

Resolution Denying
Amortization Time
1700 Industrial

RESOLUTION NO. 8-1989

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
DENYING AMORTIZATION TIME FOR VIDEO VUE'S INDUSTRIAL 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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- (f) An adult entertainment enterprise in operation prior to the effective date of the adult entertainment enterprise ordinance which does not conform to the regulations pertaining to adult entertainment enterprise shall be considered to be non-conforming use that may continue until January 1, 1988, subject to the provisions that are provided in this section.

Ord. 1-1988
1-14-88

Amendments to this Ordinance after January 1, 1988, that make adult entertainment enterprises nonconforming shall have new amortization periods which will be determined by the City Council at the time this Ordinance is amended.

(1) Amortization

The nonconforming use will be permitted to continue until January 1, 1988, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. On January 1, 1988, the nonconforming use shall be illegal and shall terminate, except as provided in Subsection 2.

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(continued);

Ord. 1-1988
1-14-88

If the nonconforming use is caused by being within two thousand (2000) feet or closer to lot used for school purposes, the nonconforming use will be permitted to continue until January 1, 1989, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. On January 1, 1989, the nonconforming use caused by being within two thousand (2000) feet of lot for school purposes shall be illegal and shall terminate, except as provided by Subsection 2.

(2) Additional Time for Amortization

(a) In the event an owner of an adult entertainment enterprise is unable to recoup his investment in an adult entertainment enterprise by January 1, 1988, then the owner may request additional time by making application with the Abilene City Secretary no later than November 1, 1987.

(b) The applicant shall file, with his application for additional time,

all data he wishes considered in support of request for additional time. The applicant shall also supply the Council any additional data that is requested by the Council to evaluate whether the applicant has recouped his investment in an adult enterprise. An applicant's failure to supply data requested by the Council shall be considered in evaluating whether he has recouped his investment in an adult entertainment enterprise.

(continued)

- (c) Upon application by owner the City Council may, at its' discretion, allow additional time to amortize the investment in an adult entertainment enterprise if it makes the following findings:
 - (1) The owner has made every effort to recoup his investment in an adult entertainment enterprise.
 - (2) The owner will be unable to recoup his investment in an adult entertainment enterprise by the end of the amortization period.
 - (3) That all other applicable provisions of this ordinance will be observed.
- (d) If the City Council grants additional time, the grant shall be for a period not to exceed one (1) calendar year. If such time is insufficient to amortize, an owner may thereafter apply for additional grants of time to recoup his investment in an adult entertainment enterprise. Such application shall be made no later than 60 days prior to the expiration of the amortization time period.
- (e) The City Council shall grant or deny the additional time request by a majority vote. Failure to reach a majority vote shall result in denial of the request for additional time. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of the City Council is final.

(f) On January 1, 1988, unless additional time is granted under this subsection, an adult entertainment enterprise will be in violation of the locational restriction of Sections 23-306.4 and 23-306.5 and the nonconforming use shall be illegal and shall terminate.

now, therefore,

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

PART 1: Mr. Ron Kervin has failed to show that he has made every effort to recoup his investment.

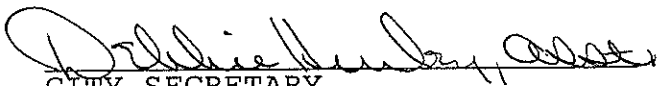
PART 2: Mr. Ron Kervin has failed to show that he was unable to recoup his investment by January 1, 1989.

PART 3: Mr. Ron Kervin has failed to show that he will abide by all provisions of the Ordinance.

PART 4: 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