

Resolution Denying  
Locational Exemption  
727 S. Treadaway

RESOLUTION NO. 10-1989

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,  
DENYING LOCATIONAL EXEMPTION TIME FOR VIDEO VUE'S TREADAWAY SITE.

WHEREAS, Video Vue has filed a request for additional time;  
and

WHEREAS, the Adult Entertainment Enterprise Ordinance allows  
additional time as provided hereafter:

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(5) Exemption from Locational Requirements

- (a) In the event an owner of an adult entertainment enterprise wishes to claim an exemption from the ordinance, the owner shall make application for a locational exemption from the requirements of Section 23-306.4 and Section 23-306.5.C.12(a) at least 30 days prior to the expiration of all amortization periods.

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The City Council may, in its discretion, grant an exemption from the locational restrictions if it makes the following findings:

- (1) That the location of the adult entertainment enterprise will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
  - (2) That the granting of the exemption will not violate the spirit and intent of this ordinance;
  - (3) That the location of the adult entertainment enterprise will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;
  - (4) That the location of the adult entertainment enterprise will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and
  - (5) That all other applicable provisions of this ordinance will be observed.
- (b) The City Council shall grant or deny the exemption by a majority vote. Failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the City Council is final.
- (c) If the City Council grants an exemption, the exemption is valid for one year from the date of the City Council's action. Upon the expiration of an exemption, an adult entertainment enterprise will be in violation of the locational restrictions of Section 23-306.4 and 23-306.5 and the nonconforming use shall be illegal and shall

terminate, unless the applicant applies for and receives another exemption. Such application shall be made with the Abilene City Secretary at least 60 days prior to the expiration of the exemption.

- (d) The grant of an exemption does not exempt the applicant from any other provisions of this ordinance other than the locational restrictions of Section 23-306.4 and 23-306.5.C.12(a).

now, therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

**PART 1:** The City Council specifically denies Mr. Kervin's request to grant a waiver of the time requirements for locational exemption:

(a) Mr. Kervin's request is almost one year late and he has not offered any explanation or excuse as to why his request is late;

(b) Mr. Kervin was specifically told at the Board of Adjustment hearing of September 8, 1987, that he could apply for a locational exemption;

(c) Mr. Kervin knew of the application deadline, and he purposely chose not to apply;

(d) Even if Mr. Kervin's application had been timely, the information he submitted is inadequate as provided by the Ordinance.

**PART 2:** That Mr. Kervin has failed to show that Video Vue will not have a detrimental effect on nearby properties. Mr. Kervin has failed to show this Video Vue location will be consistent with the public safety and welfare.

**PART 3:** That Mr. Kervin has failed to show that the granting of this exemption will be consistent with and not violate the spirit and intent of this Ordinance.

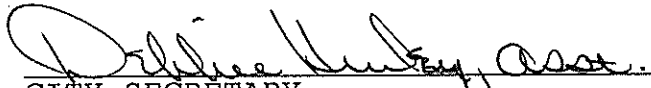
**PART 4:** That Mr. Kervin has failed to show that this location will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight.

PART 5: That Mr. Kervin has failed to show that he will comply with all other applicable provisions of this Ordinance.

PART 6: That this resolution shall take effect immediately from and after its passage.

ADOPTED this 9 day of February, A.D. 1989.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY