



DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

January 20, 1998
1-11

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Law and Legislation Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: AN ORDINANCE AMENDING CHAPTERS 28.06 OF TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT-RELATED ESTABLISHMENTS, INCLUDING BATHHOUSES, MASSAGE SERVICES, AND ESCORT SERVICES, AND TO MASSAGE TECHNICIANS AND ESCORTS; AND ADDING CHAPTER 28.07 TO TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT ENTERTAINMENT BUSINESSES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES, ADULT NOVELTY STORES, ADULT VIDEO STORES, ADULT CABARETS, ADULT HOTELS/MOTELS, ADULT THEATERS, AND FIGURE MODEL STUDIOS, AND TO ADULT PERFORMERS AND FIGURE MODELS

LOCATION AND COUNCIL DISTRICT

City. All council districts.

RECOMMENDATION

It is recommended that the Law and Legislation Committee forward the proposed ordinance to City Council with the recommendation that it be adopted.

CONTACT PERSON

William Gravert, Sergeant, Special Investigations, 264-8608
Lynne Ohlson, AA II, Permits & Licenses, 264-5787

FOR COMMITTEE MEETING OF

January 27, 1998

The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property, solve neighborhood problems, and enhance the quality of life in our City.

SUMMARY

The proposed ordinance addresses the regulation of adult-related establishments and adult-entertainment businesses. The City currently regulates such businesses and establishments through the following provisions: i) the Zoning Ordinance, which establishes zone restrictions and locational standards for both adult-related establishments and adult-entertainment businesses, and a special permit requirement for adult-related establishments; ii) Title 28, which establishes permitting requirements for adult-related establishments and certain adult entertainment businesses, as well as certain employees of adult-related establishments; and iii) Title 5, which imposes development standards and operational requirements on adult movie arcades. For purposes of the current zoning regulations, "adult-related establishment" is defined to include businesses such as bathhouses, massage parlors, outcall massage services and other uses involving physical contact between employees and/or patrons; adult-entertainment facilities, such as adult cabarets, adult theaters, and other adult "entertainment" businesses are specifically excluded from the definition of "adult-related establishment." See Zoning Ordinance Sec. 22-A-62, 22-A-87.

The draft ordinance before the Law and Legislation Committee proposes to do the following: i) amend Chapter 28.06 of Title 28 so that it deals exclusively with adult-related establishments and their employees; ii) add Chapter 28.07 to Title 28 to deal with adult-entertainment businesses, and the employees of certain adult-entertainment businesses. Adult-entertainment businesses are defined to include adult cabarets, adult cabarets, adult bookstores, adult novelty stores or adult video stores, adult movie theaters, adult hotels/motels, and modeling studios.

The amendments to Chapter 28.06 do not alter in any significant way the manner in which the City regulates adult-related establishments and certain employees of such establishments. A regulatory permit under Title 28 is required to establish an adult-related establishment; the permit requires an investigation of the criminal background of the owners/operators of the proposed business, as well as a determination that the proposed location meets the locational standards and that the necessary zoning entitlements (a special permit for most such establishments) have been or will be obtained. Certain types of adult entertainment businesses (primarily those featuring live performances involving "specified sexual activities" and "specified anatomical areas") are treated as adult-related establishments for purposes of Chapter 28.06, although they are not subject to a special permit requirement under the Zoning Ordinance. Chapter 28.06 also establishes development standards, operational requirements and employee licensing requirements for certain adult-related establishments.

Proposed chapter 28.07 regulates adult-entertainment businesses. For legal reasons, including the First Amendment, it is necessary and appropriate to regulate these businesses separately, and in different manner. The primary features of Chapter 28.07 are the following:

- establishes an adult entertainment business permit requirement for businesses featuring live performances involving "specified anatomical areas" and "specified sexual activities" (which previously were required to obtain an adult-related establishment license under Chapter 28.06). The permitting requirement is similar to the requirement under Chapter 28.06, and requires consideration of the criminal background of the owners/operators and a determination that the proposed business location satisfies the zoning and locational standards set forth in the Zoning Ordinance. Provided the objective requirements of Chapter 28.07 and the Zoning Ordinance are satisfied, an adult-entertainment business permit must be issued;
- establishes certain development standards, as well as operational and performance standards, for adult-entertainment businesses. Adult arcades are required to comply with the development standards set forth in Title 5 of the City Code. For businesses featuring live performances involving "specified anatomical areas" and "specified sexual activities," the proposed provisions include restrictions on contact between patrons and performers (including a no direct "tipping" rule); a requirement that performances be done on a stage which is to be a minimum distance away from patrons; and restrictions on the degree of nudity permitted.
- establishes a requirement for an adult performer permit for employees who engage in performances involving "specified anatomical areas" and "specified sexual activities." The permit requires a background check of the criminal history of the employee seeking the permit, and the permit may only issue to someone at least eighteen years of age. Businesses featuring such live performances are required to employ only those who have a valid adult performer permit, and they are required to maintain a register of their performers;
- establishes a requirement for a figure model permit for certain figure models. The permit requires a background check of the criminal history of the employee seeking the permit.

In addition to the amendments to Title 28, the provisions of the Zoning Ordinance relating to adult-entertainment businesses and adult-related establishments are being amended, primarily for purposes of consistency with the Title 28 amendments. Pursuant to the provisions of the Zoning Ordinance, these amendments are first heard by the Planning Commission, and they are scheduled to be heard by the Planning Commission on January 22, 1998. For the benefit of the Committee, a copy of the proposed Zoning Ordinance amendments is attached.

The Zoning Ordinance amendments do not alter the current provisions of the Zoning Ordinance in any significant way. As noted above, the current ordinance requires a special permit for adult-related establishments, and limits them to certain zones and locations; while adult-entertainment businesses are permitted as a matter of right, subject to compliance with zoning and locational standards. In general, adult-related establishments and adult-entertainment businesses

are permitted in certain commercial and industrial zones, and are generally required to be located a specified distance away from other adult businesses or establishments, residential and agricultural zones, and certain specified uses, including schools, parks, churches, child care facilities, and other "sensitive" uses. The zoning and locational restrictions are continued under the proposed Zoning Ordinance amendments.

The proposed amendments are similar to, and based in part upon, a model adult business ordinance prepared by the California League of Cities. The locational and zoning provisions in the model ordinance are similar to those in the City's Zoning Ordinance. The model ordinance was drafted to be consistent with current case law concerning the regulation of adult businesses, and has served as a model for a number of other jurisdictions, including the City of Modesto. The City of Modesto has recently utilized its ordinance to shut down an adult business facility featuring live performances that failed to comply with the operational, performance and other requirements imposed on such facilities, and the ordinance has so far withstood challenge.

While the courts have recognized that the First Amendment affords a range of protections to adult entertainment businesses, they have also recognized the right of local and state jurisdictions to regulate these businesses, given the secondary impacts often associated with these businesses. Most commonly cited secondary impacts include increases in crime rates (including narcotic sales and usage, prostitution, pandering, and person and property crimes) in the adjacent and surrounding area; blighting and deterioration in the vicinity. The courts have also recognized the right of jurisdictions to rely upon the experiences of other jurisdictions when dealing with adult entertainment businesses in determining whether and how to regulate such adult businesses. To this end, the Law and Legislation Committee as well as the other members of the City Council have been furnished with studies prepared by some fourteen other jurisdictions concerning adult entertainment businesses and the problems and negative secondary effects associated with those businesses.

In addition to these studies, staff has also been furnished substantial evidence by representatives from the County of Sacramento concerning the problems associated with the adult entertainment businesses, generally known and referred to as "juice bars,"¹ established in the County in recent years. A summary list of the calls for service and of crime reports taken by the

¹Facilities which serve alcohol are subject to the jurisdiction of the State Alcoholic Beverage Control Board. In addition to needing a license from ABC, facilities which provide live entertainment featuring "specified anatomical areas" are subject to a wide range of performance and operational restrictions, including a limitation on full nudity. These regulations apply only to ABC-licensed facilities; by serving only non-alcoholic beverages, "juice bars" avoid regulation by, and the restrictions of, the ABC.

Sheriff's Department for the past two years for the adult entertainment businesses in the County is attached at the end of this report.

BACKGROUND INFORMATION

The Special Intelligence Section of the Office of Investigations has been notified by the Sacramento Sheriff's Office of numerous public safety and vice related incidents occurring in the businesses commonly known as Juice Bars in Sacramento County. Specifically, the Sheriff's Office has reports of the following Penal and Business and Professions codes violations:

- alcoholic beverage consumption in the parking lot and adjoining properties
- assault of security personnel at one club
- indecent exposure citations in the vicinity of the establishments
- increase in prostitution in the area of the establishments

A far more disturbing factor to the Sheriff's Office were the number of minors engaged as entertainers in the clubs. The Business and Professions Code provides specific age requirements for employees of establishments with alcoholic beverage sales (21 and over in bars; musicians 18 to 21 in businesses which do **not** offer "if live acts, demonstrations, or exhibitions which involve the exposure of the private parts of the private parts or buttocks of any participant or the breasts of any female participant are not allowed on such premises." B&P 25663 and 25663.5). There are no limitations on the ages of the entertainers under Department of Labor guidelines or California Welfare and Institutions codes. Penal Code sections 272 and 311.4 prohibit persons under the age of 18 from working in such establishments. Sheriff's investigators have found that juice bars are allowing entertainers to self-certify age of majority. It is the firm opinion of both the Sheriff's Office and the Police Department that it is crucial that, prior to performing, entertainers be required to obtain work permits from the County or City which will verify age.

The work permit application will also provide background checks to reveal criminal history. This is necessary as it has been found in Sacramento as well as other cities (Garden Grove, Los Angeles, Indianapolis, Modesto, Cleveland, Seattle) which have adopted adult related business ordinances, that the incidence of vice related activity is higher in the vicinity of adult related businesses.

The County Health Department has been queried by the Sheriff's Office regarding possible health risks associated with the proximity of the entertainers to the patrons. The Health Department based their opinion that no health hazard exists on possible transmission of AIDS only. However, in a report to the Chief of Police during the 1990 City Council hearings on adult related establishments, the Department stated that a risk for transmittal of infectious diseases was present. The potential exchange of bodily fluids is present during lap dancing as noted in several

of the reports collected during undercover operations indicate that such exchange regularly takes place between entertainer and patron. This exchange would be greatly reduced by both requiring the entertainers to be partially clothed and to require a minimum physical distance between dancer and patron be maintained at all times. The proposed ordinance prohibits physical contact prior, during or following the performance and establish the following design criteria:

- all entertainment shall be performed on a stage at least eighteen (18) inches above the level of the floor and separated at least ten (10) feet from the nearest area occupied by patrons.
- entertainers shall have a walkway which is a minimum of three feet in width, fenced (or similarly barricaded) from stage to dressing rooms.
- fixed rails 30 inches in height separating entertainers from patrons.
- separate entrances/exits for entertainers from the entrances/exits used by patrons.

Regulations enacted by the Alcoholic Beverage Control (ABC) pursuant to Section 25750 regulate the attire and conduct of entertainers on licensed premises. These regulations include prohibitions on the individuals who are entertaining from display of the genital area and limiting entertainers who display breasts and/or buttocks to perform only on a stage no less than eighteen (18) inches above the floor and removed at least six feet from the nearest patron. The only existing adult related entertainment business in the City of Sacramento, Club 400, is in compliance with ABC guidelines and has been the source of few law enforcement problems throughout the years. The proposed ordinance is substantially similar to ABC regulations prohibiting total nudity and distance between entertainers and patrons.

The Sheriff's Office is currently attempting to establish operating regulations for these types of businesses. The Police Department has requested that the City Attorney's office draft an ordinance amendment to establish regulations for adult related businesses in the City relating to operation of business, permits for entertainers and physical structures of the premises.

FINANCIAL CONSIDERATIONS

The costs charged for adult related work permits (massage therapists, escort and model) are currently \$300 annually with an initial \$59.50 fingerprinting fee. The entertainer permit will be included in this category. The permit to operate an adult related business currently includes the juice bar activity and does not require a fee change.

ENVIRONMENTAL CONSIDERATIONS

Per Section 15061(b)(3) of the CEQA Guidelines, a notice of exemption will be filed for this project as it is anticipated that the proposed ordinance amendments will not have any adverse environmental impacts.

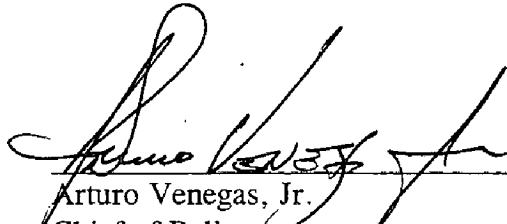
POLICY CONSIDERATIONS

Since the first adult entertainment facility commonly referred to as a "juice bar" opened in Sacramento County, the Police Department has been in communication with the Sheriff's Office to ascertain if this type of business creates problems for law enforcement. Now, after several years of operation, significant background information has been compiled and the need for the regulations has been established.


MBE/WBE REPORTS

Not applicable. Information only.

Respectfully submitted,


Arturo Venegas, Jr.
Chief of Police

RECOMMENDATION APPROVED:


Betty Matsuoka
Deputy City Manager

Attachments: Summary of calls for service at County businesses
Summary of crime reports at County businesses
Proposed Ordinance amending Chapter 28.06 and adding Chapter 28.07 of the
Sacramento City Code
Proposed Zoning Ordinance amendments

ATTACHMENT I

Information will be available at Law and Legislation Committee Meeting.

ATTACHMENT 2

SHOWGIRLS / RISKY BUSINESS

11252 TRADE CENTER DR.

960530093	INFO	19960222021209
960670069	415C	19960307015020
961210014	415C	19960430001418
961360092	415C	19960515025218
961680321	459A	19960616095513
961800031	415C	19960628004909
961931085	925	19960711233153
962220601	ATPU	19960809165242
962380088	952	19960825013349
962860310	459A	19961012091046
962870330	459A	19961013112634
970040272	415C	19970104041357
970041020	415	19970104193346
970051083	415	19970105213431
970550074	952	19970224020307
970650384	415C	19970306113103
970740008	415FI	19970315000823
971310073	415FI	19970511013049
971390049	952	19970519011151
971420282	459A	19970522085927
971470283	459A	19970527093636
971580233	415C	19970607040446
971620096	415FI	19970611023923
972320556	13700	19970820141037
972951165	917	19971022231649
973240762	902A	19971120153039

Of the 23 reports generated, (12) were 415's (disturbances) and (5) were 459A's (auto burglaries).

CENTERFOLD / GOLD CLUB**11363 FOLSOM BLVD**

971970120	417IP	19970716030519
972001075	470IP	19970719215152
972120530	242JO	19970731131242
972130771	1370R	19970801170544
972130836	CSI3	19970801180056
972351120	941A	19970823225127
972401253	488JO	19970828231500
972410021	TS	19970829003350
972710088	415C	19970928011554
973150260	459A	19971111095947
973240041	415C	19971120004415
973400623	415C	19971206164929
980011101	415FI	19980101225830
980081095	941A	19980108221528
970330266	459A	19970202084947
970590556	242JO	19970228143901
970840007	415C	19970325000842
970930009	415C	19970403000808
971090070	415FI	19970419014124
971090086	CSI3	19970419020345
971230677	242JO	19970503180344
971240443	459A	19970504134540
971330081	415C	19970513015153
971570008	13700	19970606000844
971720932	273.5	19970621224308
971770882	415F	19970626205029

Of the 26 reports generated, (9) were 415's and there were (3) 459A's.

PUREGOLD BOOKSTORE

3000 SUNRISE BLVD

972150346	459A	19970803100037
972160148	459A	19970804052443
972880137	459A	19971015035256
973560835	952	19971222193128
970140635	PANIC	19970114153136
970380039	INFO	19970207005234
971120180	415F	19970422063702
971750407	459B	19970624113954
971750568	459B	19970624150139
971750627	459R	19970624160146
971750862	CSI2	19970624194419

Of the 11 reports generated, there were (3) 459A's.

CITY LIMITS

960010331	10851
960010339	10851
962250087	917
963230941	417JO
963240019	BOLO
962800158	415FI
962860498	459A
962930739	952
962930806	REPT
963040492	5150
963050028	242JO
963111109	WD
963130009	952
963500009	VS
970171129	415FI
970190941	941
970330143	459A
970330872	415C
970371006	415FI
970710167	952
970800094	415FI
970890538	923JO
971121220	941A
971170171	ASST
971350731	647G
971891126	952
972130127	INFO
973010795	923JO
972430415	952
972520952	952
972570898	940A
972580860	952
972680054	242JO
972890427	952
973181069	925
973300132	459A
973310696	INFO
973480379	459A
973520092	647F
973550323	459A
973580437	459A
973610132	925
980070076	417R
970171129	415FI
970190941	941
970330143	459A

5809 AUBURN BLVD

19960101064707
19960101070600
19960812015730
19961118223450
19961119001214
19961006033314
19961012140413
19961019191658
19961019200718
19961030135242
19961031004256
19961106233945
19961108001955
19961215000928
19970117234618
19970119225622
19970202032633
19970202223014
19970206222129
19970312061845
19970321022114
19970330152011
19970422225138
19970427024956
19970515162909
19970708221619
19970801023756
19971028183435
19970831112202
19970909183837
19970914212318
19970915202449
19970925012728
19971016111650
19971114222243
19971126043230
19971127210553
19971214115045
19971218022948
19971221105750
19971224121440
19971227025710
19980107030140
19970117234618
19970119225622
19970202032633

CITY LIMITS con't

970330872	415C	19970202223014
970371006	415FI	19970206222129
970710167	952	19970312061845
970800094	415FI	19970321022114
970890538	923JO	19970330152011
971121220	941A	19970422225138
971170171	ASST	19970427024956
971350731	647G	19970515162909
971410077	WD	19970521021105
971631052	415	19970612212626
971690965	415FI	19970618213807

Of the 57 reports generated, there were (11) 415's, (7) 459A's, (2) 10851's (stolen vehicles), and (9) 952's (unfounded 911 calls from pay telephones).

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING CHAPTER 28.06 OF TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT-RELATED ESTABLISHMENTS, INCLUDING BATHHOUSES, MASSAGE SERVICES, AND ESCORT SERVICES, AND TO MASSAGE TECHNICIANS AND ESCORTS; AND ADDING CHAPTER 28.07 TO TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT-ENTERTAINMENT BUSINESSES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES, ADULT NOVELTY STORES, ADULT VIDEO STORES, ADULT CABARETS, ADULT HOTELS/MOTELS, ADULT THEATERS, AND FIGURE MODEL STUDIOS, AND TO ADULT PERFORMERS AND FIGURE MODELS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

(a) The City Council, in adopting this ordinance, and amending the existing City regulations regarding Adult-Entertainment Businesses, takes legislative notice of the existence and content of the hearings, studies, reports and analyses undertaken and considered at the time the City Council adopted the current regulations regarding Adult-Entertainment Businesses, which were contained in several ordinances, including City Ordinance Nos. 83-100, 83-145, 86-077 and 90-013. The City Council takes further notice of the following studies concerning the adverse secondary side effects of Adult-Entertainment Businesses in other cities: Garden Grove, California (1991); Tucson, Arizona (1990); Seattle, Washington (1989); Austin, Texas (1986); Oklahoma City, Oklahoma (1986); Indianapolis, Indiana (1984); Houston, Texas (1983); Beaumont, Texas, (1982); Minneapolis, Minnesota (1980); Phoenix, Arizona (1979); Whittier California (1978); Amarillo, Texas (1977); Cleveland, Ohio (1977); Los Angeles, California (1977). The City Council finds that these studies are relevant to the problems addressed by the

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DATE ADOPTED: _____

City in enacting this ordinance to regulate the adverse secondary side effects of Adult-Entertainment Businesses, and more specifically finds that these studies provide convincing evidence that:

(1) Adult-Entertainment Businesses are linked to increases in the crime rates in those areas in which they are located and in surrounding areas.

(2) Both the proximity of Adult-Entertainment Businesses to sensitive land uses and the concentration of Adult-Entertainment Businesses tend to result in the blighting and deterioration of the areas in which they are located.

(3) The proximity and concentration of Adult-Entertainment Businesses adjacent to residential, recreational, religious, educational and other Adult-Entertainment Business uses can cause other businesses and residences to move elsewhere.

(4) There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by Adult-Entertainment Businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that Adult-Entertainment Businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values.

(b) Based on the foregoing, the City Council of the City of Sacramento finds and determines that special regulation of Adult-Entertainment Businesses is necessary to ensure that their adverse secondary side effects will not contribute to an increase in crime rates or to the blighting or deterioration of the areas in which they are located or surrounding areas. The need for such special regulations is based upon the recognition that Adult-Entertainment Businesses have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, or located in direct proximity to sensitive uses such as parks, schools, churches, thereby having a deleterious effect upon the adjacent areas. It is the purpose and intent of these special regulations to prevent the concentration of Adult-Entertainment Businesses and thereby prevent such adverse secondary side effects.

(c) In developing this ordinance, the City Council has been mindful of legal principles relating to regulation of Adult-Entertainment Businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendments of the United States and California Constitutions, but instead desires to enact reasonable

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time, place, and manner regulations that address the adverse secondary effects of Adult-Entertainment Businesses. The City Council has considered decisions of the United States Supreme Court regarding local regulation of Adult-Entertainment Businesses, including but not limited to: Young v. American Mini Theaters, Inc., 427 U.S. 50 (1976) (Reh. denied 429 U.S. 873); Renton v. Playtime Theaters, 475 U.S. 41 (1986) (Reh. denied 475 U.S. 1132); FW/PBS, Inc. v Dallas, 493 U.S. 215 (1990); Barnes v. Glenn Theater, 501 U.S. 560 (1991); United States Court of Appeals 9th Circuit decisions, including but not limited to: Topanga Press, et al. v. City of Los Angeles, 989 F.2d 1524 (1993); several California cases including but not limited to: City of National City v. Wiener, 3 Cal.4th 832 (1993); People v. Superior Court (Lucero) 49 Cal.3d 14 (1989); and City of Vallejo v. Adult Books, et al., 167 Cal.App.3d 1169 (1985); and other federal cases including Lakeland Lounge v. City of Jacksonville (5th Cir. 1992) 973 F.2d 1255, Hang On, Inc. v. Arlington (5th Cir. 1995) 65 F.3d 1248, Mitchell v. Commission on Adult Entertainment (3rd Cir. 1993) 10 F. 3d 123, International Eateries v. Broward County (11th Cir. 1991) 941 F.2d 1157, and Star Satellite v. City of Biloxi (5th Cir. 1986) 779 F.2d 1074.

(d) The City Council of the City of Sacramento finds that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of the City of Sacramento, and thus certain requirements with respect to the ownership and operation of Adult-Entertainment Businesses are in the public interest. In addition to the findings and studies conducted in other cities regarding increases in crime rates, decreases in property values and the blighting of areas in which such businesses are located, the City Council also takes legislative notice of the facts recited in the case of Kev, Inc. v. Kitsap County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in the secondary effects such as prostitution, drug dealing, and other law enforcement problems.

(e) The City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

(1) Evidence indicates that some dancers, models and entertainers, and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in Adult-Entertainment Businesses (collectively referred to as 'performers') have been found to engage in sexual activities with patrons of Adult-Entertainment Businesses on the site of the Adult-Entertainment Business;

(2) Evidence has demonstrated that performers employed by Adult-Entertainment Businesses have been found to offer and provide private shows to patrons who, for a price, are

permitted to observe and participate with the performers in live sex shows.

(3) Evidence indicates that performers at Adult-Entertainment Businesses have been found to engage in acts of prostitution with patrons of the establishment;

(4) Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as a location for engaging in unlawful sexual activity;

(5) As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at Adult-Entertainment Businesses.

(f) Zoning, licensing and other police power regulations are legitimate, reasonable means of accountability to help protect the quality of life in the community of Sacramento and to help assure that all operators of Adult-Entertainment Businesses comply with reasonable regulations and are located in places that minimize the adverse secondary effects which naturally accompany the operation of such businesses.

(g) The City Council of the City of Sacramento recognizes the possible harmful effects on children and minors exposed to the effects of such Adult-Entertainment Businesses and the deterioration of respect for family values, and the need and desire of children and minors to stay away from and avoid such businesses, which causes children to be fearful and cautious when walking through or visiting the immediate neighborhood of such businesses; and the City Council desires to minimize and control the adverse secondary side effects associated with the operation of Adult-Entertainment Businesses and thereby protect the health, safety, and welfare of the citizens of Sacramento; protect the citizens from increased crime; preserve the quality of life; preserve property values and the character of surrounding neighborhoods and businesses; deter the spread of urban blight and protect against the threat to health from the spread of communicable and sexually transmitted diseases.

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(h) It is not the intent of the City Council of the City of Sacramento in enacting this ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City of Sacramento recognizes that state law prohibits the distribution of the obscene materials and expects and encourages law enforcement officials to enforce state obscenity statutes against such illegal activities in the City of Sacramento.

(i) Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof.

(j) While the City Council desires to protect the rights conferred by the United States Constitution to Adult-Entertainment Businesses, it does so in a manner that ensures the continued and orderly development of property within the City and diminishes, to the greatest extent feasible, those undesirable secondary effects which the aforementioned studies have shown to be associated with the development and operation of Adult-Entertainment Businesses; and

(k) The City Council finds that preventing the exchange of money between entertainers and patrons also reduces the likelihood of drug and sex transactions occurring in Adult-Entertainment Businesses; and

(l) Requiring separations between entertainers and patrons reduces the likelihood that such persons will negotiate narcotics sales and /or transact sexual favors within the Adult-Entertainment Business.

(m) Enclosed or concealed booths and dimly-lit areas with Adult-Entertainment Businesses greatly increase the potential for misuse of the premises, including unlawful conduct of a type which facilitates transmission of disease. Requirements that all indoor areas be open to view by management at all times, and that adequate lighting be provided are necessary in order to reduce the opportunity for, and therefore the incidence of illegal conduct within Adult-Entertainment Businesses, and to facilitate the inspection of the interior of the premises thereof by law enforcement personnel.

SECTION 2.

Chapter 28.07, pertaining to Adult-Entertainment Businesses, Adult Performers and Figure Models, is added to Title 28 of the City Code to read as

follows:

CHAPTER 28.07. ADULT-ENTERTAINMENT BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

Section 28.07.700 LEGISLATIVE PURPOSE.

It is the purpose of this ordinance to regulate Adult-Entertainment Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city. 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 adult-entertainment businesses materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to adult-entertainment business materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-entertainment business to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

28.07.701 Definitions

For the purpose of this chapter, the following words and phrases are defined as follows:

Adult-Entertainment Businesses. "Adult-Entertainment Businesses" means any of the following:

(i) **Adult arcade.** The term "adult arcade" shall mean an establishment where, for any form of consideration, one or more 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 time, and where a substantial portion of the images so displayed are distinguished or characterized by an emphasis on matters depicting or describing "specified sexual activities" as hereinafter defined.

(ii) **Adult bookstore, Adult novelty store or Adult video store:** The term "adult bookstore, adult novelty store or adult video store" shall mean a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

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(a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs (CDS), slides, or other visual representations which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", or

(b) instruments, devices, or paraphernalia which 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, describing or relating to "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, 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 which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(iii) Adult cabaret. The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude or in a semi-nude condition.

(iv) Adult hotel/motel. The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, compact discs (CDS) or other photographic reproductions a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

(v) **Adult motion picture theater.** The term "adult motion picture theater" as used in this chapter means a building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" as hereinafter defined, for observation by patrons or customers.

(vi) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(vii) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

Adult-Entertainment Business Operator. "Adult-Entertainment Business Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct or the activities of an adult-entertainment businesses.

Bar. For the purposes of this chapter, a bar is defined as any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages for consumption on the premises.

Chief of Police. The chief of police of the City of Sacramento or authorized representative.

City Manager. The City Manager of the City of Sacramento or authorized representative.

Distinguished or characterized by an emphasis upon. As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal.App.3. 151 (1981).

Employee. "Employee" means a person who performs any service on the premises of an adult entertainment business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Figure Model. "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

Nudity or a state of nudity. "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

Operate an Adult-Entertainment Business. As used in this chapter operate an "Adult-Entertainment Business" means the supervising, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-entertainment business or activities within an adult-entertainment business.

Permittee. "Permittee" means the person to whom an adult-entertainment business permit is issued.

Person. "Person" means any individual, partnership, firm, association, joint stock company, corporation, limited liability company or combination of individuals of whatever form or character.

Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live

performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Semi-nude or Semi-nude condition: The term "semi-nude" or "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. 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.

Specified Anatomical Areas. "Specified Anatomical Areas" shall include:

- (i) Less than completely and opaquely covered (I) human genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Sexual Activities." "Specified Sexual Activities" shall include the following:

- (i) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
- (ii) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

- (iii) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
- (iv) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or,
- (v) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,
- (vi) Erotic or lewd touching, fondling or other contact with an animal by a human being; or,
- (vii) Human excretion, urination, menstruation, vaginal or anal irrigation.

28.07.702 Permit required for operation of an adult-entertainment business providing live performances depicting specified anatomical areas or involving specified sexual activities.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises the operation of an Adult-Entertainment Business which provides live performances depicting specified anatomical areas or involving specified sexual activities unless the person first obtains and continues to maintain in full force and effect a permit (hereinafter "adult entertainment business permit" or "adult entertainment business regulatory permit") from the City of Sacramento as required herein.

Exception: No adult-entertainment business permit shall be required for an adult entertainment business which has obtained and which is operating pursuant to a permit issued by the state Alcohol and Beverage Control Board for the serving of alcoholic beverages on the premises, and which complies with the requirements of Business and Professions Code Sec. 25750 et seq. and the regulations issued pursuant thereto.

28.07.703 Application for permit for an adult-entertainment business involving live performances.

(a) Any person desiring to obtain an adult-entertainment business regulatory permit to operate an adult-entertainment business for which a permit is required pursuant to 28.07.702 shall apply to the chief of police on a form provided by the revenue division. Before submitting such application a nonrefundable fee as established by resolution of the

city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

(i) The full and true name and any other names of each person with an ownership interest in the adult-entertainment business and of each person who will operate the adult-entertainment business;

(ii) The present address and telephone number of the applicant and any operator;

(iii) The two previous addresses immediately prior to the present address of the applicant and any operator;

(iv) Written proof that the applicant and any operator is at least eighteen (18) years of age;

(v) The height, weight, color of eyes and hair of the applicant and any operator;

(vi) Five (5) portrait photographs at least 2" x 2" of the applicant and any operator;

(vii) The business license or tax certificate history of the applicant and any operator, whether such person in previously operating in this or another city, county or state under license, has had such license revoked or suspended, the reason(s) therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(viii) All convictions of any person with an ownership interest and any operator of offenses specified in Section 28.07.709 within five (5) years of the date of application;

(ix) The name and address of the lessor of the real property

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on which the business is to be conducted, and a copy of the lease agreement or other documentation to establish that the owner and/or landlord of the premises consents to the establishment of an adult entertainment business on the premises; and

(x) Such other identification and information necessary to discover the truth of the matters hereinabove specified as required to be set forth in the application.

(c) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown on its articles of incorporation, together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent (10%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply.

(d) The chief of police shall take fingerprints and additional photographs of the applicant and any operator, and shall confirm the height and weight of the applicant and any operator.

(e) The application for a permit does not authorize conducting an adult-entertainment business until such permit has been granted. The issuance of a business operations tax certificate pursuant to Title 23 of the Sacramento City Code shall not authorize conducting an adult-entertainment business until the necessary regulatory permit has been lawfully granted.

28.07.704 Corporate applicants; exemption.

The provisions of Section 28.07.0703(b)(iv), (v), and (vii), and (d), shall not apply to require any corporate applicant to provide such information as to the corporation; provided, however, that such information shall be provided for any operator.

28.07.705 Permits

(a) Except as provided Section 28.07.710, no person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Entertainment Business unless the person first obtains and continues in full force and effect an Adult-Entertainment Business Performer

Permit (hereinafter "adult performer permit").

(b) Except as provided Section 28.07.710, no person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained.

(c) Except as provided in Section 28.07.710, the issuance of a business operations tax certificate pursuant to Title 23 of the Sacramento City Code shall not authorize any person to perform any act for which an adult performer permit or figure model permit is required until such permit has been lawfully approved.

28.07.706 Application for adult performer or figure model permit.

(a) An application for an adult performer or figure model permit shall be made to the chief of police on a form provided by the city clerk. Prior to submitting such application a nonrefundable fee as established by resolution of the city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

(i) Name, residence address and telephone number of the applicant;

(ii) Driver's license number, if any, of the applicant;

(iii) Applicant's height, weight, color of hair and eyes;

(iv) Five (5) portrait photographs of the applicant at least 2" x 2";

(v) Written evidence that the applicant is at least eighteen (18) years of age;

(vi) The name and address of the adult-entertainment business(es) where the applicant is to be employed and the name of the owner(s) of the establishment(s);

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(vii) The names and address of any establishments where the applicant was previously employed as a adult performer or figure model;

(viii) Whether the applicant has been convicted of any offense specified in Section 28.07.709(a) within five (5) years of the date of the application; and

(ix) The adult performer or figure model permit or license history of the applicant; whether such person has had such license revoked or suspended, the reason therefore and the business activity or occupation subsequent to such suspension or revocation.

(c) The chief of police shall take fingerprints and a photograph of the applicant and shall confirm the information submitted.

28.07.707 Verification of application.

Every application for a permit under this chapter shall be verified as provided in the California Code of Civil Procedure for the verification of pleadings.

28.07.708 Investigation and recommendations.

(a) Upon receiving an application for an adult-entertainment business permit, the chief of police shall:

(i) Stamp the application as received on the date of receipt, and determine whether the application is complete. If the chief of police determines that the application is incomplete or has been completed improperly, the chief of police shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

(ii) Within 10 days of the date of filing of a complete application, refer the application to the division of building inspections and the fire department.

(iii) Within a reasonable period, not exceeding forty-five (45) days of the filing of a complete application, investigate the application and recommend approval or denial to the city manager. A failure to make a recommendation within the specified time period shall not be considered a recommendation for approval or denial; and

(b) The division of building inspections and the fire department shall inspect the premises and make separate recommendations to the city manager, within thirty (30) days of the filing of the completed application.

(c) Upon receiving an application for an adult performer or figure model permit, the chief of police shall investigate the application and recommend approval or denial to the city manager within ten (10) days.

28.07.709 Issuance of permit for an adult-entertainment business.

(a) The city manager shall act on the application for an adult-entertainment business permit within sixty days (60) days after the date of filing of a completed application, and shall issue the permit if all requirements for an adult-entertainment business described in this section are met, unless the city manager finds:

(i) That the operation as proposed by the applicant, if permitted, will not comply with all applicable laws, including, but not limited to, the zoning ordinance and the locational requirements set forth therein, and the building, health, housing and fire codes of the City of Sacramento.

(ii) That the applicant or any operator has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may thereafter be amended or renumbered. Provided that the city manager shall issue a permit to any person convicted of any of the crimes described above if (a) the person is

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otherwise qualified; and (b) the longer of the following time periods has passed:

(i) Five (5) years from date of the conviction;
or,

(ii) Five (5) years from release from
confinement; or,

(iii) Five (5) years from formal release from
probation period; or,

(iv) Five (5) years from formal release
from parole.

(iii) That the applicant has knowingly made a material
misrepresentation in the application.

(iv) That the applicant or any operator has had a permit for an
adult-entertainment business or adult-related establishment denied or
revoked for cause by this city or any other city within the last five (5) years.

(v) That the applicant or operator is not at least 18 years of age.

(vi) That the applicant has not paid the required fee to the
department of finance.

(b) Notice of decision. Not later than five (5) days after the date of the decision
of the city manager, notice of said decision shall be sent to the applicant postage prepaid
at the address shown in the application and shall state whether the decision of the city
manager was to grant or deny the permit.

(c) If the city manager grants the application or if the city manager neither grants
nor denies the application within sixty (60) days of the date a completed application is
filed, the applicant may begin operating the Adult Entertainment Business for which the
permit was sought, subject to strict compliance with the development and performance
standards and requirements set forth in this Chapter.

28.07.710 Issuance of adult performer or figure model permit.

(a) The city manager shall act on the adult performer or figure model application within a reasonable period of time of the filing of the application. Pending the decision on the application, the applicant shall be entitled to perform as an adult performer or figure model, and the city manager shall issue a temporary permit for this purpose; provided that no temporary permit shall be issued to a person that has applied for, and had denied within the past one year, an adult performer or figure model permit. The city manager shall issue the permit if all requirements for such permit are met, unless the city manager finds:

(i) That the applicant has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered. Provided that, the city manager shall issue a permit to any person convicted of any of the crimes described in subparagraph (a) above if the following requirements are met if (a) the person is otherwise qualified for a permit; and (b) the longer of the following time periods has passed:

- (i) Five (5) years from date of the conviction; or,
- (ii) Five (5) years from release from confinement; or,
- (iii) Five (5) years from formal release from probation period; or,
- (iv) Five (5) years from formal release from parole.

(ii) That the applicant has knowingly made a material misrepresentation in their application.

(iii) That the applicant has had an adult performer or figure model permit denied or revoked for cause by this city or any other city within the last five (5) years.

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(iv) That the applicant is not at least eighteen (18) years of age.

(v) That the applicant has not paid the required fee to the department of finance.

(b) Notice of Decision. Such decision shall be in writing and mailed to the applicant postage prepaid, within five (5) days of the city manager's decision.

28.07.711 Appeals.

(a) Adult-entertainment business permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of a permit for an adult-entertainment business may within ten (10) days after the date of mailing of the decision to the applicant, appeal to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(b) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for the hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(c) Adult Performer or figure model permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of any adult performer or figure model permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. Pending a decision on the appeal, the appellant may continue to perform as an adult performer or figure model pursuant to the temporary permit. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(d) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in

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regard to the granting or denial of an application.

(e) Appointment of Hearing Examiner. The city council may employ the procedure specified in Safety Code Section 2.06.440 et seq. for the appointment of a hearing officer to hear and decide the appeal. The hearing officer's decision shall have the effect specified in Section 2.06.480, and judicial review shall be governed by Section 2.07.500.

28.07.712 Term and renewal of adult-entertainment business permits.

(a) The term of an adult-entertainment business permit shall expire one year from the date of issuance of the permit, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least thirty (30) days but not more than sixty (60) days prior to the expiration date of the current valid permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for application for Permits.

(c) An adult-entertainment business lawfully operating as a conforming use pursuant to an adult-entertainment business permit is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult-entertainment business permit, of a use or a zone not consistent with the locational requirements set forth in the Zoning Ordinance, and a renewal application shall not be denied on that ground.

28.07.713 Term and renewal of adult performer and figure model permits.

(a) The term of an adult performer or figure model permit shall expire one year from the date of issuance of the permit, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least ten (10) days but not more than sixty (60) days prior to the expiration date of the current valid permit. When made less than ten (10) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for application for Permits.

28.07.714 Name and place of business—change of location.

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(a) No person granted a permit for an adult-entertainment business shall operate under any name or conduct business at any location not specified in the permit.

28.07.715 Suspension or Revocation of adult-entertainment business permits and adult performer permits.

(a) An Adult-Entertainment Business Permit, Adult Performer Permit or Figure Model Permit may be suspended or revoked in accordance with the procedures and standards of this Section.

(b) On determining that grounds for Permit revocation exist, the city manager shall furnish written notice of the proposed suspension or revocation to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the Permittee, or shall be delivered to the Permittee personally, at least ten (10) days prior to the hearing.

(c) The city manager shall hold a public hearing prior to the revocation or suspension of any permit under paragraph (a). The permittee shall be given at least ten (10) days notice in writing of such hearing, which notice shall contain a brief statement of the grounds to be relied upon for suspending or revoking the permit.

(d) Adult-Entertainment Business Permit. An adult-entertainment business permit required pursuant to Section 28.97.702 may be subject to suspension or revocation or be subject to other appropriate disciplinary action, for any of the following causes arises from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder, or manager of an adult-entertainment business:

(1) The building, structure, equipment, or location used by the adult-entertainment business fails to comply with all applicable building, fire, electrical, plumbing, health, and zoning requirements of the City of Sacramento, all applicable State and federal requirements of a similar nature which are customarily enforced by the City, and all provisions of these regulations and this Code relating to adult-entertainment businesses, including the adult-entertainment business development and performance standards.

(2) The permittee has knowingly made any false,

misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the City.

(3) The permittee, employee, agent, partner, director, stockholder, or manager of an adult-entertainment business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult-entertainment business, or in the case of an adult-entertainment business performer, the permittee has engaged in one of the activities described below while on the premises of an adult-entertainment business:

(i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

(ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

(iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

(iv) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 381, or subdivision (b) of Section 647 of the California Penal Code.

(v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.

(4) Failure to abide by any disciplinary action previously imposed by an appropriate City official.

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(e) Adult Performer and Figure Model Permits: The city manager may suspend or revoke an adult performer permit or figure model permit for conviction of any of the crimes specified in Section 28.07.710.

(f) After holding the hearing in accordance with the provisions of this Section, if the city manager finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the city manager shall impose one of the following:

- (1) A warning;
- (2) Suspension of the permit for a specified period not to exceed six months.
- (3) Revocation of the permit.

28.07.716 Appeals.

(a) Adult-entertainment business permits. Any permittee aggrieved by the decision of the city manager relating to the suspension or revocation of a permit for an adult-entertainment business may within ten (10) days after the date of mailing of the decision to the permittee, appeal to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final. Pending the decision on the appeal, the adult-entertainment business may remain open and continue to operate.

(b) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for the hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(c) Adult Performer or figure model permits. Any permittee aggrieved by the decision of the city manager relating to the suspension or revocation of any adult performer or figure model permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. Pending a decision on the appeal, the permittee may

continue to perform as an adult performer or figure model pursuant to the permit which has been suspended or revoked. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(d) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(e) Appointment of Hearing Examiner. The city council may employ the procedure specified in Safety Code Section 2.06.440 et seq. for the appointment of a hearing officer to hear and decide an appeal of a decision suspending or revoking an adult-entertainment business permit, adult performer permit or figure model permit appeal. The hearing officer's decision shall have the effect specified in Section 2.06.480, and judicial review shall be governed by Section 2.07.500.

28.07.717 Judicial review.

Judicial review of any final decision under this chapter issuing, denying, suspending or revoking an adult entertainment business regulatory permit, adult performer permit or figure model permit may be had by filing a petition for a writ of mandate in accordance with the provisions of the code of civil procedure. Any such petition shall be filed within the time limits prescribed in Code of Civil Procedure §1094.6 and notice of such time limit shall be given to the appellant by the City Clerk.

28.07.718 List of services.

A list of the services available and the cost of such services shall be posted in a clearly visible place at or near the entrance of each adult-entertainment business for which a permit is required pursuant to Section 28.07.702. The services available shall be described in readily understandable language. No adult-entertainment business shall render or provide, or offer to render or provide, any service not listed in accordance with this section.

28.07.719 Register of adult performers and figure models.

(a) The operator of a model studio shall maintain a register of all persons employed as figure models and their permit numbers.

(b) The operator of an adult-entertainment business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities shall maintain a register of all persons so performing on the premises and their permit numbers. This requirement shall apply to those businesses requiring an adult-entertainment business permit pursuant to Section 28.07.702 as well as those that are exempt by virtue of possessing a permit from the state Alcoholic Beverage Control Board.

(c) The register required by subsections (a) and (b) shall be available for inspection at all times during regular business hours.

28.07.720 Adult performer and figure model identification card.

(a) The chief of police shall provide each adult performer and figure model granted a permit with an identification card containing the name, address, photograph and permit number of the adult performer or figure model.

(b) An adult performer shall have such a card available at all times.

(c) A figure model shall have such card available for inspection at all times during the hours of operation of the model studio.

28.07.721 Employment of persons under the age of eighteen (18) years prohibited.

It shall be unlawful for any permittee, operator or other person in charge of any adult-entertainment businesses to employ any person who is not at least eighteen (18) years of age.

28.07.722 Display of permit.

Every adult-entertainment business granted a permit shall display said permit in a conspicuous place within the adult-entertainment business so that the same may be readily seen by persons entering the premises.

28.07.723 Business Operations Tax.

Nothing in this title shall relieve the owner of any adult-entertainment business, or any adult performer or any figure model from paying the applicable business operations tax pursuant to Title 23 of the Sacramento City Code. The issuance of a business operations tax certificate shall not authorize conducting an adult-entertainment business or acting as a figure model in modeling studio, or performing as an adult performer in an adult-entertainment business until the necessary regulatory permit has been lawfully granted.

28.07.724 Transfer of permit.

(a) Upon sale, transfer or relocation of an adult-entertainment business, the permit therefore shall be void unless permission to transfer is first obtained pursuant to this section. Provided, however, that upon the death or incapacity of the permittee, the establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit pursuant to this section.

(b) No adult-entertainment business permit shall be transferable as to location or person, except with the written consent of the city manager. An application for such a transfer shall be in writing and contain the same information as required herein for initial application for such a permit. Prior to submitting the application to the chief of police, the applicant shall pay a nonrefundable fee, established by resolution of the city council, to the department of finance. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a transfer under this section.

(c) Adult performer and figure model permits shall not be transferable.

28.07.725 Employment of adult performer and figure models.

(a) No permittee or operator of a model studio shall allow or permit a person to act as a figure model for such studio unless the person possesses a valid figure model permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a figure model shall first have obtained a valid permit pursuant to this chapter.

(b) No permittee or operator of an adult-entertainment business shall employ at an adult-entertainment business any person who has been convicted of an offense

specified in Section 28.07.710, where the offense occurred at the adult-related establishment or any adult-entertainment business owned, controlled or operated by the permittee or operator.

(c) No permittee or operator of an adult-entertainment business shall employ and/or allow any person to engage in or participate in any live performance displaying or depicting specified anatomical areas or specified sexual activities unless that person possesses a valid adult performer permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person shall first have obtained a valid permit pursuant to this chapter.

28.07.726 Hours of operation.

(a) An Adult-Entertainment Business, including those regulated by the state Department of Alcohol Beverage Control, providing live performances depicting specified anatomical areas or involving specified sexual activities shall be open for business only between the hours of 8:00 a.m. and 2:00 A.M. on any particular day.

ARTICLE 3. FACILITIES AND EMPLOYEES

28.07.727 Development Standards

(1) The following development standards and requirements shall apply to Adult-Entertainment Businesses, including those providing live entertainment depicting or displaying Specified Anatomical Areas or Specified Sexual Activities, except for businesses regulated by the Alcoholic Beverage Control Commission, which shall be exempt from the following requirements:

(a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Sacramento.

(b) No Adult-Entertainment Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or

window on the premises shall be propped or kept open at anytime while the business is open, and any exterior windows shall be covered with opaque covering at all times.

(c) All off-street parking area and premise entries of the adult-entertainment business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(d) The premises within which the Adult-Entertainment Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

(e) The building entrance to an Adult-Entertainment Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Community Development Director or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time.

(f) All indoor areas of the Adult-Entertainment Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

(g) Any Adult-Entertainment Business which is an "adult arcade", shall comply with the requirements of Chapter 5.08 of the City Code, as it currently exists or as it may be amended from time to time.

(h) All areas of an Adult-Entertainment Business other than an adult arcade shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

<u>Area</u>	<u>Foot-Candles</u>
Bookstores and other retail establishments	20

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Theaters and cabarets

5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)

Motels/Hotels

20 (in public areas)

Modeling studios

20

(i) The Adult-Entertainment Business shall provide and maintain separate rest room facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from any Adult Material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Entertainment Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore, Adult Novelty Store, and Adult Video Store, and which does not provide rest room facilities to its patrons or the general public.

28.07.728 Adult-Entertainment Businesses Providing Live Entertainment

(1) The following additional requirements shall pertain to Adult-Entertainment Businesses providing live entertainment depicting or displaying Specified Anatomical Areas or Specified Sexual Activities, except for businesses regulated by the Alcoholic Beverage Control Commission, which shall be exempt from the following requirements:

(a) No person shall perform live entertainment for patrons of an Adult-Entertainment Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee of the Adult-Entertainment Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Entertainment Business.

(b) No owner or other person with managerial control over an Adult

Entertainment Business which provides live entertainment and for which an Adult-Entertainment Business Permit is required pursuant to this chapter shall permit any person on the premises of the Adult-Entertainment Business to appear in a state of nudity; provided that an owner or other person with managerial control may allow an entertainer to appear semi-nude or in a semi-nude condition, subject to compliance with the other requirements of this chapter.

(c) The Adult-Entertainment Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

(d) The Adult-Entertainment Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

(e) The Adult-Entertainment Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Entertainment Business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

(f) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Entertainment Business.

(g) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

(h) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

28.07.729 An Adult-Entertainment Business shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

(1) Adult-Entertainment Business featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an additional security guard shall be on duty.

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(2) Security guard(s) shall be charge with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

28.07.730 Register and Permit Number of Employees.

(a) Every permittee of an Adult-Entertainment Businesses which provides live entertainment depicting or displaying specified anatomical areas or specified sexual activities must maintain a register of all persons so performing on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the City of Sacramento.

28.07.731 Display of Permit and Identification Cards.

(a) Every Adult-Entertainment Business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Adult-Entertainment Businesses in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Entertainment Business.

(b) The Police Chief shall provide each Adult Performer required to have a permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.

(c) An Adult Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult-Entertainment Business.

28.07.732 Employment of any services rendered to persons under the age of eighteen (18) years prohibited.

(a) It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Entertainment Business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen (18) years of age.

(b) It shall be unlawful for any permittee, operator or other person in charge of any Adult-Entertainment Business to permit to enter, or remain within the Adult-

Entertainment Business, any person who is not at least eighteen (18) years of age.

ARTICLE 4. MISCELLANEOUS PROVISIONS

28.07.733 Inspection.

An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City Departments or Agencies to inspect the premises of an Adult-Entertainment Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult-Entertainment Business, at any time it is occupied or opened for business. A person who operates an Adult-Entertainment Businesses or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

28.07.734 Employment of persons without permits unlawful.

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of an Adult-Entertainment Business which provides live entertainment depicting of displaying specified anatomical areas or specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked Adult Performer Permit.

28.07.735 Conditions of Adult-Entertainment Business Permit

The requirements set forth in this chapter shall be deemed conditions of Adult-Entertainment Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the permit issued pursuant to these regulations.

28.07.736 Applicability to Existing Adult Entertainment Businesses, Adult Performers and Figure Models and Facilities and Adult Performers

(a) General: The provisions of this chapter shall apply to all adult-entertainment businesses as defined, and all owners or operators thereof, and all adult performers or figure models, whether such business or activity was in operation before or after the effective date of this ordinance; provided, however, that all such businesses and persons shall have ninety (90) days from the effective date of this ordinance to comply with the provisions of this chapter. Any person who has filed a timely application for a permit within

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said time limit shall not be subject to the provisions of this chapter relating to possession or display of a permit until a permit is issued or denied to the applicant.

(b) Lawfully existing Adult-Entertainment Businesses Providing Live Entertainment: The owner(s) and operator(s) of lawfully existing adult-entertainment businesses providing live entertainment depicting specified anatomical parts or involving specified sexual activities which were lawfully established on the effective date of this ordinance shall not be required to obtain an adult entertainment business permit pursuant to Sec. 28.07.702 of this Chapter within ninety days, provided that the owner(s) and operator(s) have an adult-related establishment permit for the facility pursuant to Chapter 28 as it existed prior to the effective date of Chapter 28.06; and provided further that the owner(s) and operator(s) shall obtain a permit pursuant to Sec. 28.07.702 prior to the date on which the adult-related permit would have expired. Except for the adult entertainment business permit requirement, lawfully existing adult-entertainment businesses providing live entertainment depicting specified anatomical parts or involving specified sexual activities which were lawfully established on the effective date of this ordinance shall comply with the other requirements of this chapter.

(c) Failure to obtain permits: violation of chapter: Failure to apply for and obtain a permit within the time period(s) specified in (a) and (b) above and thereafter continuing with operation of an Adult-Entertainment business for which a permit is required pursuant to Section 28.07.072 or continuing with performances depicting or displaying specified anatomical areas or specified sexual activities in an Adult-Entertainment Business after such time without a permit shall constitute a violation of this chapter.

28.07.737 Penalties, Enforcement.

In addition to the remedy of revocation of any permit issued under this chapter, any person, firm or corporation violating the provisions of this chapter other than 28.07.028 (1)(a),(b), is guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned in the county jail for, a period not to exceed six (6) months, or both such fine and imprisonment.

28.07.738 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision,

paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 3.

Section 28.06.060 of Title 28 of the City Code is amended to read as follows::

28.06.060 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adult-Related Establishment. "Adult-Related Establishment" means a bathhouse, escort bureau, massage establishment, out call massage service, or sexual encounter center, as defined by this section. "Adult-related establishment" shall also include any other business or establishment which does not constitute an adult-entertainment facility within the meaning of Chapter 28.05 which has available for or offers any patron, for pecuniary compensation, consideration, hire or reward, services or activities which involve "specified sexual activities" or the display of "specified anatomical areas."

Adult-Related Establishment Operator. "Adult-Related Establishment Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct or the activities of an adult-related establishment.

Bathhouse. "Bathhouse" means an establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including but not limited to showers, saunas and hot tubs.

Chief of Police. The chief of police of the City of Sacramento or authorized representative.

City Manager. The City Manager of the City of Sacramento or authorized representative.

Escort. "Escort" means a person who, for pecuniary compensation, consideration, hire or reward, (i) escorts or accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place of public resort or within any private quarters.

Escort Bureau. "Escort Bureau" means a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.

Massage. "Massage" means any method of pressure or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external surfaces of the body with hands or with any object or appliance.

Massage Establishment. "Massage Establishment" means an establishment whose primary business is the offering of massage in exchange for a fee or other consideration. This does not include gymnasiums, schools maintained pursuant to standards set by the State Board of Education, reducing salons, athletic clubs or other establishment which offer massage as an incidental or accessory service.

Massage Establishment/Out Call Massage Service Operator. "Massage Establishment/Out Call Massage Service Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct of the activities of an out call massage service or within a massage establishment.

Massage Technician. "Massage Technician" means any person who for pecuniary compensation, consideration, hire or reward, engages in the practice of massage as herein defined.

Operate an Adult-Related Establishment. As used in this chapter operate an Adult-Related Establishment" means the supervising, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-related establishment or activities within an adult-related establishment.

Out-Call Massage Service. "Out-Call Massage Service" means any business, not licensed as a massage establishment under the provisions of this chapter, wherein the primary function of such business is to engage in or carry on massage for pecuniary compensation, consideration, hire or

reward not at a fixed location, but at a location designated by the customer or client.

Permittee. "Permittee" means the person to whom an adult-related establishment permit is issued.

Person. "Person" means any individual, copartnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

Recognized School of Massage. "Recognized School of Massage" means any school or institution of learning which:

(i) Teaches the theory, ethics, practice, profession, and work of massage; and

(ii) Requires a residence course of study to be given before the student shall be furnished with a diploma or certificate of learning; and

(iii) Has been approved pursuant to Section 94311(d) of the Education Code of the State of California, or, if said school is not located in California, has complied with the standards commensurate with those required in said Section 94311(d).

(iv) Any school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class, or courses of massage technician not approved by THC California State Department of Education shall not be deemed a "recognized school."

Sexual Encounter Center. "Sexual Encounter Center" means a business which provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas." "Sexual encounter center" does not include hotels or motels, or a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit or make available "specified sexual activities."

Specified Anatomical Areas. "Specified Anatomical Areas" shall include:

- (i) Less than completely and opaquely covered (i) human genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Sexual Activities." "Specified Sexual Activities" shall include the following:

- (i) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- (ii) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- (iii) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or,
- (iv) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or,
- (v) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,
- (vi) Erotic or lewd touching, fondling or other contact with an animal by a human being; or,
- (vii) Human excretion, urination, menstruation, vaginal or anal irrigation.

SECTION 4.

Section 28.06.065 of Title 28 of the City Code is amended to read as follows:

28.06.065 Application for massage technician or escort permit.

(a) An application for a massage technician or escort permit shall be made to the chief of police on a form provided by the city clerk. Prior to submitting such application a nonrefundable fee as established by resolution of the city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The issuance of such a receipt shall not authorize the giving of a massage or acting as an "escort," until the necessary regulatory permit has been lawfully granted. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

- (1) Name, residence address and telephone number of the applicant;
- (2) Driver's license number, if any, of the applicant;
- (3) Applicant's height, weight, color of hair and eyes;
- (4) Five (5) portrait photographs of the applicant at least 2" x 2";
- (5) Written evidence that the applicant is at least eighteen (18) years of age;
- (6) The name and address of the adult-related establishment where the applicant is to be employed and the name of the owner of that establishment;
- (7) The names and address of any establishments where the applicant was previously employed as a massage technician or escort ;

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(8) Whether the applicant has been convicted of any offense specified in Section 28.04.048 within five (5) years of the date of the application; and

(9) The massage, escort, or similar business license history of the applicant; whether such person has had such license revoked or suspended, the reason therefore and the business activity or occupation subsequent to such suspension or revocation.

(c) In addition to the information required above, an applicant for a massage technician permit shall provide the name and address of the recognized school of massage attended, the date attended, and a copy of the diploma or certificate of graduation awarded the applicant.

(d) The chief of police shall take fingerprints and a photograph of the applicant and shall confirm the information submitted.

SECTION 5.

Section 28.06.069 of Title 28 of the City Code is amended to read as follows:

28.06.069 Issuance of massage technician or escort permit.

(a) The city manager shall act on the massage technician or escort application within ninety (90) days of the filing thereof, and shall issue the permit if all requirements for such permit are met, unless the city manager finds:

(1) That the applicant has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054,

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11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered.

The city manager shall issue a permit to any person convicted of any of the crimes described in subsection (a) of this section if (a) the person is otherwise qualified; and (b) the longer of the following time periods has passed:

(i) Five (5) years from date of the conviction;
or,

(ii) Five (5) years from release from
confinement; or,

(iii) Five (5) years from formal release from
probation period; or,

(iv) Five (5) years from formal release from
parole.

(2) That the applicant has knowingly made a material
misrepresentation in their application.

(3) That the applicant has had a massage technician or
escort permit denied or revoked for cause by this city or any
other city within the last five (5) years.

(4) That the applicant is not at least eighteen (18) years of
age.

(5) That the applicant has not paid the required fee to the
department of finance.

(b) Notice of Decision. Such decision shall be in writing and mailed to the applicant, postage prepaid, within five (5) days of the city manager's decision.

SECTION 6.

Section 28.06.070 subparagraph (b) of Title 28 of the City Code is amended to read as follows:

28.06.070 Appeals.

(c) Massage technician or escort permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of any massage technician or escort permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

SECTION 7.

Section 28.06.073 of Title 28 of the City Code is amended to read as follows:

28.06.073 Term and renewal of massage technician or escort permits.

(a) The term of a massage technician or escort permit shall expire on September 30 next following the issuance of the permit, unless sooner suspended or revoked. Fees for the issuance of the permit shall not be prorated.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least ninety (90) days but not more than one-hundred-twenty (120) days prior to the expiration date of the current valid permit. The applicant shall follow all of the procedures and provide all of the information required by Section 28.04.045 of this chapter, and verify the application according to Section 28.04.046 of this chapter. The chief of police and city manager shall process the application according to Section 28.04.047 and 28.04.049 of this chapter.

SECTION 8.

Section 28.06.077 of Title 28 of the City Code is amended to read as follows:

28.06.077 Revocation or suspension of massage technician or escort permit.

After following the procedure in Section 28.04.056(b), the city manager may revoke or suspend a massage technician or escort permit for conviction of any of the crimes specified in Section 28.04.049. The decision of the city manager shall be in writing and shall be mailed postage prepaid to the massage technician or escort.

SECTION 9.

Section 28.06.081 of Title 28 of the City Code is amended to read as follows:

28.06.081 Register of massage technicians and escorts.

(a) The operator of a massage establishment or an out call massage service shall maintain a register of all persons employed as massage technicians and their permit numbers.

(b) The operator of an escort service shall maintain a register of all persons employed as escorts and their permit numbers.

(c) The operator of an adult-related establishment other than escort service, a massage establishment or an out call massage service, shall maintain a register of all persons employed on the premises, the title of the position of each employee, and as to those employees required to have permits pursuant to this chapter, their permit numbers.

(d) The register required by subsections (a), (b), and (c) shall be available for inspection at all times during regular business hours.

SECTION 10.

Section 28.06.082 of Title 28 of the City Code is amended to read as follows:

28.06.082 Massage technician and escort identification card.

(a) The chief of police shall provide each massage technician and escort granted a permit with an identification card containing the name, address, photograph and permit number of the massage technician or escort.

(b) A massage technician shall carry such a card at all times during the hours of operation of the massage establishment or out call massage service.

(c) An escort shall carry such card at all times while providing escort services.

SECTION 11.

Section 28.06.089 of Title 28 of the City Code is amended to read as follows:

28.06.089 Employment of massage technicians and escorts.

(a) No permittee or operator of a massage establishment or out call massage service shall allow or permit a person to administer a massage for such establishment or service unless said person possesses a valid massage technician's permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a massage technician shall first have obtained a valid permit under this chapter.

(b) No permittee or operator of an escort service shall allow or permit a person to act as an escort for such service unless said person possesses a valid escort permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as an escort shall first have obtained a valid permit pursuant to this chapter.

(c) No permittee or operator of an adult-related establishment shall employ at an adult-related establishment any person who has been convicted of an offense specified in Section 28.04.048, where the offense occurred at the adult-related establishment or any adult-related establishment owned, controlled or operated by the permittee or operator.

SECTION 12.

Section 28.06.092 of Title 28 of the City Code is amended to read as follows:

28.06.092 Applicability to existing adult-related establishments other than massage establishments and out call massage services, and to escorts.

The provisions of this chapter shall apply to all escort services, introductory services, and any other adult-related establishments, as defined, and all owners or operators thereof and all escorts, whether such business or activity was in operation before or after the effective date of this ordinance; provided, however, that all such businesses and persons shall have sixty (60) days from said date to comply with the provisions of this chapter. Any person who has filed a timely application for a permit within

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said time limit shall not be subject to the provisions of this chapter relating to possession or display of a permit until a permit is issued or denied to the applicant.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

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ATTEST:

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING CHAPTER 28.06 OF TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT-RELATED ESTABLISHMENTS, INCLUDING BATHHOUSES, MASSAGE SERVICES, AND ESCORT SERVICES, AND TO MASSAGE TECHNICIANS AND ESCORTS; AND ADDING CHAPTER 28.07 TO TITLE 28 OF THE SACRAMENTO CITY CODE, RELATING TO ADULT-ENTERTAINMENT BUSINESSES, INCLUDING ADULT ARCADES, ADULT BOOKSTORES, ADULT NOVELTY STORES, ADULT VIDEO STORES, ADULT CABARETS, ADULT HOTELS/MOTELS, ADULT THEATERS, AND FIGURE MODEL STUDIOS, AND TO ADULT PERFORMERS AND FIGURE MODELS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

(a) The City Council, in adopting this ordinance, and amending the existing City regulations regarding Adult-Entertainment Businesses, takes legislative notice of the existence and content of the hearings, studies, reports and analyses undertaken and considered at the time the City Council adopted the current regulations regarding Adult-Entertainment Businesses, which were contained in several ordinances, including City Ordinance Nos. 83-100, 83-145, 86-077 and 90-013. The City Council takes further notice of the following studies concerning the adverse secondary side effects of Adult-Entertainment Businesses in other cities: Garden Grove, California (1991); Tucson, Arizona (1990); Seattle, Washington (1989); Austin, Texas (1986); Oklahoma City, Oklahoma (1986); Indianapolis, Indiana (1984); Houston, Texas (1983); Beaumont, Texas, (1982); Minneapolis, Minnesota (1980); Phoenix, Arizona (1979); Whittier California (1978); Amarillo, Texas (1977); Cleveland, Ohio (1977); Los Angeles, California (1977). The City Council finds that these studies are relevant to the problems addressed by the

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City in enacting this ordinance to regulate the adverse secondary side effects of Adult-Entertainment Businesses, and more specifically finds that these studies provide convincing evidence that:

(1) Adult-Entertainment Businesses are linked to increases in the crime rates in those areas in which they are located and in surrounding areas.

(2) Both the proximity of Adult-Entertainment Businesses to sensitive land uses and the concentration of Adult-Entertainment Businesses tend to result in the blighting and deterioration of the areas in which they are located.

(3) The proximity and concentration of Adult-Entertainment Businesses adjacent to residential, recreational, religious, educational and other Adult-Entertainment Business uses can cause other businesses and residences to move elsewhere.

(4) There is substantial evidence that an increase in crime tends to accompany, concentrate around, and be aggravated by Adult-Entertainment Businesses, including but not limited to an increase in the crimes of narcotics distribution and use, prostitution, pandering, and violence against persons and property. The studies from other cities establish convincing evidence that Adult-Entertainment Businesses which are not regulated as to permissible locations often have a deleterious effect on nearby businesses in residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values.

(b) Based on the foregoing, the City Council of the City of Sacramento finds and determines that special regulation of Adult-Entertainment Businesses is necessary to ensure that their adverse secondary side effects will not contribute to an increase in crime rates or to the blighting or deterioration of the areas in which they are located or surrounding areas. The need for such special regulations is based upon the recognition that Adult-Entertainment Businesses have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, or located in direct proximity to sensitive uses such as parks, schools, churches, thereby having a deleterious effect upon the adjacent areas. It is the purpose and intent of these special regulations to prevent the concentration of Adult-Entertainment Businesses and thereby prevent such adverse secondary side effects.

(c) In developing this ordinance, the City Council has been mindful of legal principles relating to regulation of Adult-Entertainment Businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendments of the United States and California Constitutions, but instead desires to enact reasonable

time, place, and manner regulations that address the adverse secondary effects of Adult-Entertainment Businesses. The City Council has considered decisions of the United States Supreme Court regarding local regulation of Adult-Entertainment Businesses, including but not limited to: Young v. American Mini Theaters, Inc., 427 U.S. 50 (1976) (Reh. denied 429 U.S. 873); Renton v. Playtime Theaters, 475 U.S. 41 (1986) (Reh. denied 475 U.S. 1132); FW/PBS, Inc. v Dallas, 493 U.S. 215 (1990); Barnes v. Glenn Theater, 501 U.S. 560 (1991); United States Court of Appeals 9th Circuit decisions, including but not limited to: Topanga Press, et al. v. City of Los Angeles, 989 F.2d 1524 (1993); several California cases including but not limited to: City of National City v. Wiener, 3 Cal.4th 832 (1993); People v. Superior Court (Lucero) 49 Cal.3d 14 (1989); and City of Vallejo v. Adult Books, et al., 167 Cal.App.3d 1169 (1985); and other federal cases including Lakeland Lounge v. City of Jacksonville (5th Cir. 1992) 973 F.2d 1255, Hang On, Inc. v. Arlington (5th Cir. 1995) 65 F.3d 1248, Mitchell v. Commission on Adult Entertainment (3rd Cir. 1993) 10 F. 3d 123, International Eateries v. Broward County (11th Cir. 1991) 941 F.2d 1157, and Star Satellite v. City of Biloxi (5th Cir. 1986) 779 F.2d 1074.

(d) The City Council of the City of Sacramento finds that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of the City of Sacramento, and thus certain requirements with respect to the ownership and operation of Adult-Entertainment Businesses are in the public interest. In addition to the findings and studies conducted in other cities regarding increases in crime rates, decreases in property values and the blighting of areas in which such businesses are located, the City Council also takes legislative notice of the facts recited in the case of Kev, Inc. v. Kitsap County, 793 F.2d 1053 (1986), regarding how live adult entertainment results in the secondary effects such as prostitution, drug dealing, and other law enforcement problems.

(e) The City Council finds the following, in part based upon its under understanding of the documents and judicial decisions in the public record:

(1) Evidence indicates that some dancers, models and entertainers, and other persons who publicly perform specified sexual activities or publicly display specified anatomical parts in Adult-Entertainment Businesses (collectively referred to as 'performers') have been found to engage in sexual activities with patrons of Adult-Entertainment Businesses on the site of the Adult-Entertainment Business;

(2) Evidence has demonstrated that performers employed by Adult-Entertainment Businesses have been found to offer and provide private shows to patrons who, for a price, are

permitted to observe and participate with the performers in live sex shows.

(3) Evidence indicates that performers at Adult-Entertainment Businesses have been found to engage in acts of prostitution with patrons of the establishment;

(4) Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as a location for engaging in unlawful sexual activity;

(5) As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at Adult-Entertainment Businesses.

(f) Zoning, licensing and other police power regulations are legitimate, reasonable means of accountability to help protect the quality of life in the community of Sacramento and to help assure that all operators of Adult-Entertainment Businesses comply with reasonable regulations and are located in places that minimize the adverse secondary effects which naturally accompany the operation of such businesses.

(g) The City Council of the City of Sacramento recognizes the possible harmful effects on children and minors exposed to the effects of such Adult-Entertainment Businesses and the deterioration of respect for family values, and the need and desire of children and minors to stay away from and avoid such businesses, which causes children to be fearful and cautious when walking through or visiting the immediate neighborhood of such businesses; and the City Council desires to minimize and control the adverse secondary side effects associated with the operation of Adult-Entertainment Businesses and thereby protect the health, safety, and welfare of the citizens of Sacramento; protect the citizens from increased crime; preserve the quality of life; preserve property values and the character of surrounding neighborhoods and businesses; deter the spread of urban blight and protect against the threat to health from the spread of communicable and sexually transmitted diseases.

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(h) It is not the intent of the City Council of the City of Sacramento in enacting this ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City of Sacramento recognizes that state law prohibits the distribution of the obscene materials and expects and encourages law enforcement officials to enforce state obscenity statutes against such illegal activities in the City of Sacramento.

(i) Nothing in this ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any City ordinance or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter or the exhibition or public display thereof.

(j) While the City Council desires to protect the rights conferred by the United States Constitution to Adult-Entertainment Businesses, it does so in a manner that ensures the continued and orderly development of property within the City and diminishes, to the greatest extent feasible, those undesirable secondary effects which the aforementioned studies have shown to be associated with the development and operation of Adult-Entertainment Businesses; and

(k) The City Council finds that preventing the exchange of money between entertainers and patrons also reduces the likelihood of drug and sex transactions occurring in Adult-Entertainment Businesses; and

(l) Requiring separations between entertainers and patrons reduces the likelihood that such persons will negotiate narcotics sales and /or transact sexual favors within the Adult-Entertainment Business.

(m) Enclosed or concealed booths and dimly-lit areas with Adult-Entertainment Businesses greatly increase the potential for misuse of the premises, including unlawful conduct of a type which facilitates transmission of disease. Requirements that all indoor areas be open to view by management at all times, and that adequate lighting be provided are necessary in order to reduce the opportunity for, and therefore the incidence of illegal conduct within Adult-Entertainment Businesses, and to facilitate the inspection of the interior of the premises thereof by law enforcement personnel.

SECTION 2.

Chapter 28.07, pertaining to Adult-Entertainment Businesses, Adult Performers and Figure Models, is added to Title 28 of the City Code to read as

follows:

CHAPTER 28.07 ADULT-ENTERTAINMENT BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

Section 28.07.700 LEGISLATIVE PURPOSE

It is the purpose of this ordinance to regulate Adult-Entertainment Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city. 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 adult-entertainment businesses materials. Similarly, it is not the intent nor effect of this ordinance to restrict or deny access by adults to adult-entertainment business materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-entertainment business to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

28.07.701 Definitions

For the purpose of this chapter, the following words and phrases are defined as follows:

Adult-Entertainment Businesses. "Adult-Entertainment Businesses" means any of the following:

(i) **Adult arcade.** The term "adult arcade" shall mean an establishment where, for any form of consideration, one or more 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 time, and where a substantial portion of the images so displayed are distinguished or characterized by an emphasis on matters depicting or describing "specified sexual activities" as hereinafter defined.

(ii) **Adult bookstore, Adult novelty store or Adult video store:** The term "adult bookstore, adult novelty store or adult video store" shall mean a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

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(a) books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, compact discs (CDS), slides, or other visual representations which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", or

(b) instruments, devices, or paraphernalia which 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, describing or relating to "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, 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 which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(iii) **Adult cabaret.** The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude or in a semi-nude condition.

(iv) **Adult hotel/motel.** The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, compact discs (CDS) or other photographic reproductions a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

(v) **Adult motion picture theater.** The term "adult motion picture theater" as used in this chapter means a building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" as hereinafter defined, for observation by patrons or customers.

(vi) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(vii) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

Adult-Entertainment Business Operator. "Adult-Entertainment Business Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct or the activities of an adult-entertainment businesses.

Bar. For the purposes of this chapter, a bar is defined as any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic beverages for consumption on the premises.

Chief of Police. The chief of police of the City of Sacramento or authorized representative.

City Manager. The City Manager of the City of Sacramento or authorized representative.

Distinguished or characterized by an emphasis upon. As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See *Pringle v. City of Covina*, 115 Cal.App.3. 151 (1981).

Employee. "Employee" means a person who performs any service on the premises of an adult entertainment business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Figure Model. "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

Nudity or a state of nudity. "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

Operate an Adult-Entertainment Business. As used in this chapter operate an "Adult-Entertainment Business" means the supervising, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-entertainment business or activities within an adult-entertainment business.

Permittee. "Permittee" means the person to whom an adult-entertainment business permit is issued.

Person. "Person" means any individual, partnership, firm, association, joint stock company, corporation, limited liability company or combination of individuals of whatever form or character.

Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live

performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period, three (3) or more occasions within a sixty (60) day period, or four (4) or more occasions within one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Semi-nude or Semi-nude condition: The term "semi-nude" or "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. 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.

Specified Anatomical Areas. "Specified Anatomical Areas" shall include:

- (i) Less than completely and opaquely covered (i) human genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified Sexual Activities." "Specified Sexual Activities" shall include the following:

- (i) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or
- (ii) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence, or

(iii) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation, or

(iv) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or,

(v) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,

(vi) Erotic or lewd touching, fondling or other contact with an animal by a human being; or,

(vii) Human excretion, urination, menstruation, vaginal or anal irrigation.

28.07.702 Permit required for operation of an adult-entertainment business providing live performances depicting specified anatomical areas or involving specified sexual activities.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises the operation of an Adult-Entertainment Business which provides live performances depicting specified anatomical areas or involving specified sexual activities unless the person first obtains and continues to maintain in full force and effect a permit (hereinafter "adult entertainment business permit" or "adult entertainment business regulatory permit") from the City of Sacramento as required herein.

Exception: No adult-entertainment business permit shall be required for an adult entertainment business which has obtained and which is operating pursuant to a permit issued by the state Alcohol and Beverage Control Board for the serving of alcoholic beverages on the premises, and which complies with the requirements of Business and Professions Code Sec. 25750 et seq. and the regulations issued pursuant thereto.

28.07.703 Application for permit for an adult-entertainment business involving live performances.

(a) Any person desiring to obtain an adult-entertainment business regulatory permit to operate an adult-entertainment business for which a permit is required pursuant to 28.07.702 shall apply to the chief of police on a form provided by the revenue division. Before submitting such application a nonrefundable fee as established by resolution of the

city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

(i) The full and true name and any other names of each person with an ownership interest in the adult-entertainment business and of each person who will operate the adult-entertainment business;

(ii) The present address and telephone number of the applicant and any operator;

(iii) The two previous addresses immediately prior to the present address of the applicant and any operator;

(iv) Written proof that the applicant and any operator is at least eighteen (18) years of age;

(v) The height, weight, color of eyes and hair of the applicant and any operator;

(vi) Five (5) portrait photographs at least 2" x 2" of the applicant and any operator;

(vii) The business license or tax certificate history of the applicant and any operator, whether such person in previously operating in this or another city, county or state under license, has had such license revoked or suspended, the reason(s) therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(viii) All convictions of any person with an ownership interest and any operator of offenses specified in Section 28.07.709 within five (5) years of the date of application;

(ix) The name and address of the lessor of the real property

on which the business is to be conducted, and a copy of the lease agreement or other documentation to establish that the owner and/or landlord of the premises consents to the establishment of an adult entertainment business on the premises, and

(x) Such other identification and information necessary to discover the truth of the matters hereinabove specified as required to be set forth in the application.

(c) If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown on its articles of incorporation, together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent (10%) of the stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply.

(d) The chief of police shall take fingerprints and additional photographs of the applicant and any operator, and shall confirm the height and weight of the applicant and any operator.

(e) The application for a permit does not authorize conducting an adult-entertainment business until such permit has been granted. The issuance of a business operations tax certificate pursuant to Title 23 of the Sacramento City Code shall not authorize conducting an adult-entertainment business until the necessary regulatory permit has been lawfully granted.

28.07.704 Corporate applicants, exemption.

The provisions of Section 28.07.0703(b)(iv), (v), and (vii), and (d), shall not apply to require any corporate applicant to provide such information as to the corporation, provided, however, that such information shall be provided for any operator.

28.07.705 Permits

(a) Except as provided Section 28.07.710, no person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Entertainment Business unless the person first obtains and continues in full force and effect an Adult-Entertainment Business Performer

Permit (hereinafter "adult performer permit").

(b) Except as provided Section 28.07.710, no person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained.

(c) Except as provided in Section 28.07.710, the issuance of a business operations tax certificate pursuant to Title 23 of the Sacramento City Code shall not authorize any person to perform any act for which an adult performer permit or figure model permit is required until such permit has been lawfully approved.

28.07.706 Application for adult performer or figure model permit.

(a) An application for an adult performer or figure model permit shall be made to the chief of police on a form provided by the city clerk. Prior to submitting such application a nonrefundable fee as established by resolution of the city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

(i) Name, residence address and telephone number of the applicant;

(ii) Driver's license number, if any, of the applicant;

(iii) Applicant's height, weight, color of hair and eyes;

(iv) Five (5) portrait photographs of the applicant at least 2" x 2";

(v) Written evidence that the applicant is at least eighteen (18) years of age;

(vi) The name and address of the adult-entertainment business(es) where the applicant is to be employed and the name of the owner(s) of the establishment(s);

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(vii) The names and address of any establishments where the applicant was previously employed as a adult performer or figure model;

(viii) Whether the applicant has been convicted of any offense specified in Section 28.07.709(a) within five (5) years of the date of the application; and

(ix) The adult performer or figure model permit or license history of the applicant; whether such person has had such license revoked or suspended, the reason therefore and the business activity or occupation subsequent to such suspension or revocation;

(c) The chief of police shall take fingerprints and a photograph of the applicant and shall confirm the information submitted.

28.07.707 Verification of application

Every application for a permit under this chapter shall be verified as provided in the California Code of Civil Procedure for the verification of pleadings.

28.07.708 Investigation and recommendations

(a) Upon receiving an application for an adult-entertainment business permit, the chief of police shall:

(i) Stamp the application as received on the date of receipt, and determine whether the application is complete. If the chief of police determines that the application is incomplete or has been completed improperly, the chief of police shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or less to complete the application properly. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

(ii) Within 10 days of the date of filing of a complete application, refer the application to the division of building inspections and the fire department.

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(iii) Within a reasonable period, not exceeding forty-five (45) days of the filing of a complete application, investigate the application and recommend approval or denial to the city manager. A failure to make a recommendation within the specified time period shall not be considered a recommendation for approval or denial; and

(b) The division of building inspections and the fire department shall inspect the premises and make separate recommendations to the city manager, within thirty (30) days of the filing of the completed application.

(c) Upon receiving an application for an adult performer or figure model permit, the chief of police shall investigate the application and recommend approval or denial to the city manager within ten (10) days.

28.07.709 Issuance of permit for an adult-entertainment business

(a) The city manager shall act on the application for an adult-entertainment business permit within sixty days (60) days after the date of filing of a completed application, and shall issue the permit if all requirements for an adult-entertainment business described in this section are met, unless the city manager finds:

(i) That the operation as proposed by the applicant, if permitted, will not comply with all applicable laws, including, but not limited to, the zoning ordinance and the locational requirements set forth therein, and the building, health, housing and fire codes of the City of Sacramento

(ii) That the applicant or any operator has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code, or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may thereafter be amended or renumbered. Provided that the city manager shall issue a permit to any person convicted of any of the crimes described above if (a) the person is

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otherwise qualified, and (b) the longer of the following time periods has passed:

(i) Five (5) years from date of the conviction;
or,

(ii) Five (5) years from release from
confinement; or,

(iii) Five (5) years from formal release from
probation period; or,

(iv) Five (5) years from formal release
from parole.

(iii) That the applicant has knowingly made a material
misrepresentation in the application.

(iv) That the applicant or any operator has had a permit for an
adult-entertainment business or adult-related establishment denied or
revoked for cause by this city or any other city within the last five (5) years.

(v) That the applicant or operator is not at least 18 years of age.

(vi) That the applicant has not paid the required fee to the
department of finance.

(b) Notice of decision. Not later than five (5) days after the date of the decision
of the city manager, notice of said decision shall be sent to the applicant postage prepaid
at the address shown in the application and shall state whether the decision of the city
manager was to grant or deny the permit.

(c) If the city manager grants the application or if the city manager neither grants
nor denies the application within sixty (60) days of the date a completed application is
filed, the applicant may begin operating the Adult Entertainment Business for which the
permit was sought, subject to strict compliance with the development and performance
standards and requirements set forth in this Chapter.

28.07.710 Issuance of adult performer or figure model permit.

(a) The city manager shall act on the adult performer or figure model application within a reasonable period of time of the filing of the application. Pending the decision on the application, the applicant shall be entitled to perform as an adult performer or figure model, and the city manager shall issue a temporary permit for this purpose; provided that no temporary permit shall be issued to a person that has applied for, and had denied within the past one year, an adult performer or figure model permit. The city manager shall issue the permit if all requirements for such permit are met, unless the city manager finds:

(i) That the applicant has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code, or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered. Provided that, the city manager shall issue a permit to any person convicted of any of the crimes described in subparagraph (a) above if the following requirements are met if (a) the person is otherwise qualified for a permit, and (b) the longer of the following time periods has passed:

(i) Five (5) years from date of the conviction, or,

(ii) Five (5) years from release from confinement, or,

(iii) Five (5) years from formal release from probation period, or,

(iv) Five (5) years from formal release from parole.

(ii) That the applicant has knowingly made a material misrepresentation in their application.

(iii) That the applicant has had an adult performer or figure model permit denied or revoked for cause by this city or any other city within the last five (5) years.

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(iv) That the applicant is not at least eighteen (18) years of age.

(v) That the applicant has not paid the required fee to the department of finance.

(b) Notice of Decision. Such decision shall be in writing and mailed to the applicant postage prepaid, within five (5) days of the city manager's decision.

28.07.711 Appeals

(a) Adult-entertainment business permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of a permit for an adult-entertainment business may within ten (10) days after the date of mailing of the decision to the applicant, appeal to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(b) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for the hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(c) Adult Performer or figure model permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of any adult performer or figure model permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. Pending a decision on the appeal, the appellant may continue to perform as an adult performer or figure model pursuant to the temporary permit. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(d) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in

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regard to the granting or denial of an application.

(e) **Appointment of Hearing Examiner.** The city council may employ the procedure specified in Safety Code Section 2.06.440 et seq. for the appointment of a hearing officer to hear and decide the appeal. The hearing officer's decision shall have the effect specified in Section 2.06.480, and judicial review shall be governed by Section 2.07.500.

28.07.712 Term and renewal of adult-entertainment business permits.

(a) The term of an adult-entertainment business permit shall expire one year from the date of issuance of the permit, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least thirty (30) days but not more than sixty (60) days prior to the expiration date of the current valid permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for application for Permits.

(c) An adult-entertainment business lawfully operating as a conforming use pursuant to an adult-entertainment business permit is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult-entertainment business permit, of a use or a zone not consistent with the locational requirements set forth in the Zoning Ordinance, and a renewal application shall not be denied on that ground.

28.07.713 Term and renewal of adult performer and figure model permits.

(a) The term of an adult performer or figure model permit shall expire one year from the date of issuance of the permit, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least ten (10) days but not more than sixty (60) days prior to the expiration date of the current valid permit. When made less than ten (10) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for application for Permits.

28.07.714 Name and place of business--change of location.

(a) No person granted a permit for an adult-entertainment business shall operate under any name or conduct business at any location not specified in the permit.

28.07.715 Suspension or Revocation of adult-entertainment business permits and adult performer permits.

(a) An Adult-Entertainment Business Permit, Adult Performer Permit or Figure Model Permit may be suspended or revoked in accordance with the procedures and standards of this Section.

(b) On determining that grounds for Permit revocation exist, the city manager shall furnish written notice of the proposed suspension or revocation to the Permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent Code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the Permittee, or shall be delivered to the Permittee personally, at least ten (10) days prior to the hearing.

(c) The city manager shall hold a public hearing prior to the revocation or suspension of any permit under paragraph (a). The permittee shall be given at least ten (10) days notice in writing of such hearing, which notice shall contain a brief statement of the grounds to be relied upon for suspending or revoking the permit.

(d) **Adult-Entertainment Business Permit.** An adult-entertainment business permit required pursuant to Section 28.97.702 may be subject to suspension or revocation or be subject to other appropriate disciplinary action, for any of the following causes arises from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder, or manager of an adult-entertainment business:

(1) The building, structure, equipment, or location used by the adult-entertainment business fails to comply with all applicable building, fire, electrical, plumbing, health, and zoning requirements of the City of Sacramento, all applicable State and federal requirements of a similar nature which are customarily enforced by the City, and all provisions of these regulations and this Code relating to adult-entertainment businesses, including the adult-entertainment business development and performance standards.

(2) The permittee has knowingly made any false,

misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the City.

(3) The permittee, employee, agent, partner, director, stockholder, or manager of an adult-entertainment business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult-entertainment business, or in the case of an adult-entertainment business performer, the permittee has engaged in one of the activities described below while on the premises of an adult-entertainment business:

(i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

(ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

(iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

(iv) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 381, or subdivision (b) of Section 647 of the California Penal Code.

(v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.

(4) Failure to abide by any disciplinary action previously imposed by an appropriate City official.

(e) Adult Performer and Figure Model Permits: The city manager may suspend or revoke an adult performer permit or figure model permit for conviction of any of the crimes specified in Section 28.07.710.

(f) After holding the hearing in accordance with the provisions of this Section, if the city manager finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the city manager shall impose one of the following:

- (1) A warning.
- (2) Suspension of the permit for a specified period not to exceed six months.
- (3) Revocation of the permit.

28.07.716 Appeals

(a) Adult-entertainment business permits. Any permittee aggrieved by the decision of the city manager relating to the suspension or revocation of a permit for an adult-entertainment business may within ten (10) days after the date of mailing of the decision to the permittee, appeal to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final. Pending the decision on the appeal, the adult-entertainment business may remain open and continue to operate.

(b) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for the hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(c) Adult Performer or figure model permits. Any permittee aggrieved by the decision of the city manager relating to the suspension or revocation of any adult performer or figure model permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. Pending a decision on the appeal, the permittee may

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continue to perform as an adult performer or figure model pursuant to the permit which has been suspended or revoked. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

(d) Such appeal shall be set for hearing by the council at a date not later than thirty (30) days after the filing of the notice of appeal. The notice of hearing shall be mailed to the applicant at least ten (10) days prior to the date set for hearing. The council may continue its hearing on such appeal from time to time. It shall hear all relevant evidence from competent persons relating to the granting or denial of the permit. It may return the matter to the city manager or chief of police for further information or further investigation. The council may affirm, reject or modify the decision of the city manager in regard to the granting or denial of an application.

(e) Appointment of Hearing Examiner. The city council may employ the procedure specified in Safety Code Section 2.06.440 et seq. for the appointment of a hearing officer to hear and decide an appeal of a decision suspending or revoking an adult-entertainment business permit, adult performer permit or figure model permit appeal. The hearing officer's decision shall have the effect specified in Section 2.06.480, and judicial review shall be governed by Section 2.07.500.

28.07.717 Judicial review.

Judicial review of any final decision under this chapter issuing, denying, suspending or revoking an adult entertainment business regulatory permit, adult performer permit or figure model permit may be had by filing a petition for a writ of mandate in accordance with the provisions of the code of civil procedure. Any such petition shall be filed within the time limits prescribed in Code of Civil Procedure §1094.6 and notice of such time limit shall be given to the appellant by the City Clerk.

28.07.718 List of services.

A list of the services available and the cost of such services shall be posted in a clearly visible place at or near the entrance of each adult-entertainment business for which a permit is required pursuant to Section 28.07.702. The services available shall be described in readily understandable language. No adult-entertainment business shall render or provide, or offer to render or provide, any service not listed in accordance with this section.

28.07.719 Register of adult performers and figure models

(a) The operator of a model studio shall maintain a register of all persons employed as figure models and their permit numbers.

(b) The operator of an adult-entertainment business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities shall maintain a register of all persons so performing on the premises and their permit numbers. This requirement shall apply to those businesses requiring an adult-entertainment business permit pursuant to Section 28.07.702 as well as those that are exempt by virtue of possessing a permit from the state Alcoholic Beverage Control Board.

(c) The register required by subsections (a) and (b) shall be available for inspection at all times during regular business hours.

28.07.720 Adult performer and figure model identification card.

(a) The chief of police shall provide each adult performer and figure model granted a permit with an identification card containing the name, address, photograph and permit number of the adult performer or figure model.

(b) An adult performer shall have such a card available at all times.

(c) A figure model shall have such card available for inspection at all times during the hours of operation of the model studio.

28.07.721 Employment of persons under the age of eighteen (18) years prohibited.

It shall be unlawful for any permittee, operator or other person in charge of any adult-entertainment businesses to employ any person who is not at least eighteen (18) years of age.

28.07.722 Display of permit.

Every adult-entertainment business granted a permit shall display said permit in a conspicuous place within the adult-entertainment business so that the same may be readily seen by persons entering the premises.

28.07.723 Business Operations Tax

Nothing in this title shall relieve the owner of any adult-entertainment business, or any adult performer or any figure model from paying the applicable business operations tax pursuant to Title 23 of the Sacramento City Code. The issuance of a business operations tax certificate shall not authorize conducting an adult-entertainment business or acting as a figure model in modeling studio, or performing as an adult performer in an adult-entertainment business until the necessary regulatory permit has been lawfully granted.

28.07.724 Transfer of permit

(a) Upon sale, transfer or relocation of an adult-entertainment business, the permit therefore shall be void unless permission to transfer is first obtained pursuant to this section. Provided, however, that upon the death or incapacity of the permittee, the establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit pursuant to this section.

(b) No adult-entertainment business permit shall be transferable as to location or person, except with the written consent of the city manager. An application for such a transfer shall be in writing and contain the same information as required herein for initial application for such a permit. Prior to submitting the application to the chief of police, the applicant shall pay a nonrefundable fee, established by resolution of the city council, to the department of finance. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a transfer under this section.

(c) Adult performer and figure model permits shall not be transferable.

28.07.725 Employment of adult performer and figure models

(a) No permittee or operator of a model studio shall allow or permit a person to act as a figure model for such studio unless the person possesses a valid figure model permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a figure model shall first have obtained a valid permit pursuant to this chapter.

(b) No permittee or operator of an adult-entertainment business shall employ at an adult-entertainment business any person who has been convicted of an offense

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specified in Section 28.07.710, where the offense occurred at the adult-related establishment or any adult-entertainment business owned, controlled or operated by the permittee or operator.

(c) No permittee or operator of an adult-entertainment business shall employ and/or allow any person to engage in or participate in any live performance displaying or depicting specified anatomical areas or specified sexual activities unless that person possesses a valid adult performer permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person shall first have obtained a valid permit pursuant to this chapter.

28.07.726 Hours of operation.

(a) An Adult-Entertainment Business, including those regulated by the state Department of Alcohol Beverage Control, providing live performances depicting specified anatomical areas or involving specified sexual activities shall be open for business only between the hours of 8:00 a.m. and 2:00 A.M. on any particular day.

ARTICLE 3. FACILITIES AND EMPLOYEES

28.07.727 Development Standards

(1) The following development standards and requirements shall apply to Adult-Entertainment Businesses, including those providing live entertainment depicting or displaying Specified Anatomical Areas or Specified Sexual Activities, except for businesses regulated by the Alcoholic Beverage Control Commission, which shall be exempt from the following requirements:

(a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Sacramento.

(b) No Adult-Entertainment Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or

window on the premises shall be propped or kept open at anytime while the business is open, and any exterior windows shall be covered with opaque covering at all times.

(c) All off-street parking area and premise entries of the adult-entertainment business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

(d) The premises within which the Adult-Entertainment Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate unit within the same building.

(e) The building entrance to an Adult-Entertainment Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the Community Development Director or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time.

(f) All indoor areas of the Adult-Entertainment Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

(g) Any Adult-Entertainment Business which is an "adult arcade", shall comply with the requirements of Chapter 5.08 of the City Code, as it currently exists or as it may be amended from time to time.

(h) All areas of an Adult-Entertainment Business other than an adult arcade shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Area	Foot-Candles
Bookstores and other retail establishments	20

Theaters and cabarets

5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)

Motels/Hotels

20 (in public areas)

Modeling studios

20

(i) The Adult-Entertainment Business shall provide and maintain separate rest room facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from any Adult Material. Rest rooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Entertainment Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore, Adult Novelty Store, and Adult Video Store, and which does not provide rest room facilities to its patrons or the general public.

28.07.728 Adult-Entertainment Businesses Providing Live Entertainment

(1) The following additional requirements shall pertain to Adult-Entertainment Businesses providing live entertainment depicting or displaying Specified Anatomical Areas or Specified Sexual Activities, except for businesses regulated by the Alcoholic Beverage Control Commission, which shall be exempt from the following requirements:

(a) No person shall perform live entertainment for patrons of an Adult-Entertainment Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee of the Adult-Entertainment Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Entertainment Business.

(b) No owner or other person with managerial control over an Adult

Entertainment Business which provides live entertainment and for which an Adult-Entertainment Business Permit is required pursuant to this chapter shall permit any person on the premises of the Adult-Entertainment Business to appear in a state of nudity, provided that an owner or other person with managerial control may allow an entertainer to appear semi-nude or in a semi-nude condition, subject to compliance with the other requirements of this chapter.

(c) The Adult-Entertainment Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

(d) The Adult-Entertainment Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

(e) The Adult-Entertainment Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Entertainment Business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.

(f) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Entertainment Business.

(g) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

(h) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

28 07 729 An Adult-Entertainment Business shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

(1) Adult-Entertainment Business featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an additional security guard shall be on duty.

(2) Security guard(s) shall be charge with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly lizerised as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

28.07.730 Register and Permit Number of Employees

(a) Every permittee of an Adult-Entertainment Businesses which provides live entertainment depicting or displaying specified anatomical areas or specified sexual activities must maintain a register of all persons so performing on the premises and their permit numbers. Such register shall be available for inspection during regular business hours by any police officer or health officer of the City of Sacramento.

28.07.731 Display of Permit and Identification Cards

(a) Every Adult-Entertainment Business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Adult-Entertainment Businesses in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Entertainment Business.

(b) The Police Chief shall provide each Adult Performer required to have a permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.

(c) An Adult Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult-Entertainment Business.

28.07.732 Employment of any services rendered to persons under the age of eighteen (18) years prohibited

(a) It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Entertainment Business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen (18) years of age.

(b) It shall be unlawful for any permittee, operator or other person in charge of any Adult-Entertainment Business to permit to enter, or remain within the Adult-

Entertainment Business, any person who is not at least eighteen (18) years of age.

ARTICLE 4. MISCELLANEOUS PROVISIONS

28.07.733 Inspection

An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City Departments or Agencies to inspect the premises of an Adult-Entertainment Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult-Entertainment Business, at any time it is occupied or opened for business. A person who operates an Adult-Entertainment Businesses or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

28.07.734 Employment of persons without permits unlawful

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of an Adult-Entertainment Business which provides live entertainment depicting or displaying specified anatomical areas or specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked Adult Performer Permit.

28.07.735 Conditions of Adult-Entertainment Business Permit

The requirements set forth in this chapter shall be deemed conditions of Adult-Entertainment Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the permit issued pursuant to these regulations.

28.07.736 Applicability to Existing Adult Entertainment Businesses, Adult Performers and Figure Models and Facilities and Adult Performers

(a) General: The provisions of this chapter shall apply to all adult-entertainment businesses as defined, and all owners or operators thereof, and all adult performers or figure models, whether such business or activity was in operation before or after the effective date of this ordinance; provided, however, that all such businesses and persons shall have ninety (90) days from the effective date of this ordinance to comply with the provisions of this chapter. Any person who has filed a timely application for a permit within

said time limit shall not be subject to the provisions of this chapter relating to possession or display of a permit until a permit is issued or denied to the applicant.

(b) **Lawfully existing Adult-Entertainment Businesses Providing Live Entertainment.** The owner(s) and operator(s) of lawfully existing adult-entertainment businesses providing live entertainment depicting specified anatomical parts or involving specified sexual activities which were lawfully established on the effective date of this ordinance shall not be required to obtain an adult entertainment business permit pursuant to Sec. 28.07.702 of this Chapter within ninety days, provided that the owner(s) and operator(s) have an adult-related establishment permit for the facility pursuant to Chapter 28 as it existed prior to the effective date of Chapter 28.06, and provided further that the owner(s) and operator(s) shall obtain a permit pursuant to Sec. 28.07.702 prior to the date on which the adult-related permit would have expired. Except for the adult entertainment business permit requirement, lawfully existing adult-entertainment businesses providing live entertainment depicting specified anatomical parts or involving specified sexual activities which were lawfully established on the effective date of this ordinance shall comply with the other requirements of this chapter.

(c) **Failure to obtain permits: violation of chapter.** Failure to apply for and obtain a permit within the time period(s) specified in (a) and (b) above and thereafter continuing with operation of an Adult-Entertainment business for which a permit is required pursuant to Section 28.07.072 or continuing with performances depicting or displaying specified anatomical areas or specified sexual activities in an Adult-Entertainment Business after such time without a permit shall constitute a violation of this chapter.

28.07.737 Penalties, Enforcement.

In addition to the remedy of revocation of any permit issued under this chapter, any person, firm or corporation violating the provisions of this chapter other than 28.07.028 (1)(a),(b), is guilty of a misdemeanor and shall be fined not more than \$500.00 or imprisoned in the county jail for, a period not to exceed six (6) months, or both such fine and imprisonment.

28.07.738 Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision,

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paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective

SECTION 3.

Section 28.06.060 of Title 28 of the City Code is amended to read as follows::

28.06.060 Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) Adult-Related Establishment. "Adult-Related Establishment" means a bathhouse, escort bureau, massage establishment, out call massage service, modeling studio or sexual encounter center, as defined by this section. "Adult-related establishment" shall also include any other business or establishment which does not constitute an adult-entertainment facility within the meaning of Chapter 28.05 which has available for or offers any patron, for pecuniary compensation, consideration, hire or reward, services or activities which involve "specified sexual activities" or the display of "specified anatomical areas." ~~Adult-related establishment" does not include a bookstore, motion picture theater, mini motion picture theater, hotel or motel, or cabaret, which sells furnishes or features books, movies, or other materials which depict "specified anatomical areas" or "specified sexual activities."~~

(b) Adult-Related Establishment Operator. "Adult-Related Establishment Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct or the activities of an adult-related establishment.

(c) Bathhouse. "Bathhouse" means an establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including but not limited to showers, saunas and hot tubs.

(d) Chief of Police. The chief of police of the City of Sacramento or

authorized representative.

(e) City Manager. The City Manager of the City of Sacramento or authorized representative.

(f) Escort. "Escort" means a person who, for pecuniary compensation, consideration, hire or reward, (i) escorts or accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place of public resort or within any private quarters.

(g) Escort Bureau. "Escort Bureau" means a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.

(h) Figure Model. ~~"Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculpture, photographed or otherwise depicted.~~

(i) Massage. "Massage" means any method of pressure or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external surfaces of the body with hands or with any object or appliance.

(j) Massage Establishment. "Massage Establishment" means an establishment whose primary business is the offering of massage in exchange for a fee or other consideration. This does not include gymnasiums, schools maintained pursuant to standards set by the State Board of Education, reducing salons, athletic clubs or other establishment which offer massage as an incidental or accessory service.

(k) Massage Establishment/Out Call Massage Service Operator. "Massage Establishment/Out Call Massage Service Operator" (hereinafter "operator") means a person who supervises, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the conduct of the activities of an out call massage service or within a massage establishment.

(l) Massage Technician. "Massage Technician" means any person who for pecuniary compensation, consideration, hire or reward, engages in the

practice of massage as herein defined.

~~(m) Modeling Studio. "Modeling Studio" means a business which provides, for pecuniary compensation, consideration, hire or reward, figure models who, for the purpose of sexual stimulation of patrons, display, "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling Studio" further does not include a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."~~

(n) Operate an Adult-Related Establishment. As used in this chapter "operate an Adult-Related Establishment" means the supervising, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an adult-related establishment or activities within an adult-related establishment.

(o) Out-Call Massage Service. "Out-Call Massage Service" means any business, not licensed as a massage establishment under the provisions of this chapter, wherein the primary function of such business is to engage in or carry on massage for pecuniary compensation, consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

(p) Permittee. "Permittee" means the person to whom an adult-related establishment permit is issued.

(q) Person. "Person" means any individual, copartnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(r) Recognized School of Massage. "Recognized School of Massage" means any school or institution of learning which:

(1)(i) Teaches the theory, ethics, practice, profession, and work of massage; and

(2)(ii) Requires a residence course of study to be given before

the student shall be furnished with a diploma or certificate of learning; and

~~(3)~~(iii) Has been approved pursuant to Section 94311(d) of the Education Code of the State of California, or, if said school is not located in California, has complied with the standards commensurate with those required in said Section 94311(d).

~~(iv)~~ Any school or institution of learning offering or allowing correspondence course credit not requiring actual attendance at class, or courses of massage technician not approved by the California State Department of Education shall not be deemed a "recognized school."

(s) Sexual Encounter Center. "Sexual Encounter Center" means a business which provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas." "Sexual encounter center" does not include hotels or motels, or a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit or make available "specified sexual activities."

(t) Specified Anatomical Areas. "Specified Anatomical Areas" shall include:

~~(1)~~(i) Less than completely and opaquely covered (i) human genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola; and

~~(2)~~(ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~(u)~~ "Specified Sexual Activities." "Specified Sexual Activities" shall include the following:

~~(1)~~(i) Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical

stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

(2)(ii) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or

(3)(iii) Use of human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or,

(4)(iv) Fondling or touching of nude human genitals, pubic region, buttocks or female breasts; or,

(5)(v) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or,

(6)(vi) Erotic or lewd touching, fondling or other contact with an animal by a human being; or,

(7)(vii) Human excretion, urination, menstruation, vaginal or anal irrigation. (Ord. No. 83-100, §3; Ord. No. 83-111, §2)

SECTION 4.

Section 28.06.065 of Title 28 of the City Code is amended to read as follows:

28.06.065 Application for massage technician; ~~or~~ ~~escort or figure model~~ permit.

(a) An application for a massage technician; ~~or~~ ~~escort or figure model~~ permit shall be made to the chief of police on a form provided by the city clerk. Prior to submitting such application a nonrefundable fee as established by resolution of the city council shall be paid to the department of finance to defray, in part, the cost of investigation and report required by this title. The department of finance shall issue a receipt to the applicant showing that such permit application fee has been paid. The issuance of such a receipt shall not authorize the giving of a massage or acting as an "escort," ~~or as a "figure model"~~

~~in a modeling studio~~ until the necessary regulatory permit has been lawfully granted. The applicant shall provide the chief of police with the receipt or a copy thereof at the time of applying for a permit under this section.

(b) The application to the chief of police shall set forth the following information:

- (1) Name, residence address and telephone number of the applicant;
- (2) Driver's license number, if any, of the applicant;
- (3) Applicant's height, weight, color of hair and eyes;
- (4) Five (5) portrait photographs of the applicant at least 2" x 2";
- (5) Written evidence that the applicant is at least eighteen (18) years of age;
- (6) The name and address of the adult-related establishment where the applicant is to be employed and the name of the owner of that establishment;
- (7) The names and address of any establishments where the applicant was previously employed as a massage technician, ~~escort or figure model or escort~~ ;
- (8) Whether the applicant has been convicted of any offense specified in Section 28.04.048 within five (5) years of the date of the application; and
- (9) The massage, escort, ~~figure model~~ or similar business license history of the applicant; whether such person has had such license revoked or suspended, the reason therefore and the business activity or occupation subsequent to such suspension or revocation.

(c) In addition to the information required above, an applicant for a massage technician permit shall provide the name and address of the recognized school of massage attended, the date attended, and a copy of the diploma or certificate of graduation awarded

the applicant.

(d) The chief of police shall take fingerprints and a photograph of the applicant and shall confirm the information submitted. (~~Ord. No. 83-100, §3, Ord. No. 83-111, §2~~)

SECTION 5.

Section 28.06.069 of Title 28 of the City Code is amended to read as follows:

28.06.069 Issuance of massage technician, ~~escort or figure model~~ or ~~escort~~ permit.

(a) The city manager shall act on the massage technician, ~~or escort or figure model~~ application within ninety (90) days of the filing thereof, and shall issue the permit if all requirements for such permit are met, unless the city manager finds:

(1) That the applicant has been convicted of any of the following offenses or convicted of an offense without the State of California that would have constituted any of the following offenses if committed within the State of California: Sections 243.4, 261, 266a, 266b, 266d, 266e, 266f, 266g, 266h, 266i, 266j, 267, 315, 316, 318 or subdivision (b) of Section 647 of the California Penal Code; any offense requiring registration under provisions of either Section 290 of the California Penal Code or Section 11590 of the California Health and Safety Code; or any felony offense involving the possession, possession for sale, sale, transportation, furnishing, giving away, of a controlled substance specified in Section 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code, or as those sections may hereafter be amended or renumbered.

The city manager shall issue a permit to any person convicted of any of the crimes described in subsection (a) of this section if (a) the person is otherwise qualified; and (b) the longer of the following time periods has passed:

- (i) Five (5) years from date of the conviction;
or,
- (ii) Five (5) years from release from
confinement; or,

(iii) Five (5) years from formal release from probation period; or,

(iv) Five (5) years from formal release from parole.

(2) That the applicant has knowingly made a material misrepresentation in their application.

(3) That the applicant has had a massage technician, or escort or figure model permit denied or revoked for cause by this city or any other city within the last five (5) years.

(4) That the applicant is not at least eighteen (18) years of age.

(5) That the applicant has not paid the required fee to the department of finance.

(b) Notice of Decision. Such decision shall be in writing and mailed to the applicant, postage prepaid, within five (5) days of the city manager's decision. (~~Ord. No. 83-100, §3~~)

SECTION 6.

Section 28.06.070 subparagraph (b) of Title 28 of the City Code is amended to read as follows:

28.06.070 Appeals.

(b) Massage technician, or escort or figure model permits. Any applicant aggrieved by the decision of the city manager relating to the issuance or denial of any massage technician, or escort or figure model permit may, within ten (10) days after the date of mailing of the decision to the applicant, appeal such decision to the city council by the filing of a written notice thereof with the city clerk. If such appeal is not filed within ten (10) days, the decision of the city manager shall be final.

SECTION 7.

Section 28.06.073 of Title 28 of the City Code is amended to read as follows:

28.06.073 Term and renewal of massage technician, ~~or escort and figure model~~ permits.

(a) The term of a massage technician, ~~or escort or figure model~~ permit shall expire on September 30 next following the issuance of the permit, unless sooner suspended or revoked. Fees for the issuance of the permit shall not be prorated.

(b) A permit which has not been suspended or revoked may be renewed for the period specified in subparagraph (a) above, on written application to the chief of police. The application shall be filed at least ninety (90) days but not more than one-hundred-twenty (120) days prior to the expiration date of the current valid permit. The applicant shall follow all of the procedures and provide all of the information required by Section 28.04.045 of this chapter, and verify the application according to Section 28.04.046 of this chapter. The chief of police and city manager shall process the application according to Section 28.04.047 and 28.04.049 of this chapter.
(Ord No. 83-100, §3)

SECTION 8.

Section 28.06.077 of Title 28 of the City Code is amended to read as follows:

28.06.077 Revocation or suspension of massage technician, ~~or escort or figure model~~ permit.

After following the procedure in Section 28.04.056(b), the city manager may revoke or suspend a massage technician, ~~or escort or figure model~~ permit for conviction of any of the crimes specified in Section 28.04.049. The decision of the city manager shall be in writing and shall be mailed postage prepaid to the massage technician, ~~or escort or figure model~~.

SECTION 9.

Section 28.06.081 of Title 28 of the City Code is amended to read as follows:

28.06.081 Register of massage technicians, ~~and escorts and figure models~~.

(a) The operator of a massage establishment or an out call massage service shall maintain a register of all persons employed as massage technicians and their permit numbers.

(b) The operator of an escort service shall maintain a register of all persons employed as escorts and their permit numbers.

~~(c) The operator of a model studio must maintain a register of all persons employed as figure models and their permit numbers.~~

~~(d)(c)~~

(d) The operator of an adult-related establishment other than a model studio, escort service, a massage establishment or an out call massage service, shall maintain a register of all persons employed on the premises, the title of the position of each employee, and as to those employees required to have permits pursuant to this chapter, their permit numbers.

(e) ~~(d)~~ The register required by subsections (a), (b), (c) and (d) shall be available for inspection at all times during regular business hours.

~~(Ord. No. 83-100, §3)~~

SECTION 10.

Section 28.06.082 of Title 28 of the City Code is amended to read as follows:

28.06.082 Massage technician, ~~and~~ escort and figure model identification card.

(a) The chief of police shall provide each massage technician, ~~and~~ escort or figure model granted a permit with an identification card containing the name, address, photograph and permit number of the massage technician, ~~or~~ escort or figure model.

(b) A massage technician shall carry such a card at all times during the hours of operation of the massage establishment or out call massage service.

(c) An escort shall carry such card at all times while providing escort services.

~~(d) A figure model shall have such card available for inspection at all times during the hours of operation of the model studio.~~

~~(Ord. No. 83-100, §3)~~

SECTION 11.

Section 28.06.089 of Title 28 of the City Code is amended to read as follows:

28.06.089 Employment of massage technicians; ~~and escorts and figure models.~~

(a) No permittee or operator of a massage establishment or out call massage service shall allow or permit a person to administer a massage for such establishment or service unless said person possesses a valid massage technician's permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a massage technician shall first have obtained a valid permit under this chapter.

(b) No permittee or operator of an escort service shall allow or permit a person to act as an escort for such service unless said person possesses a valid escort permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as an escort shall first have obtained a valid permit pursuant to this chapter.

~~(c) No permittee or operator of a model studio shall allow or permit a person to act as a figure model for such studio unless the person possesses a valid figure model permit under the provisions of this chapter. It shall be the responsibility of the permittee and the operator to ensure that each such person employed as a figure model shall first have obtained a valid permit pursuant to this chapter.~~

(d)(c) No permittee or operator of an adult-related establishment shall employ at an adult-related establishment any person who has been convicted of an offense specified in Section 28.04.048, where the offense occurred at the adult-related establishment or any adult-related establishment owned, controlled or operated by the permittee or operator.

SECTION 12.

Section 28.06.092 of Title 28 of the City Code is amended to read as follows:

28.06.092 Applicability to existing adult-related establishments other than massage establishments and out call massage services, and to escorts ~~and figure models.~~

The provisions of this chapter shall apply to all escort services, introductory services, ~~model studios, sexual encounter centers~~ and any other adult-related establishments, as defined, and all owners or operators thereof and all escorts; ~~or figure~~

models whether such business or activity was in operation before or after the effective date of this ordinance; provided, however, that all such businesses and persons shall have sixty (60) days from said date to comply with the provisions of this chapter. Any person who has filed a timely application for a permit within said time limit shall not be subject to the provisions of this chapter relating to possession or display of a permit until a permit is issued or denied to the applicant.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

ATTEST:

MAYOR

CITY CLERK

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DATE ADOPTED: _____

103

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTIONS 2-C-48, 2-E-22, 2-E-24 AND 22 OF THE COMPREHENSIVE ZONING ORDINANCE (ORDINANCE NO. 2550, FOURTH SERIES, AS AMENDED) RELATING TO ADULT-ENTERTAINMENT BUSINESSES AND ADULT-RELATED ESTABLISHMENTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 2-C-48 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

USE	R E	R 1 A	R 1 B	R 2	R 2 A	R 2 B	R 3 A	R 3 B	R 4 A	R 4 S	R O	R M X	O B	H C	S C	C 1	C 2	C 3	C 4	M1 M1 (S)	M2 M2 (S)	A F	A O S	H	M I P	S P X	M R D	T C	E C
48. Adult Entertainment Business																	22	22	22	22	22								

SECTION 2.

Section 2-E-22 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

22. Adult-Entertainment Businesses is a permitted use in this zone, subject to compliance with the locational standards set forth below; and subject further, to compliance with the permitting requirements, development and operational standards and other requirements set forth in Title 28 of the City Code.
- a. **Locational Requirements:** No permit shall be issued or approved for an adult entertainment business unless the

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proposed location satisfies all of the following locational requirements:

- i) proximity to adult-entertainment businesses or adult-related establishments: No adult entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each such use, of any other adult-entertainment business or an adult-related establishment.
- ii) proximity to agricultural or residential zones: No adult-entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or agricultural zone.
- iii) proximity to certain specified uses: No adult-entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, of any existing park, church, school, gymnasium for children, roller skating rink or ice skating rink. For purposes of this requirement, the following definitions shall apply:

Church: The term "church" means a structure or place which is used primarily for religious worship and related religious activities.

School: The term "school" means any child or day care facility; or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle

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or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

Park: The term "park" means a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the City which is under the control, operation or management of the City, State, County or other public entity.

b. **Relevant date for determining compliance with locational requirements:** For purposes of determining whether the locational requirements set forth above are met, the following rules shall apply:

- i) For purposes of the locational requirements, the relevant date shall be the date of the filing of a completed application under Title 28, and except as provided in subsection ii) below, only those uses lawfully established at the time of the filing of a completed application under Title 28 shall be considered for purposes of determining whether the locational requirements are met.
- ii) For further purposes of the locational requirements, a location for which a completed application for an Adult-Entertainment Business permit has been filed pursuant to Title 28 shall be considered to be the site of an established Adult-Entertainment Business from the date that the completed application is filed until the application is approved or denied.

SECTION 3.

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Section 2-E-24 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

24. A Special Permit shall be required to establish an Adult-Related Establishment in this zone. This requirement shall be in addition to satisfying the requirements of Title 28 of the City Code.

a. **Locational Requirements:** In addition to the other requirements for approval of a special permit, no special permit shall be issued or approved for an adult-related establishment unless the proposed location satisfies all of the following locational requirements:

i) proximity to adult entertainment businesses or adult-related establishments: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each such use, of any other adult-entertainment business or an adult-related establishment.

ii) proximity to residential and agricultural zones: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or agricultural zone.

iii) proximity to certain uses: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, of any park, church, school, gymnasium for children, roller skating rink or ice skating rink. For purposes of this requirement, the following definitions shall apply:

Church: The term "church" means a structure or place which is used primarily for religious worship and related religious activities.

School: The term "school" means any child or day care facility; or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

Park: The term "park" means a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the City which is under the control, operation or management of the City, State, County or other public entity.

- b. **Relevant date for determining compliance with locational requirements:** For purposes of determining whether the locational requirements set forth above are met, the following rules shall apply:

- i) For purposes of the locational requirements, the relevant date shall be the date that the application for a special permit is determined or deemed to be complete, and only those uses lawfully established as of the date that the application is determined or deemed to be complete shall be considered for purposes of determining whether the locational requirements are met.

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- ii) For further purposes of the locational requirements, a location for which a completed application for an Adult-Entertainment Business permit has been filed under Title 28 or a location for which a completed application for a special permit for an Adult-Related Establishment has been filed shall be considered to be the site of an established Adult-Entertainment Business or an established Adult-Related Establishment from the date that the completed application is filed until the application is approved, withdrawn or denied.

SECTION 4.

Section 2-E-22-A-62 is amended to read as follows:

62. Adult-Entertainment Businesses.

a. General definition: "Adult-Entertainment Businesses" means any of the following:

(i) **Adult arcade.** The term "adult arcade" shall mean an establishment where, for any form of consideration, one or more 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 time, and where a substantial portion of the images so displayed are distinguished or characterized by an emphasis on matters depicting or describing "specified sexual activities" as hereinafter defined.

(ii) **Adult bookstore, Adult novelty store or Adult video store:** The term "adult bookstore, adult novelty store or adult video store" shall mean a commercial establishment which, as one of its principal 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 pictures, video cassettes or video reproductions,

compact discs (CDS), slides, or other visual representations which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", or

(b) instruments, devices, or paraphernalia which 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, describing or relating to "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, 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 which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(iii) **Adult cabaret.** The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear nude or semi-nude.

(iv) **Adult hotel/motel.** The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, compact discs (CDS) or other photographic reproductions a substantial portion of which are distinguished or characterized

by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

(v) **Adult motion picture theater.** The term "adult motion picture theater" as used in this chapter means a building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" as hereinafter defined, for observation by patrons or customers.

(vi) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(vii) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained, and which does not provide, permit, or make available "specified sexual activities."

b. Additional terms: For purposes of the foregoing, the following additional definitions shall apply:

(i) **Distinguished or characterized by an emphasis upon.** The term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or

essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal. App. 3d 151 (1981).

(ii) **Regularly Features.** The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

Section 5.

Section 22-A-87 is amended to read as follows:

87. **Adult-Related Establishment.** "Adult-Related Establishment" means a bathhouse, escort bureau, massage establishment, out call massage service, or sexual encounter center, as defined below or elsewhere in this section. "Adult-related establishment" shall also include any other business or establishment which does not constitute an adult-entertainment facility within the meaning of Chapter 28.05 which has available for or offers any patron, for pecuniary compensation, consideration, hire or reward, services or activities which involve "specified sexual activities" or the display of "specified anatomical areas."

a. **Bathhouse.** "Bathhouse" means an establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including but not limited to showers, saunas and hot tubs.

- b. **Escort.** "Escort" means a person who, for pecuniary compensation, consideration, hire or reward, (i) escorts or accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place of public resort or within any private quarters.
- c. **Escort Bureau.** "Escort Bureau" means a business which, for pecuniary compensation, consideration, hire or reward furnishes or offers to furnish escorts.
- d. **Sexual Encounter Center.** The term "Sexual Encounter Center" means a business which provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas." "Sexual encounter center" does not include hotels or motels, or a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit or make available "specified sexual activities."

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE AMENDING SECTIONS 2-C-48, 2-E-22, 2-E-24 AND 22 OF THE COMPREHENSIVE ZONING ORDINANCE (ORDINANCE NO. 2550, FOURTH SERIES, AS AMENDED) RELATING TO ADULT-ENTERTAINMENT BUSINESSES AND ADULT-RELATED ESTABLISHMENTS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 2-C-48 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

USE	R E	R 1 A	R 1 B	R 2	R 2 A	R 2 B	R 3	R 3 A	R 4	R 4 A	R 4 S	R O	R M X	O B	P C	S C	C 1	C 2	C 3	C 4	M1 M1 (S)	M2 M2 (S)	A F	A O S	H	M I P	S P X	M R D	T C	E C
48. Adult Entertainment Business																		22	22	22	22	22								

SECTION 2.

Section 2-E-22 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

22. ~~Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades and adult hotels-motels are permitted uses in the zones indicated subject to the limitations contained in Subsections a and b below. An Adult-Entertainment Business is a permitted use in this zone, subject to compliance with the locational standards set forth below, and subject further, to compliance with the permitting requirements, development and operational standards and other requirements set forth in Title 28 of the City Code.~~

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- a. The location of such uses in any of the zones indicated must meet the following minimum standards, unless a waiver of the standards is granted under Subsection b below: **Locational Requirements:** No permit shall be issued or approved for an adult entertainment business unless the proposed location satisfies all of the following locational requirements:

- 1) i) The use must be located more than one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, from any residential or agricultural zone. proximity to adult-entertainment businesses or adult-related establishments. No adult entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each such use, of any other adult-entertainment business or an adult-related establishment.
- 2) iii) The use must be located more than one thousand (1,000) feet, measured from the nearest property lines to each parcel containing such use, from any school, church, temple or other place of religious worship, park, playground or similar use, and outside of and more than one thousand (1,000) feet from the Old Sacramento Historical Park. proximity to certain specified uses. No adult-entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, of any existing park, church, school, gymnasium for children, roller skating rink or ice skating rink. For purposes of this requirement, the following definitions shall apply:

Church: The term "church" means a structure or place which is used primarily for religious worship and related religious activities.

School: The term "school" means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by

the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

Park: The term "park" means a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the City which is under the control, operation or management of the City, State, County or other public entity.

3)ii) ~~The use must be located more than one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, from any other adult bookstore, adult cabaret, adult motion picture theater, adult arcade or adult hotel-motel. proximity to agricultural or residential zones: No adult-entertainment business shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or agricultural zone.~~

b. ~~An application to waive the minimum location standards contained in Subsection a above may be submitted to the Planning Commission. Upon submission of such an application, the Planning Commission shall conduct a public hearing to consider the application. The hearing shall be conducted in accordance with Section 18 of this Ordinance. Notice of the hearing shall be given in the manner specified in Section 15-C-3-c of this Ordinance. The Planning Commission~~

shall grant the waiver where, based on evidence presented at the hearing, it makes the following findings: **Relevant date for determining compliance with locational requirements:** For purposes of determining whether the locational requirements set forth above are met, the following rules shall apply:

- 1) i) The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this Ordinance will be observed. For purposes of the locational requirements, the relevant date shall be the date of the filing of a completed application under Title 28, and except as provided in subsection ii) below, only those uses lawfully established at the time of the filing of a completed application under Title 28 shall be considered for purposes of determining whether the locational requirements are met.
- 2) ii) The proposed use will not enlarge or encourage the development of a "skid row" area. For further purposes of the locational requirements, a location for which a completed application for an Adult-Entertainment Business permit has been filed pursuant to Title 28 shall be considered to be the site of an established Adult-Entertainment Business from the date that the completed application is filed until the application is approved or denied.

SECTION 3.

Section 2-E-24 of the Comprehensive Zoning Ordinance (Ordinance No. 2550, 4th Series, as amended) is amended to read as follows:

24. A Special Permit shall be required to establish an ~~a~~Adult-Related ~~e~~Establishment in this zone. This requirement shall be in addition to satisfying the requirements of Title 28 of the City Code.
 - a. No Special Permit shall be issued for such use unless the following minimum standards have been met: **Locational Requirements:** In addition to the other requirements for approval of a special permit, no special permit shall be issued or approved for an adult-related establishment unless the proposed location satisfies all of the

following locational requirements:

- 1) i) That said use is situated more than one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels from any residential or agricultural zone. proximity to adult entertainment businesses or adult-related establishments: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each such use, of any other adult-entertainment business or an adult-related establishment.
- 3) ii) That said use is situated more than one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, from any other adult-related establishment, or any adult bookstore, adult cabaret, adult motion picture theater, adult arcade or adult hotel-motel. proximity to residential and agricultural zones: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or agricultural zone.
- 2) iii) That said use is situated more than one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, from any school, children's day care facility, gymnasium for children, church, temple or other place of religious worship, park, roller skating rink, ice skating rink, playground, or similar use, and outside of and more than one thousand (1,000) feet from the Old Sacramento Historical Park. proximity to certain uses: No adult-related establishment shall be established or located within one thousand (1,000) feet, measured from the nearest property lines of each parcel containing such use, of any park, church, school, gymnasium for children, roller skating rink or ice skating rink. For purposes of this requirement, the following definitions shall apply:

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Church: The term "church" means a structure or place which is used primarily for religious worship and related religious activities.

School: The term "school" means any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

Park: The term "park" means a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the City which is under the control, operation or management of the City, State, County or other public entity.

- b. ~~The Planning Commission may consider a Special Permit application to waive the standards set forth above only in cases where the following findings can be made:~~ **Relevant date for determining compliance with locational requirements:** ~~For purposes of determining whether the locational requirements set forth above are met, the following rules shall apply:~~

- 4) i) ~~The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this~~

Ordinance will be observed. For purposes of the locational requirements, the relevant date shall be the date that the application for a special permit is determined or deemed to be complete, and only those uses lawfully established as of the date that the application is determined or deemed to be complete shall be considered for purposes of determining whether the locational requirements are met.

- 2) ii) ~~That the proposed use will not enlarge or encourage the development of a "skid row" or otherwise blighted area.~~
For further purposes of the locational requirements, a location for which a completed application for an Adult-Entertainment Business permit has been filed under Title 28 or a location for which a completed application for a special permit for an Adult-Related Establishment has been filed shall be considered to be the site of an established Adult-Entertainment Business or an established Adult-Related Establishment from the date that the completed application is filed until the application is approve, withdrawn or denied.

SECTION 4.

Section 22-A-62 is amended to read as follows:

62. ~~Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Arcades, and Adult Hotel/Motels:~~ **Adult-Entertainment Businesses:**

a. **General definition:** "Adult-Entertainment Businesses" means any of the following:

- d. (i) ~~Adult Arcade:~~ **Adult arcade.** ~~A building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controller~~ The term "adult arcade" shall mean an establishment where, for any form of consideration, one or more 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 time, and where a substantial portion of the images so displayed are distinguished or characterized by an

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emphasis on matters depicting or describing "specified sexual activities" as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only.—

a (ii) Adult Bookstore: Adult bookstore, Adult novelty store or Adult video store:

A building or portion thereof used by an establishment having a substantial part of its stock in trade for sale to the public or certain members thereof, books, magazines, and other publications which are distinguished or characterized by their emphasis on matters depicting, describing, or relative to "specified sexual activities" as hereinafter defined; and which establishment restricts admission to such building or portion thereof to adults only. The term "adult bookstore, adult novelty store or adult video store" shall mean a commercial establishment which, as one of its principal 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 pictures, video cassettes or video reproductions, compact discs (CDS), slides, or other visual representations which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", or
- (b) instruments, devices, or paraphernalia which 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, describing or relating to "specified sexual activities" or "specified anatomical areas" and still be categorized as Adult Bookstore, Adult Novelty Store, 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 which are distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

- b. (iii) ~~Adult Cabaret: Adult cabaret~~ A building or portion thereof or area in which a substantial portion of the total presentation time is devoted to the presentation of exhibition or featuring of any or all of the following activities for observation by patrons or customers, and which establishment restricts admission to such building, or portion thereof, or area, to adults only. The term "adult cabaret" as used in this chapter, means a nightclub, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear nude or semi-nude.
- e. (iv) ~~Adult Hotel-Motel: Adult hotel/motel~~ A substantial portion of material is presented which is distinguishable or characterized by an emphasis on depicting or describing "specified sexual activities" as hereinafter defined, and which establishment restricts admission to such building or portion thereof to adults only. (Ordinance 83-145, December 6, 1983) The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, compact discs (CDS) or other photographic reproductions a substantial portion of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.
- e. (v) ~~Adult Motion Picture Theater: Adult motion picture theater~~ The term "adult motion picture theater" as used in this chapter means a building or portion thereof or area, open or enclosed, in which a substantial portion of the total presentation time is devoted to the presentation of motion pictures distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" as hereinafter defined, for observation by patrons or customers; and which establishment restricts admission to such building or portion thereof or area to adults only.

(vi) **Adult theater.** The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

(vii) **Modeling studio.** The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. Modeling studio does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained, and which does not provide, permit, or make available "specified sexual activities."

b. **Additional terms:** For purposes of the foregoing, the following additional definitions shall apply:

(i) **Distinguished or characterized by an emphasis upon.** The term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films, which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See *Pringle v. City of Covina*, 115 Cal. App. 3d 151 (1981).

(ii) **Regularly Features.** The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live

performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within one hundred and eighty (180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

SECTION 5.

Section 22-A-87 is amended to read as follows:

87. ~~Adult-Related Establishment:~~ **Adult-Related Establishment.** "Adult-Related Establishment" means a A-bathhouse, escort bureau, massage parlor, out call massage service, modeling studio or sexual encounter center, as defined below or elsewhere in by this section. "Adult-related establishment" shall also includes any other business or establishment which does not constitute an adult-entertainment facility within the meaning of Chapter 28:05 which has available for or offers any patron, for pecuniary compensation, consideration, hire or reward, services or entertainment or activities which involve "specified sexual activities" or the display of "specified anatomical areas." ~~"Adult-related establishment does not include an adult bookstore, adult cabaret, adult motion picture theater, adult arcade, or adult hotel-motel as defined in Section 22-A-55.~~
- a. ~~Bathhouse:~~ **Bathhouse.** "Bathhouse" means A an establishment whose primary business is to provide, for pecuniary compensation, consideration, hire or reward, access to any kind of bath facility, including but not limited to showers, saunas and hot tubs.
- b. ~~Escort:~~ **Escort.** "Escort" means aA person who, for pecuniary compensation, consideration, hire or reward, (i) escorts or accompanies others to or about social affairs, entertainment or places of amusement, or (ii) keeps company with others about any place or public resort or within any private quarters.
- c. ~~Escort Bureau:~~ **Escort Bureau.** "Escort Bureau" means a A business which, for pecuniary compensation, consideration, hire or reward, furnishes or offers to furnish escorts.

f. d. ~~Sexual Encounter Center~~ **Sexual Encounter Center**: The term "Sexual Encounter Center" means a A business which provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble for the purpose of engaging in "specified sexual activities" or displaying "specified anatomical areas". "Sexual Encounter Center" does not include hotels or motels; or a studio or similar facility owned, operated or maintained by an individual artist or group of artists, and which does not provide, permit or make available "specified sexual activities." (Added Ordinance No. 83-145, December 6, 1983)

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