VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2008-01

AN ORDINANCE DESIGNATING THE POSITION OF FISCAL OFFICER OF THE VILLAGE OF ABERDEEN, OHIO AS A FULL-TIME POSITION AND ESTABLISHING COMPENSATION FOR THE VILLAGE OF ABERDEEN FISCAL OFFICER AND DECLARING AN EMERGENCY

WHEREAS, the Village of Aberdeen has heretofore created the position of Fiscal Officer of the Village of Aberdeen as a part-time position; and

WHEREAS, the Council of the Village of Aberdeen now believes that the interests of the Village of Aberdeen would be best served if said position were established as a full-time position; and

WHEREAS, it is also necessary to establish the compensation of the Fiscal Officer of the Village of Aberdeen as a full-time position;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring, that:

SECTION 1. The position of Fiscal Officer of the Village of Aberdeen shall be and hereby is designated as a full-time position effective with the effective date of this Ordinance.

SECTION 2. The compensation to be paid the full-time Fiscal Officer of the Village of Aberdeen is hereby established at the rate of $30,000.00 per year.

SECTION 3. This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen, Ohio and more particularly for the reason that it is necessary to provide for a full-time Fiscal Officer of the Village of Aberdeen in order to ensure the ensure that the fiscal responsibilities of the Village of Aberdeen are properly and timely administered and this Ordinance shall be in full force and effect immediately upon its adoption.

PASSED: January 28, 2008

Garland Renchen, Mayor

ATTEST:

Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. ____________

AN INTERIM ORDINANCE IMPOSING A MORATORIUM AS TO THE
ESTABLISHMENT, DEVELOPMENT, LOCATION OR ENLARGEMENT OF
SEXUALLY ORIENTED BUSINESSES IN THE VILLAGE OF ABERDEEN,
BROWN COUNTY, OHIO, DIRECTING THAT A STUDY BE CONDUCTED
AND DECLARING AN EMERGENCY

WHEREAS, sexually oriented businesses require special supervision in order to protect
and preserve the health, safety, and welfare of the patrons of such businesses, as well as the
citizens of the communities where they locate; and

WHEREAS, it has been found that sexually oriented businesses are frequently used for
unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health
concern of the village that demands reasonable regulation of sexually oriented businesses in
order to protect the health and well-being of the citizens; and

WHEREAS, licensing is a legitimate means of accountability to ensure that operators of
sexually oriented businesses comply with reasonable regulations, and to ensure that operators do
not allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing documented evidence that sexually oriented businesses,
because of their very nature, have a deleterious effect on both the existing businesses around
them and the surrounding residential areas adjacent to them, causing increased crime and the
downgrading of property values; and

WHEREAS, it is recognized that sexually oriented businesses, due to their nature, have
serious objectionable operational characteristics, particularly when they are located in proximity
to each other, thereby contributing to urban blight and downgrading the quality of life in the
adjacent area; and

WHEREAS, communities want to prevent these adverse effects and thereby protect the
health, safety and welfare of the citizenry; protect the citizens from increased crime; preserve the
quality of life; preserve the property values and character of surrounding neighborhoods and
deter the spread of urban blight; and

WHEREAS, it is not the intent to suppress any speech activities protected by the First
Amendment, but to enact a content neutral ordinance that addresses the secondary effects of
sexually oriented businesses as well as the health problems associated with such businesses; and
WHEREAS, it is not the intent of the community to condone or legitimize the distribution of obscene materials, and it is recognized that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities in our community; and

WHEREAS, it is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of this community, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within this community. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials; and

WHEREAS, based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports available to the Village Council, and on findings incorporated in the various court cases (City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); Arcara v. Cloud Books, Inc., 478 U.S. 697, (1986); California v. LaRue, 409 U.S. 109 (1972); Iacobucci v. City of Newport, Ky, 479 U.S. 92 (1986); United States v. O’Brien, 391 U.S. 367 (1968); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir.1997); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir.1986); Hang On, Inc. v. City of Arlington., 65 F.3d 1248 (5th Cir.1995); and South Florida Free Beaches, Inc. v. City of Miami, 734 F.2d 608 (11th Cir.1984); as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas) and findings reported in the Final Report of the Attorney General’s Commission on Pornography (1986), the Report of the Attorney General’s Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention,

it is known that,

(1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.
(2) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.

(3) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., California v. LaRue, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General’s Commission on Pornography (1986) at 377.

(4) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, e.g., Final Report of the Attorney General’s Commission on Pornography (1986) at 376-77.


(6) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.

(7) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(8) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(9) The number of cases of gonorrhea in the United States reported annually remains at a high level, with a total of 1,250,581 cases reported during the period 1993-1995. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(10) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
(11) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(12) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General’s Commission on Pornography (1986) at 377.

(13) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view “adult” oriented films. See, e.g., Final Report of the Attorney General’s Commission on Pornography (1986) at 377.


(15) Nude dancing in adult establishments increases the likelihood of drug-dealing and drug use. See, e.g., Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1056 (9th Cir.1986).

(16) The findings noted in paragraphs numbered (1) through (15) raise substantial governmental concerns.

(17) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(18) The general welfare, health, morals, and safety of the citizens of this community will be promoted by the enactment of this ordinance.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring, that:

SECTION 1. Definitions:

(1) ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
(2) **ADULT BOOKSTORE** or **ADULT VIDEO STORE** means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(A) books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(B) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE or ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(3) **ADULT CABARET** means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(A) persons who appear in a state of nudity or semi-nudity; or

(B) live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(C) films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(D) persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) **ADULT MOTEL** means a hotel, motel or similar commercial establishment that:

(A) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas";
and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

(B) offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(C) allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty-four (24) hours.

(5) ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(8) ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(9) ESTABLISHMENT means and includes any of the following:

(A) the opening or commencement of any sexually oriented business as a new business;

(B) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(C) the additions of any sexually oriented business to any other existing sexually oriented business; or

(D) the relocation of any sexually oriented business; or

(E) a sexually oriented business or premises on which the sexually oriented business is located.
(10) NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(11) NUDITY or a STATE OF NUDITY means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the nipple; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(12) PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(13) PREMISES means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of any person.

(14) SEMI-NUDE OR SEMI-NUDITY means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(15) SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(A) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(B) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

(16) SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(17) SPECIFIED ANATOMICAL AREAS means:

(A) the human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(B) less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.
(18) **SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:

(A) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(B) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) masturbation, actual or simulated; or

(D) excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above.

**SECTION 2. Classification.**

Sexually oriented businesses are classified as follows:

(1) adult arcades;

(2) adult bookstores or adult video stores;

(3) adult cabarets;

(4) adult motels;

(5) adult motion picture theaters;

(6) adult theaters;

(7) escort agencies;

(8) nude model studios; and

(9) sexual encounter centers.

**SECTION 3. Study.**

A study is shall be conducted by the officials and staff of the Village of Aberdeen to further investigate the probable secondary effects of sexually oriented businesses within the Village of Aberdeen and to determine how sexually oriented businesses shall be regulated within the Village of Aberdeen. The scope of the study should include, but is not limited to, the following:
(1) the regulation of sexually oriented businesses through the use of licensing; and

(2) the regulation of sexually oriented businesses through the use of zoning.

Upon completion of the study, the matter is to be considered by the Council of the Village of Aberdeen for its review and the adoption of any regulatory ordinances or resolutions.

SECTION 4. Moratorium.

A moratorium on the establishment, development, location or enlargement of any sexually oriented business within the Village of Aberdeen is adopted pending completion of the study. During the term of this ordinance, no sexually oriented business shall be established, developed, located or enlarged within the Village of Aberdeen.

SECTION 5. Enforcement.

The Village of Aberdeen may enforce any provision of this ordinance by mandamus, injunction or any appropriate civil remedy in any court of competent jurisdiction.


Every section, provision or part of this ordinance is declared separable from every other section, provision or part of this ordinance. If any section, provision or part of this ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this ordinance.

SECTION 7. Duration.

This ordinance shall remain in effect for a period of one hundred eighty (180) days from the date of its effective date or until such time as said ordinance shall be revoked or otherwise amended.

SECTION 8. Emergency Clause; Effective Date.

This ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen, Ohio and more particularly for the reason that it is necessary for the Village of Aberdeen to enact a moratorium on the establishment, development, location or enlargement of any sexually oriented business within the Village of Aberdeen to allow the Village of Aberdeen to further study the probable secondary effects of such businesses on the residents of the Village of Aberdeen and to study the regulation of such businesses as provided herein and this ordinance shall be in full force and effect immediately upon its adoption.
ADOPTED this 31st day of January, 2008.

Garland Renchen, Mayor

ATTEST:

Rhonda Bothman, Clerk/Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2008-03

AN ORDINANCE TO ENTER INTO AN AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS OF BROWN COUNTY, OHIO TO ADMINISTER AND ENFORCE THE OHIO MANUFACTURED HOME INSTALLATION STANDARDS WITHIN THE VILLAGE OF ABERDEEN, OHIO AND DECLARING AN EMERGENCY

WHEREAS, the Village of Aberdeen, Ohio desires to enforce the Ohio Manufactured Homes Installation Standards for the purpose of providing uniform standards and requirements for the installation of manufactured homes set forth in Chapter 4781 of the Ohio Revised Code and Chapter 4781 of the Ohio Administrative Code; and

WHEREAS, the Ohio Manufactured Homes Commission has certified the Brown County Building Department to exercise enforcement authority in accordance with Ohio Manufactured Homes Installation Standards, as set forth in said Commission's certification rule; and

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows, that:

SECTION 1. The Village of Aberdeen shall enter into an agreement with the board of county commissioners of Brown County, Ohio pursuant to which the Brown County Building Department will be authorized to administer and enforce the Ohio Manufactured Homes Installation Standards within the Village of Aberdeen, Ohio in exchange for the fees for services provided for herein.

SECTION 2. Pursuant to said Agreement, the Brown County Building Department shall have authority to do all things necessary to administer and enforce the Ohio Manufactured Homes Installation Standards within the limits of the Village of Aberdeen and in consideration therefore, the Brown County Building Department shall retain all permit and inspection fees authorized by the Ohio Manufactured Commission; except for the cost of the Ohio Manufactured Commission's Inspection Seals.

SECTION 3. This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen and more particularly for the reason that it is necessary that the Village of Aberdeen have a mechanism for the enforcement of manufactured home installation standards for the protection of its residents and this Ordinance shall be in full force and effect immediately upon its adoption.

ADOPTED this 4th day of February, 2008

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Garland Renchen, Mayor

ATTEST:

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Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2008-04

AN ORDINANCE REGULATING THE CONSTRUCTION, ADDITION, PREFABRICATION, ALTERATION, STRUCTURAL REPAIR, USE, OCCUPANCY AND STRUCTURAL MAINTENANCE OF DETACHED ONE, TWO AND THREE FAMILY DWELLINGS WITHIN THE VILLAGE OF ABERDEEN, BROWN COUNTY, OHIO AND DECLARING AN EMERGENCY

WHEREAS, pursuant to the authority of Ohio Revised Code Section 715.26, any municipal corporation may regulate the erection of buildings or other structures and the sanitary condition thereof, the repair of, alteration in, and addition to buildings or other structures; and

WHEREAS, the board of county commissioners of Brown County, Ohio have adopted a Building Code for the unincorporated portion of Brown County, Ohio, said Code being the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings; and

WHEREAS, the council of the Village of Aberdeen believes that it would be in the best interest of the citizens of the Village of Aberdeen if a building code were adopted for the incorporated Village of Aberdeen which applies the same standards in use in the unincorporated portion of Brown County, as already adopted by the board of county commissioners of Brown County, Ohio;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring, that:

SECTION 1. The Village of Aberdeen does hereby adopt as a building code within the Village of Aberdeen that building code heretofore adopted by the board of county commissioners of Brown County, Ohio known as the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings for the regulation of one, two and three family dwellings in the Village of Aberdeen, Ohio.


SECTION 3. The schedule of fees for services rendered by the building department as adopted by the board of county commissioners of Brown County, Ohio are hereby incorporated herein by reference and adopted as the schedule of fees for services rendered by the building department for the Village of Aberdeen, Ohio.

SECTION 4. The Village of Aberdeen shall enter into an agreement with the board of county commissioners of Brown County, Ohio pursuant to which the Brown County Building Department
will be authorized to administer and enforce the Building Code herein adopted within the Village of Aberdeen, Ohio in exchange for the fees for services provided for herein.

SECTION 5. This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen and more particularly for the reason that it is necessary that the Village of Aberdeen have a residential building code for the protection of its residents and this Ordinance shall be in full force and effect immediately upon its adoption.

ADOPTED this 4th day of February, 2008

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Garland Renchen, Mayor

ATTEST:

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Rhonda Bothman, Fiscal Officer
Ordinance 2008-05

An Ordinance Vacating Miklers Alley

Passed February 4, 2008
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. __________

AN ORDINANCE ESTABLISHING NEW RATES AND CHARGES FOR THE COLLECTION AND DISPOSAL OF GARBAGE AND REFUSE IN THE VILLAGE OF ABERDEEN, BROWN COUNTY, OHIO

WHEREAS, the Village of Aberdeen contracts for the collection and disposal of garbage and refuse of the residents of the Village of Aberdeen, Brown County, Ohio, and

WHEREAS, the contractor which supplies such service to the Village of Aberdeen has raised such rates and charges to the Village with the result that it is now necessary to pass such increased charges to the customers if the Village is to remain on a sound financial basis,

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows, that:

SECTION 1. Effective with the utility billing due and payable in ___________, 2008 for utilities services to customers of the Village of Aberdeen Utilities Department, the rates and charges for garbage collection and disposal, basic service, residential, commercial and out-of-town shall be $___________ per month.

SECTION 2. This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen and more particularly for the reason that it is necessary that garbage and refuse be collected and disposed of and that a proper charge be assessed and collected therefor in order that the municipal finances of the Village may remain sound and this Ordinance shall be in full force and effect immediately upon its passage.

PASSED: ________________, 2008

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Garland Renchen, Mayor

ATTEST:

____________________________________
Rhonda Bothman, Fiscal Officer
Ordinance 2008-07

An Ordinance Accepting the 2008 Fiscal Budget

Passed March 3, 2008
VILLAGE OF ABERDEEN

ORDINANCE NO. ______________


WHEREAS, by the enactment of Ordinance No. 2003-12 on December 6, 2003, the Council of the Village of Aberdeen, Brown County, Ohio established a municipal income tax within the Village of Aberdeen; and

WHEREAS, as originally enacted, said Ordinance No. 2003-12 provided for an allocation of the net funds collected pursuant to said Ordinance eighty percent (80%) for police purposes and twenty percent (20%) for street purposes; and

WHEREAS, the allocation of the net funds collected pursuant to said Ordinance was subsequently changed to one hundred percent (100%) police purposes; and

WHEREAS, the Council of the Village of Aberdeen now deems it appropriate that the allocation of the net funds collected pursuant to said Ordinance be once again allocated eighty percent (80%) to police purposes and twenty percent (20%) to street purposes;

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

SECTION 1. That § 170.14 of Ordinance No. 2003-12 be and hereby is amended to provide as follows:

§ 170.14 ALLOCATION OF FUNDS.

(A) The funds collected under the provisions of this Chapter shall be deposited in the General Fund and said funds collected from the imposition date of the tax under this Chapter shall be disbursed for the following, to wit:

(1) Such part thereof as shall be necessary to defray all cost of collection the taxes and the cost of administering and enforcing the provisions thereof;

(2) The balance of any monies collected under the provisions of this ordinance shall be allocated as follows:

(a) eighty percent (80%) for the purpose of providing and maintaining motor vehicles, communications, and other equipment used directly in the operation of the police department of this municipality and the payment of salaries of police
personnel, including the payment of the policemen employer's contribution required of this municipality under Section 742.33 of the Ohio Revised Code.

(b) all remaining amounts for the payment of labor, materials, equipment and expenses for the purpose of planning, constructing, improving, maintaining and repairing public roads, streets and alleys of this municipality.

SECTION 2. That the provisions of this Ordinance shall be effective October 1, 2008.

PASSED: __________________, 2008

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Garland Renchen, Mayor

ATTEST:

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Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2008-09

AN ORDINANCE REGULATING SEXUALLY ORIENTED BUSINESSES WITHIN THE VILLAGE OF ABERDEEN, BROWN COUNTY, OHIO

SECTION 1. BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

(I) PURPOSE AND INTENT

(A) In enacting this Ordinance, the council of the Village of Aberdeen makes the following statement of intent and findings:

(1) Adult entertainment establishments require special supervision from the public safety agencies of the Village of Aberdeen in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of the Village of Aberdeen.

(2) The council of the Village of Aberdeen finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.

(3) The concern over sexually transmitted diseases is a legitimate health concern of the Village of Aberdeen that demands reasonable regulation of adult entertainment establishments by the Village of Aberdeen in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.

(4) Minimal regulations enacted by the Village of Aberdeen are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(5) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.

(6) The council of the Village of Aberdeen desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner. And by minimizing and controlling these adverse effects, the council of
the Village of Aberdeen seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

(7) The council of the Village of Aberdeen has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of the Village of Aberdeen and that expanded regulation of adult entertainment establishments is necessary.

(8) It is not the intent of the council of the Village of Aberdeen in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.

(9) It is not the intent of the council of the Village of Aberdeen to condone or legitimize the distribution of obscene material, and the council of the Village of Aberdeen recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.

(B) It is the intent of the council of the Village of Aberdeen in enacting this Ordinance to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of the Village of Aberdeen and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within the Village of Aberdeen. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the council of the Village of Aberdeen in enacting this Ordinance to restrict or deny, or authorize the restriction or denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of the council of the Village of Aberdeen in enacting this Ordinance to condone or legitimize the distribution or exhibition of obscene material.


(1) Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.
(2) Certain employees of adult entertainment establishments, as defined in this Ordinance as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The “couch dances” or “lap dances” that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of “engaging in prostitution” under section 2907.25 of the Revised Code.

(4) Offering and providing private or semi-private booths or cubicles encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments.

(6) Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid.

(7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.

(8) A total of 10,255 AIDS cases had been reported in Ohio as of January 1999. Ohio has required HIV case reporting since 1990, and the reported information shows 7,969 people living with (HIV) (4,213) and (AIDS) (3,756) in the state.

(9) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Ohio.

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen. 33,613 cases were reported in 1982, and 45,200 cases were reported through November 1990.

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(12) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted
through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) The findings noted in divisions (C)(1) to (14) of this section raise substantial governmental concerns.

(16) Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns.

(17) The enactment of this Ordinance will promote the general welfare, health, morals, and safety of the citizens of this Village.

(II) DEFINITIONS

(A) As used in this Ordinance, “adult arcade,” “adult bookstore,” “adult novelty store,” “adult video store,” “adult entertainment establishment,” “adult motion picture theater,” “adult theater,” “distinguished or characterized by their emphasis upon,” “nude or seminude model studio,” “nudity,” “nude,” “state of nudity,” “regularly features,” “regularly shown,” “seminude,” “state of seminudity,” “sexual encounter establishment,” “specified anatomical areas,” and “specified sexual activity” have the same meanings as in section 2907.39 of the Revised Code.

(B) “EMPLOYEE” means a 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, lessee 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, nor does employee include a person exclusively on the premises as a patron or customer.

(C) “LICENSE” means a license to act or operate a sexually oriented business, issued pursuant to this Ordinance.
(D) “LICENSEE” means a person in whose name a license to operate 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 an Employee license issued under this Ordinance, licensee means an employee as defined by sub-section (B) above in whose name a license has been issued authorizing employment at sexually oriented business.

(E) “OPERATE” means 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. “Operator” or “Cause to be Operated” shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control or hold primary responsibility for the operation of a sexually oriented business or who causes to function or who puts or keeps in operation the business. 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.

(F) “PERSON” means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(G) “SEXUALLY ORIENTED BUSINESS” means an adult arcade, adult bookstore, adult novelty store, adult video store, sexually oriented business, adult entertainment establishment, adult motion picture theater, or adult theater as defined by Section (II), sub-section (A) of this Ordinance.

(H) “SPECIFIED CRIMINAL ACTIVITY” means any of the following offenses:

1. Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;

2. for which:

   (a) 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 offense; or

   (b) 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.
(3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this section.

(I) “TRANSFER OF OWNERSHIP OR CONTROL” of a sexually oriented business shall mean any of the following:

(1) the sale, lease, or sublease of the business;

(2) the transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or

(3) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(III) LICENSE REQUIRED

(A) No person shall:

(1) Operate a sexually oriented business as defined by Section (II), sub-section (G) without a valid sexually oriented business license issued by the Village pursuant to this Ordinance.

(2) In connection with operating a sexually oriented business, retain the services of a person as an employee, as defined in this Ordinance, who is not licensed as a sexually oriented business employee by the Village pursuant to this Ordinance.

(B) Any person who violates sub-section (A)(1) above shall be guilty of a **fourth degree misdemeanor** for a first offense, and a **first degree misdemeanor** for a second offense.

(C) A violation of sub-section (A)(2) above shall be a ground for the suspension of a sexually oriented business license as provided for in Section (IX) of this Ordinance.

(D) No person shall act as an employee, as defined in this Ordinance, on the premises of a sexually oriented business without having secured a sexually oriented business employee license (“employee license”) pursuant to this Ordinance.

(E) A violation of this section shall be a ground for the suspension of a sexually oriented business employee license as provided for in Section (IX) of this Ordinance.
(IV) APPLICATION FOR LICENSE

(A) An original or renewal application for a sexually oriented business license shall be submitted to the council of the Village of Aberdeen or its designee on a form provided by the council of the Village of Aberdeen. The Village’s application may require and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the Village to determine whether the applicant meets the qualifications established in this Ordinance.

(B) A nonrefundable filing fee shall be paid at the time of filing the application, as follows:

1. Original Business Application: $1,500.00
2. Renewal Business Application: $1,000.00
3. Original Employee Application: $50.00
4. Renewal Employee Application: $50.00

(C) An application for a sexually oriented business license shall identify and be signed by the following persons:

1. If the business entity is owned by an individual or by a limited liability company in which the only member is an individual, that individual.

2. If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than fifty (50) percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed sexually oriented business.

3. If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, including a limited liability company having more than member, each partner (other than limited partners) or member; and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed sexually oriented business.

(D) An application for a sexually oriented business license must designate one or more individuals who are to be principally responsible for the operation of the proposed sexually oriented business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed sexually oriented business on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a licensee under this Ordinance, and shall be considered a licensee if a license is granted.
(E) An application for a sexually oriented business license shall be completed according to the instructions on the application form, which shall require the following:

(1) If the applicant is:

(a) an individual, state the legal name and any aliases of such individual; or

(b) 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; or

(c) a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, including a limited liability company, state the complete name of the organization and all of the joint venturers or members and provide a copy of the legal document establishing the organization, if any; or

(d) 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 state the names and capacities of all Officers and Directors, the name of the registered corporate agent, and the address of the registered office for service of process.

(2) 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.

(3) State whether any applicant has been convicted of a specified criminal activity as defined in this Ordinance, and if so, the specified criminal activity involved and the date, place, and jurisdiction of each such conviction.

(4) 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, or fifty (50) percent or greater owner of a corporation 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.

(5) 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 such other licensed businesses.
(6) State the location of the proposed sexually oriented business, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.

(7) State the mailing address and residential address of each applicant and each person signing the application.

(8) Submit a recent photograph of each applicant who is a natural person, taken by the **Aberdeen Police Department** or the **Brown County Sheriff’s Department** that clearly shows the applicant’s face.

(9) Submit the fingerprints of each applicant who is a natural person, recorded by the **Aberdeen Police Department** or the **Brown County Sheriff’s Department**.

(10) Submit an authorization to permit the Brown County Sheriff’s Department to conduct a criminal background check on the applicant together with the investigation fee as shall at that time be charged by the **Brown County Sheriff’s Department** for such investigation.

(11) 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.

(12) State the driver’s license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant’s federally issued tax identification number.

(13) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.

(14) Submit a sketch or diagram showing the configuration of the premises of the sexually oriented business. The diagram shall also designate the place at which the adult 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 six (6) inches.

(15) The above-required disclosures facilitate the police investigation into the applicant’s criminal background regarding crimes of a sexual nature so that the Village can determine whether the Ordinance’s civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance’s licensing and permitting requirements.
The information gathered pursuant to the above provisions constitute protected private information and are exempt from Ohio’s Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in DejaVu of Cincinnati v. Union Village (6th Cir. 2005), 411 F.3d 777.

(V) ISSUANCE OF A LICENSE

(A) Upon receipt of an application for a sexually oriented business license, the Village Administrator or his designee shall promptly request that the Aberdeen Police Department and/or the Brown County Sheriff’s Department review the information provided in the application concerning the criminal background of the applicant(s) and that the Aberdeen Police Department and/or the Brown County Sheriff’s Department shall transmit the results of its investigation in writing to the Village Administrator or his designee within five (5) days of the completion of its investigation.

(B) Within five (5) days of receipt of an application for a sexually oriented business, the Village Administrator or his designee shall notify the Huntington Township Fire Chief and the Brown County Health Commissioner of such application. In making such notification, the Village Administrator or his designee shall request that the Fire Chief and Health Commissioner promptly inspect the premises for which the sexually oriented business license is sought to assess compliance with the regulations under their respective jurisdictions.

(C) The Fire Chief shall provide to the Village Administrator or his designee a written certification of whether the premises are in compliance with the Village of Aberdeen, Huntington Township and/or Brown County Fire Regulations within ten (10) days of receipt of notice of the application.

(D) The Village Administrator or his designee shall commence the inspection of the premises for which a sexually oriented business license is sought promptly upon receipt of the application, and shall complete, within ten (10) days after receipt of the application, a written certification of whether the premises are in compliance with the Village Zoning Ordinance, the Village Property Maintenance Code, and the provisions of this Ordinance related to physical characteristics of the premises, and whether the Village has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.

(E) Within thirty (30) days after receipt of a completed sexually oriented business license application, the Village Administrator or his designee shall approve or deny the issuance of a license. The Village Administrator or his designee shall approve the issuance of a license to an applicant unless he/she determines that one or more of the following findings is true:

1. An applicant who is a natural person is under eighteen (18) years of age.

2. An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on
their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

(3) An applicant has, within the preceding twelve (12) months, been denied a sexually oriented business license by any jurisdiction or has had a license to operate a sexually oriented business revoked by any jurisdiction.

(4) An applicant has been convicted of a specified criminal activity as defined in this Ordinance.

(5) The proposed sexually oriented business would violate or fail to be in compliance with any provisions of this Ordinance, the Village Zoning Ordinance, the Village Property Maintenance Code, or state statute or regulation.

(6) The application and investigation fee required by this Ordinance has not been paid.

(7) An applicant is in violation of or not in compliance with any provision of this Ordinance, except as provided in Section (V), sub-section (F) of this section.

(F) If the Village Administrator or his designee determines that one or both of the following findings is true, the license issued pursuant to this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Fire Chief or its designee or the Health Commissioner or its designee indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions.

(2) An applicant is overdue in payment to the Village of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(G) A sexually oriented business license shall state on its face the name of the applicant, 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.

(H) The Village Administrator his designee shall advise the applicant in writing within three (3) days of the Village Administrator’s decision of the reasons for any license denial. If the Village finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply.

(VI) EMPLOYEE LICENSE APPLICATION
(A) An application for an Employee license shall be submitted to the Village Administrator or his designee on a form provided by the Village Administrator. The application may request, and the applicant shall provide, such information as reasonably necessary (including fingerprints) to enable the Village to determine whether the applicant meets the qualifications established in this Ordinance.

(B) An application for an employee license shall be completed according to the instructions of the application form, which shall require the following:

1. State the applicant’s name and any other names (including “stage” names) or aliases used by the applicant.

2. State the applicant’s date and place of birth.

3. State the applicant’s height, weight, and hair and eye color.

4. Submit a recent photograph of the applicant, taken by the Aberdeen Police Department or the Brown County Sheriff’s Department, which clearly shows the applicant’s face.

5. Submit the applicant’s fingerprints, recorded by the Aberdeen Police Department or the Brown County Sheriff’s Department.

6. Submit an authorization to permit the Brown County Sheriff’s Department to conduct a criminal background check on the applicant together with the investigation fee as shall at that time be charged by the Brown County Sheriff’s Department for such investigation.

7. 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.

8. State the applicant’s present residence address and telephone number.

9. State the applicant’s present or intended business address and telephone number.

10. State the applicant’s driver’s license number and Social Security number.

11. Submit proof that the applicant is at least eighteen (18) years old.

12. Provide a statement detailing the sexually oriented business-related 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-related license, permit, or authorization to do business denied, revoked, or suspended. 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.

(13) State whether the applicant has been convicted of a specified criminal activity as defined in this Ordinance and, if so, the specified criminal activity involved and the date, place and jurisdiction of each such conviction.

(14) The above-required disclosures facilitate the police investigation into the applicant’s criminal background regarding crimes of a sexual nature so that the Village can determine whether the Ordinance’s civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance’s licensing and permitting requirements.

(15) The information gathered pursuant to the above provisions constitutes protected private information and is exempt from Ohio’s Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Village* (6th Cir. 2005), 411 F.3d 777.

**(VII) ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE**

(A) Upon the filing of a completed application for an employee license, the Village Administrator or his designee shall issue a license to said applicant immediately.

(B) Within five (5) days of receipt of a completed application for an employee license, the Village Administrator or his designee shall request that the Aberdeen Police Department and/or the Brown County Sheriff’s Department initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Aberdeen Police Department and/or the Brown County Sheriff’s Department shall document the results of its investigation in writing within five (5) days of the completion of its investigation and transmit this writing to the Village Administrator or his designee.

(C) Within ten (10) days after completion of the criminal background investigation of the applicant, the Village Administrator or his designee shall either affirm the prior issuance of the license or revoke the license. The Village Administrator or his designee shall affirm the prior issuance of a license to an applicant unless he/she determines that one or more of the following findings are true:

   (1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number.
number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

(2) The applicant is under eighteen (18) years of age.

(3) The applicant has been convicted of a specified criminal activity as defined in this Ordinance.

(4) The employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.

(5) The applicant has, within the preceding twelve (12) months, been denied an employee license by any jurisdiction or has had an employee license revoked by any jurisdiction.

(D) If the employee license is revoked, the [applicable agency] or its designee shall advise the applicant in writing within three (3) days of the reason(s) for any such revocation.

(VIII) EXPIRATION AND RENEWAL OF LICENSE

(A) 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 thirty (30) days before the expiration date. If application is made less than thirty (30) 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.

(B) An application for renewal of a sexually oriented business license shall be submitted to the Village Administrator or his designee on a form provided by the Village Administrator. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant’s initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or such application shall be revised 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.

(C) The Village Administrator or his designee shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this Ordinance.

(D) The Village Administrator or his designee shall advise the applicant in writing within three (3) days of the reason(s) for any denial of a license renewal.
(E) An application for renewal of an employee license shall be submitted to the Village Administrator or his designee on a form provided by the Village Administrator. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant’s initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.

(F) When the Village denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. However, if the Village finds, subsequent to denial, that the basis for the denial of the renewal license has been corrected or abated, the applicant may reapply prior to the expiration of the one year period.

(IX) SUSPENSION

(A) The Village shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee:

1. has violated or is not in compliance with any section of this Ordinance; or

2. has knowingly allowed an employee to violate or fail to comply with any section of this Ordinance.

(B) The Village shall suspend a sexually oriented business license for a period not to exceed thirty (30) days if it determines that a licensee or its employee or agent has refused to allow, or has prohibited or has interfered with, an inspection of the licensed sexually oriented business premises as authorized by Section (V), sub-sections (B) – (C) of this Ordinance or any other reasonable inspection.

(C) The Village shall suspend an employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this Ordinance.

(D) The Village Administrator or his designee shall advise the licensee in writing within three (3) days of the reason(s) for any suspension.

(X) REVOCATION

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

(B) The Village shall revoke a sexually oriented business license if it determines that:
(1) a licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) the licensee(s) failed to comply with any requirement stated in the license, pursuant to this Ordinance, to correct specified deficiencies within 120 days;

(3) a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) a licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;

(5) a licensee knowingly operated the sexually oriented business during a period of time when the licensee’s license was suspended;

(6) a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises;

(7) a licensee has been convicted of a specified criminal activity, as defined in this Ordinance, during the term of the license; or

(8) a licensee is delinquent in payment to the Village, County, or State for any taxes or fees that were assessed or imposed in relation to any business.

(C) The Village shall revoke an employee license if it determines that:

(1) the licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) 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 suspended; or

(3) the licensee has been convicted of a specified criminal activity, as defined in this Ordinance during the term of the license.

(D) The Village Administrator or his designee shall advise the licensee in writing within three (3) days of the reason(s) for any revocation.

(E) When the Village revokes a license pursuant to sub-sections (A), (B)(3) – (7), (C)(2) or (3) above, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.

(F) When the Village revokes a license pursuant to sub-sections (B)(1), (B)(8) or (C)(1) above, the applicant may be granted a license if the basis for the revocation has
been corrected or abated and at least thirty (30) days have elapsed since the date the revocation became effective.

(XI) APPEAL RIGHTS

(A) Any denial, suspension, or revocation of a license under this Ordinance may be appealed to the council of the Village of Aberdeen by written notice within ten (10) days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the council of the Village of Aberdeen must hold a hearing on the appeal within twenty-one (21) days and must issue a decision affirming or reversing the denial, suspension, or revocation within five (5) days after the hearing. During the time between the date of the denial, suspension, or revocation of a license and the date of the council of the Village of Aberdeen decision affirming or reversing the denial, suspension, or revocation, the status quo of the license holder or applicant shall be maintained.

(B) In the event that the council of the Village of Aberdeen affirms the denial, suspension, or revocation of a new or renewal license under this Ordinance, the applicant may pursue an appeal to the Brown County Court of Common Pleas pursuant to Revised Code Chapter 2506. The failure of the council of the Village of Aberdeen to render a decision on the application within the time prescribed in Section (IX), sub-section (A) above shall be considered an affirmance of the denial, suspension, or revocation of the license and the applicant may pursue an appeal to Brown County Court of Common Pleas pursuant to Revised Code Chapter 2506. This appeal provision is intended to comply with the requirement for prompt judicial review stated by the United States Supreme Court in Village of Littleton, Colorado v. Z. J. Gifts D-4 (2004), 124 S. Ct. 2219.

(C) Any licensee lawfully operating a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the council of the Village of Aberdeen of a decision rendered under this Ordinance and during the entire time required for the court to rule on the appeal pursuant to sub-section (B) above.

(D) Any licensee lawfully acting as an employee in a sexually oriented business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the council of the Village of Aberdeen of a decision rendered under this Ordinance and during the entire time required for the court to rule on the appeal pursuant to sub-section (B) above.

(E) In the event that any judicial review of the denial of a new or renewal license application or the revocation or suspension of a license is still pending thirty (30) days before the expiration date of any license, the licensee may file a renewal license application with the Village Administrator or his designee pursuant to this Ordinance. In the event that an application for renewal of a license is denied and the applicant seeks
judicial review of that denial, the Village has the right to consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.

(F) If, during the pendency of any appeal pursued under sub-section (B) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the Village has the right to consolidate the appeal pursued under Section (XI), sub-section (B) above for the additional denials, suspensions or revocations with any pending appeal for that same licensee.

(XII) TRANSFER OF LICENSE

(A) 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.

(B) An 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 Village Administrator or his designee within fifteen (15) days of such transfer.

(XIII) ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF A SEXUALLY ORIENTED BUSINESS

(A) Sexual Activity, Live Entertainment and Performances

(1) Any employee appearing on the premises of a sexually oriented business in a state of nudity or semi-nudity, as defined by this Ordinance, must be on a stage that is at least 24 inches from the floor, and at a distance at least 36 inches from all parts of a clearly designated area in which patrons will be present.

(2) All live entertainment and performances in a sexually oriented business must take place on a stage that is at least 24 inches from the floor and a distance of at least 36 inches from all parts of a clearly designated area in which patrons will be present.

(3) The stage shall be separated from the area in which patrons may be present.

(4) No employee, as defined in this Ordinance, appearing on the premises of a sexually oriented business in a state of nudity or semi-nudity, may intentionally or knowingly touch a customer or a customer’s clothing or knowingly permit himself or herself to be touched by a customer or a customer’s clothing.

(5) The provisions of sub-sections (A)(1) – (3) shall not apply to an employee’s use of any restroom or any single-sex dressing room that is accessible only to entertainers.
(6) In addition, sub-sections (A)(1) – (3) shall not apply to live performances in which the patron and performer are separated by an impenetrable barrier such as, but not limited too, glass or Plexiglas.

(B) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of a sexually oriented business.

(C) Hours of Operation. A sexually oriented business shall close no later than 12:00 midnight or not later than the closing time required under its permit to sell alcoholic beverages, whichever is later and shall not reopen earlier than 11:00 A.M.

(XIV) Severability Clause

If any section, sub-section, paragraph or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, paragraphs, and clauses shall not be affected.

(XV) Effective Date

This Ordinance shall be effective from and after the earliest date allowed by law.

Passed the ______ day of ____________, 2008

_________________________________

ATTEST:

_________________________________
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2008-10

AN ORDINANCE REQUIRING REIMBURSEMENT TO THE VILLAGE OF ABERDEEN FOR ITS EXPENSES INCURRED BY REASON OF THE CONFINEMENT OF PERSONS CONVICTED OF OFFENSES IN VIOLATION OF THE ORDINANCES OF THE VILLAGE OF ABERDEEN

WHEREAS, the Village of Aberdeen has entered into an agreement with the Board of Commissioners of Brown and Adams Counties or any other Counties in agreement, within the State of Ohio, to provide for the incarceration in the Adult Detention Facility (hereinafter referred to as "Detention Facility") of persons convicted of offenses in violation of the Ordinances of the Village of Aberdeen, and

WHEREAS, said agreement requires the Village of Aberdeen to pay to the Detention Facility a per diem amount plus other necessary expenses incurred (including medical care) for sustaining such persons confined in the Detention Facility; and

WHEREAS, Ohio Revised Code Section 753.02 permits a municipality to recover reimbursement for such expenses of confinement from the person convicted of an offense,

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio two-thirds (2/3) or more of all members thereof concurring, that:

SECTION 1. Any person who is convicted of an offense and who is confined in the Detention Facility for which the Village of Aberdeen incurs expense for such person's confinement shall be required to reimburse the Village of Aberdeen for all of its expenses of confinement, including but not limited to any per diem fee paid by the Village of Aberdeen together with the expenses relating to the provision of food, clothing, shelter, medical care, dental care, personal hygiene products, including but not limited to, toothpaste, toothbrushes and feminine items to the extent that said costs may be over and above any per diem fee paid by the Village of Aberdeen and a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner’s initial entry into the facility under the confinement in question.

SECTION 2. The amount of reimbursement to be paid to the Village of Aberdeen by such person convicted of an offense shall be the actual cost of such person's confinement plus the one-time reception fee described in Section 1, above, if any.

SECTION 3. The amount of reimbursement shall be determined and recovered pursuant to Sections 2929.18 and 2929.36 through 2929.38 of the Ohio Revised Code.

SECTION 4. Enforcement of this Ordinance shall be in accordance with the applicable provisions of Section 753.02, 2929.18 and 2929.36 through 2929.38 of the Ohio Revised Code.
SECTION 5. This Ordinance shall be effective from and after the earliest date allowed by law.

PASSED: __________, 2008

Garland Renchen, Mayor

ATTEST:

Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN

ORDINANCE NO. 2008-11

AN ORDINANCE AUTHORIZING THE HIGHEST RANKING OFFICER IN THE VILLAGE OF ABERDEEN POLICE DEPARTMENT TO ACT IN THE ABSENCE OF THE CHIEF OF POLICE OF THE VILLAGE OF ABERDEEN AND DECLARING AN EMERGENCY

WHEREAS, the Village of Aberdeen presently has no person employed in the position of Chief of Police of the Village of Aberdeen due to the pendency of criminal charges against the person heretofore appointed as Chief of Police; and

WHEREAS, the Village of Aberdeen is governed by Ohio Revised Code Title 7 and is authorized to act in other instances pursuant to and in accordance with other Sections and Titles of the Ohio Revised Code in circumstances in which the Chief of Police is authorized or directed to take action; and

WHEREAS, the Village of Aberdeen has adopted the Ohio Basic Code of Ordinances as published by the American Legal Publishing Corporation as the basic code of ordinances of the Village of Aberdeen (hereinafter referred to as the “Ohio Basic Code”); and

WHEREAS, various provisions of the Ohio Basic Code authorize or require action to be taken by the Chief of Police of the municipality;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows, that:

SECTION 1. During any period of time wherein the Village of Aberdeen does not have a person employed as the Chief of Police of the Village of Aberdeen, the highest ranking officer of the Village of Aberdeen Police Department shall be and hereby is authorized to perform any duty or function which is permitted or required to be performed by the Chief of Police pursuant to the Ohio Revised Code or the Ohio Basic Code.

SECTION 2. This Ordinance is hereby declared to be an emergency ordinance necessary for the health, safety and welfare of the inhabitants of the Village of Aberdeen, Ohio and more particularly for the reason that it is necessary to have a person authorized to perform the duties of the Chief of Police during any period of time during which the Village of Aberdeen does not actually have a person employed in such position and this Ordinance shall be in full force and effect immediately upon its adoption.

PASSED: May 19, 2008

Garland Renchen, Mayor

ATTEST:

Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. ___________


BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows, that:

SECTION 1. Except as is otherwise permitted by Section 3 of this Ordinance, no person shall keep any pig, horse, cow, goat or any other animal or animals or any fowl or poultry in any pen, yard, lot or other enclosure except for land consisting of farm land situated within the Village of Aberdeen.

SECTION 2. Whoever violates any provision of this Ordinance shall be guilty of a minor misdemeanor and shall be fined not more than $100.00. Each day of violation shall constitute a separate and distinct offense.

SECTION 3. Notwithstanding the provisions of Section 1 of this Ordinance, a goat or rabbit may be kept within a pen, yard, lot or other enclosure within the Village of Aberdeen provided:

(A) such goat or rabbit is kept for the purpose of a bonafide 4-H or FFA project of a resident of the property upon which said goat or rabbit is kept between May 1 and October 31 of any year; and

(B) the adult residents of all adjacent properties have consented in writing to the keeping of such goat or rabbit with said written consent being filed with the Fiscal Officer of the Village of Aberdeen.

SECTION 4. Ordinance No. 1997-18 of the Village of Aberdeen, enacted November 3, 1997, is hereby amended to correspond with the provisions of this Ordinance.

SECTION 5. This Ordinance shall be effective from and after the earliest date allowed by law.

PASSED: ______________, 2008

____________________________________
Garland Renchen, Mayor

ATTEST:

____________________________________
Rhonda Bothman, Fiscal Officer
VILLAGE OF ABERDEEN, OHIO

ORDINANCE NO. 2023-12

AN ORDINANCE ESTABLISHING REVISED USER RATES FOR THE VILLAGE OF ABERDEEN WATER SYSTEM

WHEREAS, the present user rates for the Village of Aberdeen water system are not adequate to meet the needs of the water department; and

WHEREAS, it is necessary that the Village of Aberdeen make capital improvements to its water system which will further increase the revenue needs of the water department; and

WHEREAS, it is necessary to revise the water user rates in order that the Village of Aberdeen Utilities Department can remain fiscally sound,

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, a majority or more of all members thereof concurring as follows:

SECTION 1. From and after the effective date of this Ordinance, the following monthly rates and charges shall apply to customers of the Village of Aberdeen Utilities Department for water usage:

<table>
<thead>
<tr>
<th>Residential Rates</th>
<th>Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Town</td>
<td>$18.00</td>
</tr>
<tr>
<td>Out of Town</td>
<td>$23.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Commercial Rates</th>
<th>Water</th>
</tr>
</thead>
<tbody>
<tr>
<td>First 10,000 gal.</td>
<td>$1.20</td>
</tr>
<tr>
<td>Over 10,000 gal.</td>
<td>$3.50 per thousand</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Bulk Water</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulk water shall be sold at the rate of $17.50 per 500 gallons.</td>
<td></td>
</tr>
</tbody>
</table>

SECTION 2. All user rates set forth above are subject to a 10% penalty if not paid by the 15th of the month.
SECTION 3. Ordinance No. 2007-05 shall be repealed effective the effective date of this Ordinance to the extent inconsistent with the provisions of this Ordinance.

SECTION 4. This Ordinance shall be effective from and after the earliest date allowed by law.

PASSED: June 1, 2008

Garland Renchen, Mayor

Rhonda Bothman, Clerk/Fiscal Officer
AN ORDINANCE REGULATING THE KEEPING OF ANIMALS WITHIN
THE VILLAGE OF ABERDEEN, OHIO
AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the Village of Aberdeen, Brown County, Ohio, two-thirds (2/3) or more of all members thereof concurring as follows, that:

SECTION 1. No person shall keep any pig, horse, cow, goat or any other animal or animals or any fowl or poultry in any pen, yard, lot or other enclosure except for land consisting of farm land situated within the Village of Aberdeen.

SECTION 2. Whoever violates any provision of this Ordinance shall be guilty of a minor misdemeanor and shall be fined not more than $100.00. Each day of violation shall constitute a separate and distinct offense.

SECTION 3. Ordinance No. 2008-12 of the Village of Aberdeen is hereby repealed as being in conflict with this Ordinance.

SECTION 4. This Ordinance is hereby declared to be an emergency Ordinance necessary for the public health, safety and welfare of the Village of Aberdeen and shall be in full force and effect immediately upon its adoption.

PASSED: _____________, 2008

Garland Renchen, Mayor

ATTEST:

Rhonda Bothman, Fiscal Officer