.
- (d) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.
- (e) Any violation of this Subsection shall result in mandatory denial or revocation of the Class 1 SOB Permit.

## **2.11 CONDUCT OF EMPLOYEES, INDEPENDENT CONTRACTORS, AND/OR CUSTOMERS.**

- (a) It shall be unlawful for the owner, operator or any agent or employee of a SOB to knowingly allow or permit any person to engage in specified sexual activities or to use the devices set out in Section 7.1(a)(2), within the SOB. This prohibition does not apply to an "Adult Motel" as defined in these regulations.
- (b) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates in violation of this Subsection.
- (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.

- (d) Any violation of this Subsection shall be grounds for mandatory denial or revocation of the Class 1 SOB Permit.

**2.12 INSPECTION BY LAW ENFORCEMENT.**

- (a) Peace Officers and Fire Safety Officials are authorized to inspect a SOB to ensure compliance with these Regulations. A Class 1 SOB Permit issued pursuant to these Regulations gives Peace Officers and Fire Safety Officials implied consent to enter and inspect any SOB for violations of these Regulations.
- (b) It shall be unlawful for an SOB to exclude, prohibit or prevent any Peace Officer or Fire Marshal Official from conducting an inspection authorized by these Regulations.
- (c) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates in violation of this Subsection.
- (d) Pursuant to Section 243.101(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of the Subsection.
- (e) Any violation of this Subsection shall result in mandatory denial or revocation of an Adult Motel's Class 1 SOB Permit.

**2.13 AGE REQUIREMENTS.**

- (a) It shall be unlawful for any individual(s) under the age of eighteen (18) to be on the premises of an SOB during business hours.
- (b) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person operates in violation of this Subsection.
- (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.
- (d) Any violation of this Subsection shall result in mandatory denial or revocation of the Class 1 SOB Permit.

**2.14 PROHIBITED CONDUCT.**

- (a) A SOB shall prevent and/or abate the following activities from occurring on the premises:
  - (1) prostitution, promotion of prostitution, or aggravated promotion of prostitution as defined by the Texas Penal Code;
  - (2) compelling prostitution as defined by the Texas Penal Code;

- (3) employing or entering into a contract for the performance of work or the provision of a service with an individual younger than twenty-one (21) years of age for work or services performed at a sexually oriented business as defined by Section 243.002 of the Texas Local Government Code;
  - (4) trafficking of person(s) as described by Section 20A.02 of the Texas Penal Code; and/or,
  - (5) sexual conduct or performance by a child as described by Section 43.25 of the Texas Penal Code.
- (b) If three or more of the offenses listed in Subsection 2.14(a)(1)-(5) occur on the premises of the SOB within a period of 365 days, it shall constitute a violation of this subsection.
  - (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.
  - (d) Any violation of this Subsection shall result in mandatory denial or revocation of the Class 1 SOB Permit.

#### **2.15 PROHIBITED EMPLOYMENT.**

- (a) Sexually Oriented Businesses are prohibited from employing and/or contracting with any individual who has been convicted of, entered a plea of nolo contendere or guilty, received deferred adjudication, or who is currently charged with any of the following offenses:
  - (1) prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution, or display of harmful material to a minor, sexual performance by child, or possession of child pornography as described by Chapter 43 of the Texas Penal Code;
  - (2) a criminal offense as described in Chapter 20 of the Texas Penal Code;
  - (3) trafficking of person(s) as described by Section 20A.02 of the Texas Penal Code;
  - (4) a criminal offense as described in Chapter 21 of the Texas Penal Code;
  - (5) sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
  - (6) incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code;
  - (7) gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia as described in Chapter 47 of the Texas Penal Code;
  - (8) forgery, credit card abuse or commercial bribery as described in a Chapter 32 of the

Texas Penal Code;

- (9) a criminal offense as described in Chapter 481 Subchapter D of the Health and Safety Code;
  - (10) a criminal offense as described in Chapter 34 of the Texas Penal Code;
  - (11) a criminal offense as described in Chapter 352, Subchapter B of the Texas Local Government Code;
  - (12) a violation of Chapter 455 of the Texas Occupations code; or,
  - (13) criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses; or, any other offense to the laws of another state or of the United States that, if committed in this State, would have been punishable as one or more of the aforementioned offenses; and,
    - (i) less than two (2) years has elapsed since the date of the violation, or of the conviction, or of the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a misdemeanor offense;
    - (ii) less than five (5) years has elapsed since the date of the violation, or conviction, or the date of release from confinement imposed by the conviction, whichever is the later date, if the violation or conviction was a felony offense; or
    - (iii) within five (5) years of the final disposition of any of the above offenses, applicant is convicted of two or more misdemeanor offenses within a 24-month period.
- (b) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A Misdemeanor offense if the person operates in violation of this Subsection.
  - (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.
  - (d) A violation of this Subsection shall be grounds for mandatory denial or revocation of the Class 1 SOB Permit.

## **2.16 POSTING HUMAN TRAFFICKING INFORMATION.**

- (a) Each SOB shall have the duty to post a sign containing educational information regarding human trafficking including the National Human Trafficking Hotline: 1(888)373-7888.

(b) The signs must be posted at eye level adjacent to each entrance, in each public restroom and in any employee dressing room or breakroom.

(c) The signs shall be obtained from the SOB Permit Administrator.

**2.17 POSTING OF ROOM CAPACITY.**

(a) Each SOB shall have the duty to post a sign in compliance with state laws and in accordance with the Fire Safety Official indicating the number of occupants permitted for each room and the sign shall be posted adjacent to the main exit from the room. The sign should be readily visible with minimum one inch block letters and numbers on a contrasting background.

**2.18 STATE AND FEDERAL LAWS.**

(a) It shall be the responsibility of a SOB to comply with all State and Federal laws governing SOBs, including, but not limited to, those set forth in these Regulations.

**SECTION 3.  
CLASS 2 SOB PERMITS.**

**3.1 APPLICATION.**

- (a) It shall be unlawful for any person who has not been issued a Class 2 SOB permit pursuant to these Regulations to engage in any of the activities outlined in Subsection 1.4 (q) (1)-(11) or 1.4 (r) (1)-(11) in a SOB located in Reeves County, regardless of whether that SOB has been issued a Class 1 SOB Permit pursuant to these Regulations.
- (b) Pursuant to Section 243.010(b) of the Texas Local Government Code, a person commits a Class A misdemeanor offense if the person engages in any of the activities outlined in Subsection 1.4 (q) (1)-(11) or 1.4 (r) (1)-(11) in a SOB located in Reeves County without being issued a Class 2 SOB Permit pursuant to these Regulations.
- (c) Pursuant to Section 243.010(a) of the Texas Local Government Code, Reeves County may sue in district court for an injunction to prohibit the violation of this Subsection.
- (d) A complete application shall be filed with the SOB Permit Administrator. The application shall be filed on the form provided by the SOB Permit Administrator. The SOB Permit Administrator shall establish the hours when an application can be submitted.
  - (1) The Applicant shall apply in person.
  - (2) The Applicant shall be a SOB Owner and/or Employee.
  - (3) The SOB Permit Administrator shall provide the fee schedule to the Applicant. Pursuant to Section 243.009 of the Texas Local Government Code, the fees must be based on the cost of processing the applications and investigating the applicants.
  - (4) Incomplete applications will result in denial of the application and forfeiture of the application fee.
  - (5) The Applicant must be at least twenty-one (21) years of age.
- (e) Each complete Class 2 SOB Permit Application shall be accompanied by:
  - (1) a color copy of the Applicant's driver's license or government-issued photo identification;
  - (2) a color copy of the Applicant's social security card;
  - (3) a certification stating the Applicant has not violated, or been convicted of, any offense listed in Subsection 2.2(a)(2); and,
  - (4) a valid mailing address and e-mail address.