



CITY OF SACRAMENTO

28B

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MARTY VAN DUYN
PLANNING DIRECTOR

August 18, 1983

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Amendment of the Zoning Ordinance pertaining to adult related establishments, adult bookstores, adult motion picture theaters, adult arcades, adult hotels and motels and declaring the Ordinance to be an emergency measure to take effect immediately (M83-004)

SUMMARY

The attached ordinance will amend the existing massage parlor ordinance by expanding the definitions to include other adult related establishments such as escort services, modeling studios, bath houses and sexual encounter centers. The existing ordinance does not specifically address these uses and the result has been the establishment of a number of these businesses in concentrations throughout the City.

As proposed, the ordinance will also require that all massage parlors and other similar adult businesses discontinue the use within a one year period if they are rendered nonconforming due to the established minimum distance requirements of 1000 feet from any school, park, church, residential zone, or any other adult business. The proposed ordinance, however, will allow the Planning Commission the authority to grant an extension up to three additional years for these types of businesses.

Nonconforming adult entertainment activities such as bookstores, theaters and cabarets will be exempt from this provision and will be allowed to continue.

BACKGROUND INFORMATION

On March 8, 1983 the City Council imposed a four-month moratorium on the location of new adult related business establishments. The moratorium was, however, recently extended to September 8, 1983 to allow staff additional time to prepare an ordinance that would address the problems and concerns over the proliferation of certain adult related businesses. The additional time was also necessary to allow for the proper public noticing and Planning Commission review of the proposed ordinance.

The attached ordinance has been prepared in response to concerns expressed by citizen groups and the business community over the adverse effect of concentrations of adult related business establishments in certain areas in the City. The ordinance was developed through the collaboration of the Planning Department, City Attorney, and City Police Department. The amendment of this ordinance was found to be necessary since the existing massage parlor ordinance has been ineffective in regulating the location of certain adult related business activities not specifically addressed by the existing ordinance.

The existing ordinance requires that massage parlors and adult entertainment activities be located at least 1000 feet from any church, park, school, residential zone, agricultural zone or another adult related business. In addition, the ordinance requires that massage parlors be subject to special permit approval prior to locating in the C-2 or less restrictive zone. Since the ordinance does not specifically address such businesses as modeling studios, escort services, bath houses, outcall massage and sexual encounter centers, there have been a number of these new adult businesses established within the City in recent years.

As proposed and amended, the ordinance will include the following provisions:

1. Massage parlors, model studios, escort services, outcall massage, bath houses, and sexual encounter centers will be specifically defined and included under the heading of "adult-related establishments".
2. The "adult-related establishments" must be located at least 1000 feet from any church, park, school, residential zone, agricultural zone or other adult business. This spacing requirement was adopted as part of the original massage parlor ordinance to discourage the concentration of these businesses in one location and to minimize the adverse effect of the adult business on other types of uses.
3. The ordinance presently requires that massage parlors be subject to special permit approval prior to location within the City. As proposed, the ordinance will extend the special permit requirements to all those uses defined under the category of "adult-related establishments".
4. The most significant change in the ordinance relates to a new section that was added to require all nonconforming "adult-related establishments" to discontinue the use within a specified period of time or gain special permit approval for additional time at the location when, in the opinion of the Planning Commission, a hardship exists. As originally presented to the Planning Commission, these nonconforming uses were to be discontinued within three years unless a special permit was approved to allow an additional two years to amortize. In response to a number of citizens who were concerned over the length of time these nonconforming uses would be allowed to remain open, the Commission recommended the amortization period be reduced to one year with up to three additional years to discontinue the use provided a special permit is granted.

5. The attached ordinance establishes a separate category for certain adult entertainment activities such as theaters, cabarets, arcades, bookstores, hotels and motels. These uses will be separated from the provisions required of other "adult-related establishments" in the Zoning Ordinance. The adult entertainment businesses will only be subject to the minimum spacing requirements. They will be required to locate at least 1000 feet from any church, school, park, residential zone, agricultural zone and any other adult related business. No special permit will be required of the use. These uses will also be exempt from the provisions requiring nonconforming adult-related establishments to discontinue the use. The adult entertainment activities have been exempted from the special permit and nonconforming requirements of the ordinance since this type of business activity is provided protection under the First Amendment.

Subsequent to the Planning Commission hearing, staff received a petition sponsored by the North Sacramento Free Press Newspaper. The petition was signed by 2720 persons and requests that the City Council take measures to remove all studios, massage parlors, or any business providing XX rated adult entertainment or activities located on Del Paso Boulevard or on its side streets. Also, there were a number of letters submitted to the Planning Department from the business community and citizens requesting the passage of measures that will effectively control the location of adult related businesses in the community. These letters are attached.


VOTE OF PLANNING COMMISSION

On July 28, 1983 by a unanimous vote, the Planning Commission recommended approval of the attached ordinance subject to amendments.

RECOMMENDATION

The staff and Planning Commission recommend the City Council approve the ordinance amendments and declare the ordinance to be an emergency measure to take effect immediately.

Respectfully submitted,


for: Marty Van Duyn
Planning Director

FOR CITY COUNCIL INFORMATION
WALTER J. SLIPE
CITY MANAGER

MVD:SC:cp
Attachments
M83-004

August 23, 1983
All Districts

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

Original Ordinance
as submitted to the
Planning Commission

28B

AN ORDINANCE AMENDING THE COMPREHENSIVE
ZONING ORDINANCE OF THE CITY OF SACRAMENTO
(ORDINANCE NO. 2550 FOURTH SERIES AS AMENDED)
PERTAINING TO ADULT-RELATED ESTABLISHMENTS,
ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION
PICTURE THEATERS, ADULT ARCADES AND ADULT
HOTELS-MOTELS AND DECLARING THE ORDINANCE TO
BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

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

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, church, temple, or other place used exclusively for religious worship, school, park, playground or similar use, are reasonably necessary and will tend to prevent said deleterious effects.

The Council further finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, Old Sacramento historical park or similar uses.

SECTION 2.

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Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read.

76. Adult-Related Establishment.

A bathhouse, escort bureau, introductory service, massage parlor, 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 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 theatre, adult arcade, or adult hotel-motel as defined in section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for hire or reward, (i) 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. A business which, for fee or other consideration, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(e) Introductory Service. A business which, for fee or other considerations will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(f) Modeling Studio. A business which provides, for fee or other consideration, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculptured, or otherwise depicted by persons paying such consideration or gratuity. This does not include schools maintained pursuant to standards set by the State Board of Education.

(g) Sexual Encounter Center. A business which provides two 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.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

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

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

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, and adult hotels-motels.

The following commercial activities, whether conducted intermittently or full time, which primarily involve the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials or the live display, exhibition, or viewing of activities, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or by an emphasis on specified anatomical areas:

(a) Adult bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial or significant 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.

(b) Adult cabaret. Adult cabaret is a building or portion thereof or area used for 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:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, used for 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.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by an 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.

(e) Adult Hotel-Motel. A hotel-motel wherein 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) 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.

(2) 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, 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.

(3) 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.

(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:

(1) That 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; and

(2) That the proposed use will not enlarge or encourage the development of a "skid row" or otherwise blighted area; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

(4) That all applicable regulation of this ordinance and the City Code will be observed.

SECTION 8.

Section 2-C-46 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
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SECTION 9.

28B

Section 12-C of the Zoning Ordinance is hereby amended to read:

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or in existence prior to the effective date of Ordinance No. 83-034 and which do not comply with the provisions of sections 2-E-24(a)(1), (a)(2), and (a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any preexisting adult-related establishment will further be subject to the provisions of this subsection.

2. No legally established adult-related establishment shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within three (3) years from the effective date of this section, all adult-related establishments which do not conform to the provisions of section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding three (3) years, but in no event exceeding five (5) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the

effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant. 28B

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) 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.

(2) 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.

(3) 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 and from any adult-related establishment.

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SECTION 11.

Section 2-C-44 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R 1	R 1 A	R 1 B	R 2	R 2 A	R 2 B	R 3	R 3 A	R 3 B	R 4	R 4 A	R 4 B	O 5	P B	F C	S C	C 1	C 2	C 3	C 4	M-1 (S)	M-2 (S)	A	F	A S
Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, adult hotels-motels																		22	22	22	22	22			

SECTION 12.

This is hereby declared to be an emergency ordinance to take effect immediately. The facts constituting the emergency are the need for this ordinance to take effect before the expiration of the current moratorium ordinance prohibiting the establishment of all adult-related establishments, which will expire on September 9, 1983.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

28B

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO (ORDINANCE NO. 2550, FOURTH SERIES AS AMENDED) PERTAINING TO ADULT-RELATED ESTABLISHMENTS, ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION PICTURE THEATERS, ADULT ARCADES AND ADULT HOTELS-MOTELS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY.

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

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, church, temple, or other place used exclusively for religious worship, school, park, playground or similar use, are reasonably necessary and will tend to prevent said deleterious effects.

The Council further finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, Old Sacramento historical park or similar uses.

SECTION 2.

Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read.

76. Adult-Related Establishment.

A bathhouse, escort bureau, introductory service, massage parlor, 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 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 theatre, adult arcade, or adult hotel-motel as defined in section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for hire or reward, (i) 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. A business which, for fee or other consideration, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

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(e) Introductory Service. A business which, for fee or other considerations will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(f) Modeling Studio. A business which provides, for fee or other consideration, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculptured, or otherwise depicted by persons paying such consideration or gratuity. This does not include schools maintained pursuant to standards set by the State Board of Education.

(g) Sexual Encounter Center. A business which provides two 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.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

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

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

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult entertainment-activity-and-adult-entertainment establishment bookstores, adult cabarets, adult motion picture theaters, adult arcades and adult hotels-motels.

Any The following commercial activity activities, whether conducted intermittently or full time, which primarily involve the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials or the live display, exhibition, or viewing of activities, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human-sex-acts, or by an emphasis on male or female genitals, buttocks, or female breasts specified sexual activities, or by an emphasis on specified anatomical areas:

Adult-entertainment-activity-and-adult-entertainment-establishment includes-the-following-

(a) Adult bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial or significant 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.

(b) Adult cabaret. Adult cabaret is a building or portion thereof or area used for 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:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, used for 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.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an 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.

(e) Adult Hotel-Motel. A hotel-motel wherein material is distinguished 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

28B

56. "Specified sexual activities" are shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or,

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

~~(c)~~ (c) Acts Use of human or animal masturbation, sexual--intercourse--or sodomy, oral copulation, coitus, ejaculation; or

~~(d)~~ (d) Fondling or ether-erotic touching of nude human genitals, pubic region, buttocks or female breasts; or

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish the particular-use an adult-related establishment in this zone

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) 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.

28B

SECTION 9

Section 12-C of the Zoning Ordinance is hereby amended to read:

28B

~~***C. MASSAGE PARLORS. The following regulations shall apply to noneconforming massage parlors in addition to the requirements of subsection "A" of this section.~~

- ~~1. Nonconforming Uses Defined. All massage parlors legally established or in existence prior to the effective date of Ordinance No. 4114, Fourth Series, shall be deemed nonconforming and may continue to operate subject to the provisions of this section.~~
- ~~2. No legally established massage parlor shall be deemed noneconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in Section 2-E-24(a) or 2-E-24(b).~~

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or in existence prior to the effective date of Ordinance No. 83-034 and which do not comply with the provisions of sections 2-E-24(a)(1), (a)(2), and (a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any preexisting adult-related establishment will further be subject to the provisions of this subsection.

2. No legally established adult-related establishment shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within one (1) year from the effective date of this section, all adult-related establishments which do not conform to the provisions of section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding one (1) year, but in no event exceeding four (4) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

28B
4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

22. Adult entertainment-establishments-and-activities 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 subsection (a) and (b) below.

(a). The location of adult-entertainment-establishments-and-activities 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.

28B

(3) 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-entertainment establishment" or "adult-entertainment-activity" adult bookstore, adult cabaret, adult motion picture theater, adult arcade or adult hotel-motel and from any adult-related establishment.

Section 2-C-44 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

SECTION 12.

SECTION 13.

MAYOR

CITY CLERK

SACRAMENTO CITY PLANNING COMMISSION

MEETING DATE July 28, 1983

ITEM NO. 32 FILE NO. P-M-83-004

GENERAL PLAN AMENDMENT ☐
COMMUNITY PLAN AMENDMENT ☐
REZONING ☐
SPECIAL PERMIT ☐
VARIANCE ☐

TENTATIVE MAP ☐
SUBDIVISION MODIFICATION ☐
ENVIRONMENTAL DET. ☐

OTHER Amend zoning Ord.

Recommendation LOCATION: Various Location throughout city

☐ Favorable ☐ Unfavorable ☐ Petition ☐ Correspondence

NAME	PROPOSERS	ADDRESS
Jerry Braden	2911 Rio Linda Blvd	SA 95815
Bob Morino		
Gary Walter	Del Paso Theatre	
Thelma Randolph		
Bill Stevenson	North Sacramento Chamber of Commerce	
Eileen Walter		
NAME	OPPOSERS	ADDRESS

MOTION NO. _____

MOTION:

	YES	NO	MOTION	2ND
Augusta	✓			
Fong	✓			
Holloway	✓			
Hunter	✓			✓
Ishmael	✓			
Larson	✓			
Silva	✓		✓	
Simpson	✓			
Goodin	✓			

- ☐ TO APPROVE
☐ TO DENY
☐ TO APPROVE SUBJECT TO COND. & BASED ON FINDINGS OF FACT IN STAFF REPORT
☐ TO DENY BASED ON FINDINGS OF FACT IN STAFF REPORT
☐ INTENT TO APPROVE/DENY SUBJECT TO COND. & BASED ON FINDINGS OF FACT DUE
☒ TO RECOMMEND APPROVAL & FORWARD TO CITY COUNCIL
☐ TO RECOMMEND APPROVAL SUBJECT TO COND. & FORWARD TO CITY COUNCIL
☐ TO RATIFY NEGATIVE DECLARATION
☐ TO CONTINUE TO _____ MEETING
 OTHER _____

FRANK L. BLAESI, MAI, SREA, SR/WA
RANDALL H. BLAESI, CRA, SCV
BRENT F. BLAESI, APPRAISER
SUZANNE L. BLAESI, APPRAISER

BLAESI & COMPANY, INC.

APPRAISALS — CONSULTANTS — FEASIBILITY STUDIES
SINCE 1953

2222 WATT AVENUE, SUITE B-3
SACRAMENTO, CALIFORNIA 95825-0579

28B
TELEPHONE
(916) 482-0270

July 26, 1983

Sharon Caudle
c/o Sacramento City Planning
927 - 10th Street #300
Sacramento, California 95814

Dear Sharon:

RE: Adult Related Business

For the hearing scheduled August 28, 1983, I would like to make the following comments.

In the course of my research for various commercial appraisals it has been reported to me that the adult businesses located in various areas in the community usually have adjacent commercial rental spaces with higher vacancy rates and lower rents than similar commercial property with no adjacent adult businesses.

Various commercial tenants in rental spaces adjacent to adult businesses have reported that in some cases they have talked with their customers who do not feel that they would come to their place of business again.

Very truly yours,

Randall H. Bläesi

Randall H. Bläesi, CRA, SCV

RHB:lw

28B



Each office is independently owned.

July 26, 1983

TO WHOM IT MAY CONCERN:

As a Realtor and business person in Sacramento for over seven years, and considering the fact that the largest portion of my business has been performed in the North Sacramento, Northgate and Del Paso Heights area, I am known as "well informed" in real estate matters. There is no doubt that zoning that allows adult book stores and massage parlors, restricts other positive development and reduces the quality of life and property values noticeably.

Sincerely,

BETTER HOMES REALTY

A handwritten signature in cursive script, reading "Anne R. Pettit".

ANNE R. PETTIT
Owner/Manager
924-1011

KIERNAN
REALTORS

28B

July 27, 1983

Marty Van Duyn, Planning Director
City of Sacramento
City Planning Department
927 Tenth St. Suite 300
Sacramento, CA 95814

Re: M83-004 Amend City Zoning Ordinance No. 2550

Dear Mr. Van Duyn;

Kiernan Realtors has been at its present location at 1906 Fruitridge Road for 19 years. The company is, therefore, very identifiable with this location at Freeport and Fruitridge. Three years ago the company spent \$20,000 redecorating the office interior. Kiernan also assisted the owner of the center in contracting the exterior painting of the building and in updating the shopping centers signage.

However, despite these improvements Kiernan Realtors has been looking at possible sites in the south area for re-locating. But, not finding a suitable location for identity purposes nor a location that makes moving costs effective, Kiernan has for the present decided to remain at 1906 Fruitridge Rd.

One of the main reasons Kiernan has looked into the possibilities of relocating has been the negative image of the shopping center at Freeport & Fruitridge. The International Escort Service and Sheri's Sauna Massage, two tenants of the center, have not been a positive element. The girls parade by our office and in the parking lot in an unusual state of dress/undress. We feel the employees and the customers of the Escort Service and the Sauna Massage are an embarrassment to our salespeople and to our clients. These two tenants of the center are not conducive to the professional image Kiernan Realtors maintains.

25

RESIDENTIAL

ADDITIONS

INDUSTRIAL

LEASES

EXCHANGES

COMMERCIAL

R
REALTOR®

Local, State, National and Worldwide Affiliation

28B

Kiernan further feels that the poor image of the center, as a result of these two tenants, has been a detriment to Kiernan Realtors in attracting many quality agents. This is the only office Kiernan Realtors has difficulty in recruiting for new agents. The company feels it has a lot to do with the poor image of the center.

Kiernan Realtors requires the office to be open in the early evening. Often the saleswomen must be "on floor" in the evening alone. Often the sales associates find it necessary to complete paperwork or meet clients at the office at night. It is a worry because of the activities at the Escort Service and Sheri's at night.

We at Kiernan Realtors, 1906 Fruitridge Rd. are in support of an ordinance requiring the regulation and/or removal of The International Escort Service at 1901 Fruitridge Rd. and Sheri's Sauna Massage at 1918 Fruitridge Rd.

Sincerely,
Kiernan Realtors


Cathleen Scharosch
Sales Associate

P. S. My husband and I are personally owners of a rental home which backs up to the parking lot of this shopping center. We have had tenants complain of the noise from the center at night. These negative elements have not enhanced the value of our property nor made the property east to rent.

C.C. Edward Inaba, Owner
Inaba Shopping Center

CITY OF SACRAMENTO

28B

DEPARTMENT OF POLICE
HALL OF JUSTICE
813 6TH STREET
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

CITY MANAGER'S OFFICE
RECEIVED
JUL 21 1983

JOHN P. KEARNS
CHIEF OF POLICE

July 21, 1983

Ref. #7-35

City Council
City of Sacramento
Sacramento, California

Members in Session:

The Sacramento Police Department strongly recommends that the City Council adopt both regulatory and zoning ordinances regulating "adult related businesses". Presently, the adult businesses have grouped themselves into three geographical areas within the City; North Sacramento (Del Paso Boulevard/Marconi Avenue area) has 13 adult businesses; Central Sacramento (downtown/29th & 30th Street areas) has 17; and South Sacramento (Stockton Boulevard/Fruitridge area) has 13.

In 1979 the City of Sacramento adopted an ordinance which regulated the operation of massage parlors. The massage parlor owners countered by changing their business names which effectively circumvented the restrictions of that ordinance. At this time there are 43 establishments in Sacramento which are considered "adult-related businesses" doing business under the labels of massage parlor, modeling studio, escort service, bath house, etc. However, our policing shows that they remain fronts for prostitution.

During a recent two month period, our Vice Detail concentrated its policing of these adult related businesses and their efforts resulted in 51 prostitution arrests from 37 establishments. These arrests confirm our opinion that many adult businesses are simply fronts for houses of prostitution.

28B

Adult business customers (and even the businesses themselves) have become choice targets for armed and strong-armed robberies, grand thefts and assaults. Also, locations in which some adult businesses are operating are contiguous to residential areas and/or small legitimate businesses which are subjected to an influx of foot and vehicular traffic far into the night and often into the early morning hours which lends itself to peace disturbances.

Additionally, less obvious criminal activity has been uncovered such as the frequent narcotics activity which takes place in these businesses. Many of the women who have been arrested in adult businesses by our officers are narcotic users. Narcotics, as well as narcotic paraphernalia, have been confiscated during some of the arrests.

We are experiencing an influx of "out of towners" who are becoming involved in adult related businesses and notice that girls are being shifted from parlor to parlor. This leads us to believe that some degree of organization between business operators is occurring. While none of the agencies with whom we have had contact can document adult businesses with "organized crime", it is apparent that adult businesses and their lucrative trade are drawing the interest of such groups.

An example of one of the "entrepreneurs" can be found in reports generated from a recent Sacramento Police Department investigation in which this man was sentenced to jail for pimping and pandering. He operated three adult businesses in our city and his method of forcing women to work as prostitutes for him was to drug them and then to film them during various sex acts while they were under the influence. Afterwards, he would blackmail them by threatening to release their pictures to their families and friends if the women refused to work at one of his businesses. This is just one of several tactics employed by these unscrupulous owners and managers.

To prevent the aforementioned problems, it is necessary that the city maintain better control of adult businesses through zoning and regulatory ordinances in order to protect our society from the low moral and criminal elements that these businesses represent.

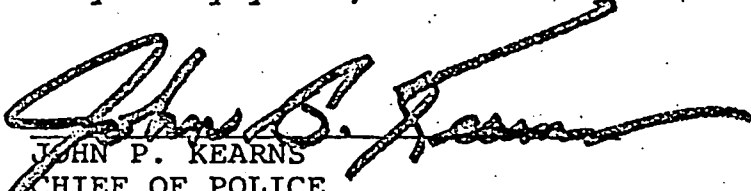
CITY COUNCIL
City of Sacramento

28B
July 21, 1983
Page Three


A zoning ordinance is needed to prevent adult businesses from locating near our schools, playgrounds, churches and residential areas. Also, a regulatory portion of the ordinance is necessary in order that permits to operate such establishments might be revoked should said businesses allow prostitution or other illegal activity to occur on the premises. In addition, the ordinance must allow the Police Department to do a thorough background check on all owners, managers and employees of adult related businesses. Presently, a background check is not required on many adult businesses and consequently, we do not know the true identities of adult business employees. Needless to say, that fact allows unsavory persons, some with extensive criminal records, to operate with impunity. This is unfair to the community which we are paid to serve and protect.

I sincerely endorse a more vigorous ordinance with which to regulate "adult related businesses".

Very truly yours,


JOHN P. KEARNS
CHIEF OF POLICE

APPROVED:


For: WALTER J. SLIPE
CITY MANAGER

28B
File Copy
M83-004

NORTH SACRAMENTO CHAMBER OF COMMERCE
1201 D DEL PASO BOULEVARD
SACRAMENTO, CA 95815

CITY PLANNING COMMISSION
915 I STREET
SACRAMENTO, CA 95814

DEAR COMMISSIONER,

THE NORTH SACRAMENTO CHAMBER OF COMMERCE HAS BEEN DEALING EXTENSIVELY WITH THE CITY PLANNING DEPARTMENT FOR THE PAST SEVERAL MONTHS AND FEEL THAT IT IS IMPORTANT TO CONTROL THE AMOUNT OF ADULT ENTERTAINMENT PLACES IN OR ALONG THE DEL PASO BOULEVARD BUSINESS COMMUNITY.

IF OUR CHAMBER'S EFFORTS FOR REVITALIZATION OF THIS IMPORTANT COMMERCIAL SHOPPING CENTER ARE TO BE REALIZED, WE FEEL THAT YOU MUST PASS A WORKABLE ORDINANCE TO ENFORCE LEGAL UTILIZATION OF PROPERTIES.

WE HAVE RELIED IN PART ON THE HELP AND ASSISTANCE FROM THE REDEVELOPMENT AGENCY AND THE COMMISSION FOR RESTORING INVESTOR CONFIDENCE IN THE BUSINESS SECTOR ALONG THE BOULEVARD. WE BELIEVE THAT THE WAY TO DO THIS IS TO MAKE A PLACE WHERE PEOPLE FEEL SAFE AND COMFORTABLE SHOPPING.

MANY BUSINESSES HAVE NOT HAD THAT CONFIDENCE AND HAVE CHOSEN TO MOVE OUT OF THE AREA, LEAVING US WITH MANY VACANT BUILDINGS.

OTHERS, ON THE OTHER HAND, HAVE PURCHASED IN THE ANTICIPATION THAT THE CITY IS GOING TO BE EFFECTIVE IN ELIMINATING ADULT BUSINESSES ALONG THE BOULEVARD.

WE URGE YOU TO ACT QUICKLY AND RESPONSIVELY.

THANK YOU.

YOURS TRULY,

7-28-83
Bill Stammerjohan
Hill
BILL STAMMERJOHAN, PRESIDENT
IMOGENE "TEDDY" HILL, EXECUTIVE VICE PRESIDENT

28B

CHAPMAN REAL ESTATE
285 ARDEN WAY
SACRAMENTO
CA 95815

CITY PLANNING COMMISSION
915 I STREET
SACRAMENTO
CA 95814

DEAR COMMISSIONER,

I AM A REAL ESTATE BROKER WHO HAS BEEN DOING BUSINESS IN THE DEL PASO BOULEVARD BUSINESS AREA FOR ABOUT 50 YEARS. I DEAL PRIMARILY IN COMMERCIAL PROPERTIES.

THE FOLLOWING POINTS ARE MY PROFESSIONAL OPINION RELATED TO REAL ESTATE APPRAISAL OF THE AREA.

1. THE BUSINESSES WHO ARE MOVING OUT OF THE AREA (SUCH AS RICH'S APPAREL) ARE MOSTLY LONG-TIME ESTABLISHED BUSINESSES WHOSE BUSINESS INCOME HAS CONSTANTLY BEEN GOING DOWN. THEY CLAIM THE REASON TO BE THAT THE PREPONDEROUS NUMBERS OF SEX-RELATED BUSINESSES ON THE BOULEVARD KEEP THEIR HERETOFOR REGULAR CUSTOMERS FROM SHOPPING ON THE BOULEVARD. THEIR FORMER CUSTOMERS SAY THEY ARE AFRAID, ACCORDING TO THESE OWNERS.

2. BUSINESSES ARE NOT MOVING IN TO THE DEL PASO BLVD AREA, ACCORDING TO THEM, BECAUSE THERE ARE SO MANY VACANT BUILDINGS AND SO MANY SEX-RELATED BUSINESSES THAT THEY DO NOT SEE THE AREA AS A GOOD BUSINESS VENTURE, LOCATION-WISE.

3. SOME NEWCOMERS, WITH VISION AND HOPE ARE BUYING IN THIS AREA BECAUSE THEY HAVE FAITH THAT THE CITY WILL FOLLOW THROUGH ON A "GET TOUGH" POLICY AND PASS AN ORDINANCE THAT WILL ENABLE THE CITY TO FOLLOW THROUGH ON MAKING THESE STREETS SAFE FOR SHOPPERS.

4. AS TO PROPERTY VALUES: SOME PROPERTY OWNERS ARE LOSING MONEY BECAUSE THEIR RENT AMOUNT IS TIED TO THE AMOUNT OF BUSINESS THEIR TENANT DOES, AND IN THOSE CASES (AS WITH BEN FRANKLIN STORES) WHERE THE BUSINESS IS LOSING MONEY DAILY, THE PROPERTY OWNER AND THE BUSINESS OWNER ARE BOTH LOSING MONEY.

I HOPE THAT THIS ASSESSMENT WILL HELP YOU IN DETERMINING THE NEEDS OF THIS BUSINESS COMMUNITY.

YOURS TRULY,


VIRGIL CHAPMAN

7-28-83

31

28B

BEN*FRANKLIN®



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July 28, 1983

City Planning Commission
915 I Street
Sacramento, Ca. 95814

Dear Commissioners:

I have a major decision to make this week, a decision that will drastically effect not only my future but the future of my employees.


I must decide this week as to whether to renew my lease or relocate elsewhere.

I have been doing business on the boulevard for twenty-nine (29) years. I have seen good times as well as bad times with the present being the worst. Customers are affraid to shop on the boulevard due to the lawlessness on the streets. Much of which is caused by sex related businesses. In fact, I have had to eliminate night openings due to the fear of the boulevard.

I feel that my time on the boulevard is limited due to these problems. The question is do I listen to long time businesses such as Rich's Apparel who is now closed and who believe that the city will never pass an ordance to correct this situation or to new comers who say that the city is seriously interested in our community?

I seriously urge that and ordance be passed to eliminate sex related businesses throughout Sacramento.

Sincerely yours,


Gerald D. Winger
President

28B

THE SCREEN MACHINE
1201 DEL PASO BLVD
SACRAMENTO CA 95815

CITY PLANNING COMMISSION
915 I STREET
SACRAMENTO, CA 95814

DEAR COMMISSIONER,

I RECENTLY PURCHASED PROPERTY ON THE BOULEVARD BECAUSE I HAVE GREAT FAITH IN THE CITY, AND TRULY BELIEVE THAT YOU WILL FOLLOW THROUGH ON HELPING OUR BOULEVARD GET CLEANED UP OF BUSINESSES THAT CAUSE US TO LOSE PRIDE IN OWNERSHIP, AND LESSEN PROPERTY VALUES.

WE HOLD THE POSITION THAT WE HAVE TO DO OUR SHARE TO HELP YOU AND YOU HAVE TO DO YOUR SHARE TO HELP US.

I HAVE SUCH FAITH IN YOU THAT I HAVE ALREADY BEGUN TO IMPROVE OUR PROPERTY. WE HAVE PAINTED, PURCHASED NEW AWNINGS, AND CLEANED UP OUR IMMEDIATE AREA.

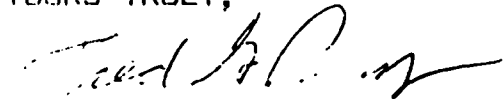
WE HAVE HELPED REACTIVATE THE NORTH SACRAMENTO CHAMBER OF COMMERCE AND ARE DONATING SPACE AND SERVICES THAT WILL ULTIMATELY LEAD TOWARD THE ENHANCEMENT OF THE ENTIRE COMMUNITY.

WE KNOW THAT ALL OUR TIME, LABOR, AND MONEY WILL BE TO VERY LITTLE AVAIL, IF YOU DO NOT DO YOUR PART IN PASSING THIS ORDINANCE.

I HAVE FAITH THAT YOU WILL... I URGE YOU TO DO SO.

THANK YOU.

YOURS TRULY,



FRED PERRY
THE SCREEN MACHINE

7-28-83

7-25-83

286

CITY PLANNING DEPARTMENT

JUL 27 1983

RECEIVED

Dear City planning Dept

Re: 83-004

We are in favor of any Ordinance
regarding M82-004 to tighten laws
on such business.

We are property owners for 20 years
and do not care to see such business
in our neighborhood. We wish to keep
North Sacramento a clean place to live.

Thank you
Bill & Dorothy Mullins

July 23, 1983
City Planning Department
927 20th St. Suite 300
Sacramento, Ca. 95815

286

Re: M.83-004 Amend City Zoning Ordinance 2550-4 Series

Dear Members,

Just a note from my husband and
I expressing our appreciation and backing
in your efforts to place stronger control
over undesirable establishments in any neighborhood.
Keep up the good work.

Our thanks again

Marion Patchiff

Herb Patchiff

1625 Alameda Way

Sacramento, Ca. 95815

City Planning Dept

Re: M 83-004

288

Dear Sir:

I am writing to let you know that I do not want to have any of the following establishments in our neighborhood, viz. billiard, pool, etc.

except service, marriage establishment modeling shops, or any other kind of that nature.

RECEIVED

Any ordinance that would keep out all above would be ordered.

by me, on the lighting of any shooting laws or rules I think we have too many of the above types of businesses.

Yours Truly
(Mr. B. B. Packard)
Mrs. B. B. Packard
2635 Euclid Way
Berkeley, Ca 94705

July 25, 1983

286

City Planning Department
927 - 10th Street Suite 300
Sacramento, Ca 95814

Re: M83-004 Amend City Zoning Ordinance
2550 - CITY PLANNING DEPARTMENT

JUL 26 1983

Dear Members:

RECEIVED

We would like to take this opportunity to let you know you have our support and appreciation in trying to get stronger control over questionable establishments that invade any neighborhood.

We appreciate your effort on our behalf.

Bill & Nancy Sheldon
1032 Olivera Way
Sacto, Ca 95815

Decremento, C/17
July 25, 1983

CITY PLANNING DEPARTMENT

JUL 26 1983 286

City Planning Commission RECEIVED

Re: M83-004

I am in favor of any ordinance which will tighten laws pertaining to bathhouses, escort services, massage establishments, modeling studios, sexual encounter studios or similar type businesses, especially in our neighborhood of the North Side. What

I am now and have been a property owner at this same address for over 33 years. I would like to live comfortably in this neighborhood the remaining years of my life and this can not be done with this type in our neighborhood.

Please help us keep them out.

Thank You Kindly,
John Mitchell

286

July 25, 1983
CITY PLANNING DEPARTMENT

City Planning Department
927 J Street - Suite 300
Sacramento, California 95814

JUL 26 1983

RECEIVED

Re: M 83-004 Amend City Zoning Ordinance #2550 - 4th Series

Dear Members;

We fully support any Ordinance change that will
strengthen the existing laws governing the types
of businesses listed in this Ordinance Change request.

As a homeowner of the North Sacramento area
we are very tired of being used as a dumping
ground for this type of garbage -

Respectfully,

John F. Busker

Dorothy J. Busker

1036 Olivera Way
Sacramento, California

95815

Mr. John Henry Keller
1048 Oliver Way
Beverly Hills, Calif 91605

As home owner in North Hollywood we
fully support any Ordinance change that will
strengthen the existing laws relating to adult
entertainment.

Members

Re = M 83-004 General City Zoning Ordinance #2550
4th Avenue

City Planning Department
927 West Street - Suite 300
Beverly Hills, Calif 91604

RECEIVED

JUL 27 1983

CITY PLANNING DEPARTMENT

July 25, 1983

7-25-83

28B

CITY PLANNING DEPARTMENT

JUL 27 1983

RECEIVED

Dear City planning Dept.

Re: 83-004

We are in favor of any Ordinance
regarding M82-004 to tighten laws
on such business.

We are property owners for 20 years
and do not care to see such business
in our neighborhood. We wish to keep
North Sacramento a clean place to live.

Thank you
Bill & Dorothy Mullins

42

Dear Mr. [unclear]
New York
9th St. Apt. 300
1635 Avenue B, E. 95815
New York, N.Y. 10023

Keep up the good work.

I appreciate our association and backing
in your efforts to place stronger sentiment
over undesirable establishments in our neighborhood.

Dear Members,

Re: M 83-004 Amend City zoning Ordinance 2550-4th Ave

City Planning Department
927 10th St. Suite 300
Brooklyn, N.Y. 11215

288

July 25, 1983

7/25/83

City Planning Dept.

28B

Re: M83-004

Dear Sirs:

I am writing to let you know that I do not want to have any of the following establishments in our neighborhood. i.e.: bathhouses, escort service, massage establishment modeling studios, sexual encounter centers or anything else of that nature.

Any ordinance that would keep out the above would be endorsed by me, or the tightening of any existing laws or rules.

I think we have too many of the above types of businesses.

Yours truly
(Mrs. Bertha M. Packard)
Mrs. B. B. Packard
2635 Encenada Way
Sacramento, Ca 95815

28B

July 25, 1983

City Planning Department
927 - 10th Street, Suite 300
Sacramento, Ca 95814

Re: M83-004 Amend City Zoning Ordinance
2550 - 4th Street

CITY PLANNING DEPARTMENT

JUL 26 1983

Dear Members:

RECEIVED

We would like to take this opportunity to let you know you have our support and appreciation in trying to get stronger control over questionable establishments that invade any neighborhood.

We appreciate your effort on our behalf.

Bill & Nancy Sheldon
1032 Olivera Way
Sacto, Ca 95815

286
Sacramento, CA
July 25, 1983

CITY PLANNING DEPARTMENT

JUL 26 1983

City Planning Commission RECEIVED

Re: M83-004

I am in favor of any ordinance which will tighten laws pertaining to bathhouses, escort services, massage establishments, modeling studios, sexual encounter studios or similar type businesses, especially in our neighborhood of the North Sacto. West

I am now and have been a property owner at this same address for over 33 years. I would like to live comfortably in this neighborhood the remaining years of my life and this can not be done with this type in our neighborhood.

Please help us keep them out.

Thank You Kindly,
John Mitchell

28B

July 25, 1983
CITY PLANNING DEPARTMENT

JUL 26 1983

RECEIVED

City Planning Department
927 Jenth Street - Suite 300
Sacramento, California 95814

Re: M 83-004 Amend City Zoning Ordinance #2550 - 4th Sec

Dear Members;

We fully support any Ordinance change that will strengthen the existing laws governing the types of businesses listed in this Ordinance Change request.

As a homeowner of the North Sacramento area we are very tired of being used as a dumping ground for this type of garbage.

Respectfully,

John F. Busher

Dorothy J. Busher

1036 Olivera Way
Sacramento, California

95815

28B

July 25, 1983

CITY PLANNING DEPARTMENT

City Planning Department
927 Tenth Street - Suite 300
Sacramento, Calif 95814

JUL 27 1983

RECEIVED

Re = M 83-004 Amend City Zoning Ordinance #2550
4th series

Members

As home owners in North Sacramento we
fully support any Ordinance change that will
strengthen the existing laws relating to adult
establishments.

Mr. & Mrs. George Kotae
1028 Olivera Way
Sacramento, Calif 95815

City Planning Commission
Sacramento, California

Members in Session:

- SUBJECT: 1. Environmental Determination
2. Amendment of the Zoning Ordinance pertaining to adult-related establishments, adult bookstores, adult cabarets, adult motion picture theaters, adult arcades and adult hotels-motels and declaring the ordinance to be an emergency measure to take effect immediately.

SUMMARY: The existing ordinance restricts the location of massage parlors and certain adult entertainment businesses by establishing a minimum distance within which these uses can locate from residential uses, parks, schools, churches, and other adult businesses. The attached ordinance will expand the definitions to include other similar adult related businesses that have established since the original ordinance was adopted in 1978. These new businesses include model studios, escort and introductory services, out-call massage, bath houses, sexual encounter centers and other similar uses not previously specified. The reason these businesses are being included in the ordinance is due to the similar nature of these uses to the adult related activities currently defined in the ordinance, and it is believed these new uses will have an adverse effect on adjacent properties unless their location is restricted. This ordinance will also require that these new uses and massage parlors that are rendered non-conforming due to their location will be required to discontinue within three to five years.

BACKGROUND INFORMATION: On March 8, 1983 the City Council adopted an ordinance enacting a moratorium against the establishment of certain adult related businesses. These adult businesses include modeling studios, escort and introductory services, bath houses, sexual encounter centers, out-call massage and other similar adult businesses. The moratorium was established to allow staff time to prepare an ordinance that would address concerns expressed by community groups over the proliferation of these businesses in recent years. The moratorium was recently extended to September 8, 1983 by the City Council since the ordinance was not yet ready for review.

The existing ordinance, which was adopted in 1978, requires that massage parlors be subject to special permit approval prior to locating in the City. The ordinance also requires that massage parlors and adult entertainment activities be located at least 1,000 feet from residential uses, churches, schools, parks and other similar adult businesses. Since the existing ordinance did not clearly identify the new adult related activities, a number of these establishments have clustered in certain locations throughout the City.

Staff has contacted a number of business persons in the community who are experienced in the field of real estate and property valuation. Some of these individuals have indicated that the location of adult related establishments have a negative effect on adjacent land uses. They also indicated that commercial spaces that are adjacent to adult related businesses have a higher vacancy rate and lower rents than other similar commercial property. It has been stated that the owners of property located next to adult business establishments have a difficult time renting space to other types of uses. (See Exhibit 'C' for letters submitted by these individuals.)

At the time the moratorium was established there were approximately 200 different adult businesses in 180 locations according to a list of tax certificates issued by the City. In the processes of reviewing each site, the City Police and Planning staff found that a number of these businesses had closed. In addition, some of the addresses used to obtain the tax certificate were fictitious or were listed in error, and these businesses have been removed from the list of active adult businesses. Staff also found that a number of tax certificates were issued on residentially zoned property which is in violation of the zoning code. There are approximately 20 tax certificates issued in residentially zoned property, and the holders of these certificates will be noticed that they are in violation of the zoning requirements. Since the moratorium a number of adult business establishments have closed or moved outside of the City. In compiling an updated list of existing adult related businesses, adult theaters, adult bookstores, adult cabarets, adult arcades and adult motels, staff has eliminated those businesses that have been closed or that are located in residential zones. The revised list shows that there are approximately 70 adult related business establishments located within the City in 45 separate locations.

In an effort to address the problems associated with the concentration of adult related businesses, staff has developed the attached ordinances (see Exhibits A & B) that establish land use controls and licensing regulation for enforcement purposes. The attached zoning code amendments (Exhibit 'A') are intended to regulate the establishment and location of these uses. Staff is requesting that the Planning Commission review this ordinance and make a recommendation to the City Council who will be considering the subject on August 9, 1983. The regulatory measures attached in Exhibit 'B' are for the information of the Commission only.

The following is a brief summary of the proposed ordinance amendments for adult related businesses:

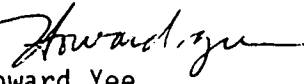
1. The attached ordinance amendment will expand the definition section of the ordinance to include modeling studios, escort and introductory services, bath houses, out-call massage, sexual encounter centers and other similar adult related businesses. This provision was necessary to ensure that all known adult businesses, as well as those that may be developed in the future, be subject to the requirements outlined in the ordinance. In addition, a separate category of adult businesses, such as bookstores, cabarets, arcades, theaters, hotels and motels has been established.
2. The proposed ordinance will ensure that these new uses be subject to the existing spacing requirements of 1,000 feet from any church, park, school, residential use or other similar adult business. Staff surveyed the amount of land where these adult businesses can be located and determined that approximately 4,000 acres of land would be available under the 1,000 spacing requirement. If the distance requirement was reduced to 500 feet, there would be approximately 5,000 acres of land in which these uses could locate. Some of this land is, however, undeveloped at this time. Most of the available space is in large tracts of industrially-zoned land. These large areas consist of industrial land east of Power Inn Road, the Richards Boulevard industrial area, the Main Avenue Business Parks and the industrial land adjacent to Highway 160.

3. The adult related business establishments which include model studios, escort and introductory services, out-call massage, massage parlors, bath houses, sexual encounter centers and other similar activities, will require a special permit to locate in the general commercial or less restrictive zones. These uses must also be located at least 1,000 feet from any residential use, school, park, church or similar adult related establishment. In approving a special permit for this use, the Planning Commission must find that the proposed use will not adversely affect neighboring properties or the welfare of the community.
4. Adult book stores, adult theaters, adult cabarets, adult arcades and adult hotels and motels will not be allowed to locate within 1,000 feet of residential uses, schools, parks, churches or other adult related business establishments. A special permit will not be required for these uses.
5. The adult-related establishments, such as model studios, escort and introductory services, out-call massage, massage parlors, bath houses, sexual encounter centers and other similar businesses will be required to conform to the ordinance or discontinue the use. The existing businesses will be allowed up to three years to conform to the zoning code or discontinue the use. If the Planning Commission determines that an undue financial hardship will result from the closure, a special permit may be granted for an additional two years, at which time the activity must be discontinued. The special permit approval may also be subject to conditions necessary to ensure that the intent and purpose of the ordinance is maintained.

STAFF RECOMMENDATION: Staff recommends the following actions:

1. Ratify the Negative Declaration;
2. Recommend approval of the attached ordinance amendment in Exhibit A.

Respectfully submitted,


Howard Yee
Principal Planner

SC:bw

Attachments



CITY OF SACRAMENTO

DEPARTMENT OF LAW
812 TENTH STREET
SUITE 201
SACRAMENTO, CA 95814
TELEPHONE (916) 448-5346

July 13, 1983

28B
JAMES P. JACKSON
City Attorney
THEODORE H. KOBEY, JR.
Assistant City Attorney
LELIAND J. SAVAGE
SAMUEL L. JACKSON
WILLIAM P. CARNAZZO
DIANE B. BALTER
RICHARD F. ANTOINE
Deputy City Attorneys

Honorable City Council
City of Sacramento
City Hall
Sacramento, California

CITY MANAGER'S OFFICE
RECEIVED
JUL 14 1983

In re: Zoning and Regulatory Ordinances Dealing With
Adult-Related Establishments

Members in Session:

SUMMARY

It is recommended that the zoning and regulatory ordinances dealing with adult-related establishments be passed for publication and adopted by the City Council on August 9, 1983.

BACKGROUND

In response to recent proliferation of adult-related establishments in the City, and because of the ineffectiveness of existing zoning and regulatory ordinances in dealing with land use and crime-related problems associated with such establishments, the City Council on March 8, 1983 imposed a four-month moratorium on new adult-related businesses. That moratorium was recently extended to September 8, 1983. The purpose of the moratorium was to provide time for development of new zoning and regulatory measures designed to deal with the problems associated with adult businesses. Since the City Council asked that these measures be presented in July, the attached ordinances are submitted to be passed for publication and set for City Council hearing on August 9, 1983. In the interim, the Law and Legislation Committee can review the matter, and the Planning Commission can review the zoning ordinance changes.

The Police Department and Planning Department will submit staff reports on these ordinances for the hearings. The following, however, is a brief description of each ordinance.

1. Zoning Ordinance

The revisions to the zoning ordinance retain the 1000-foot spacing requirements. However, the definition of adult-related establishments covered by the spacing provisions is expanded, with

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the intent that virtually any adult business is subject to the ordinance. The reason for broadening the definitions is that new adult businesses which offer the same "services" as massage parlors have evaded the current ordinance by calling themselves "escort service", "modelling studio", "encounter center", and similar names.

Under the revised ordinance, all adult businesses except for bookstores, theatres, cabarets, arcades, and adult hotels or motels are subject to a three year amortization period if they are a non-conforming use on the effective date of the ordinance. Under certain circumstances, that period can be extended to five years.

2. Regulatory Ordinance

This ordinance will replace the existing "massage parlor" ordinance, which has proven ineffective to deal with regulatory problems of adult businesses, mainly because new establishments evade its terms by using other names. Under the new ordinance, "adult-related establishments" is broadly defined to include virtually all adult businesses. Specifically excluded are bookstores, theatres, arcades, cabarets, and adult hotels or motels.

The new ordinance establishes a permit process whereby both the establishment and each employee who provides the specified services is required to obtain an annual permit. To obtain the permit, an application must be filed with the Chief of Police who will do the necessary background investigation to ensure that the facility will not conduct or allow illegal activity on the premises. The City Manager will, after the investigation and recommendation of the Chief of Police, take action on the application. Once issued, permits are subject to revocation on enumerated grounds, and must be renewed annually on application.

In the past, there has been some confusion between the "business operation tax certificate" and a regulatory permit. This ordinance makes it clear that the two are separate and distinct, so that if a business is indeed covered by the new ordinance, both the tax certificate and the permit are required prior to operation.

RECOMMENDATION

It is recommended that the attached zoning and regulatory ordinances be passed for publication, set for hearing on August 9, 1983, and adopted on that date.

Respectfully submitted,

JAMES P. JACKSON, City Attorney

RECOMMENDATION APPROVED:

Sidon Winkham Jr.
CITY MANAGER

For:

William P. Carnato
WILLIAM P. CARNATO
Deputy City Attorney

WPC:kn
Attachments

52



CITY OF SACRAMENTO

28 (18)

DEPARTMENT OF LAW

812 TENTH STREET
SUITE 201

SACRAMENTO, CA 95814
TELEPHONE (916) 449-5346

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July 13, 1983

CITY MANAGER'S OFFICE
RECEIVED
JUL 14 1983

Honorable City Council
City of Sacramento
City Hall
Sacramento, California

In re: Zoning and Regulatory Ordinances Dealing With
Adult-Related Establishments

Members in Session:

PASSED FOR
PUBLICATION
& CONTINUED
TO 8-9-83

SUMMARY

It is recommended that the zoning and regulatory ordinances dealing with adult-related establishments be passed for publication and adopted by the City Council on August 9, 1983.

BACKGROUND

In response to recent proliferation of adult-related establishments in the City, and because of the ineffectiveness of existing zoning and regulatory ordinances in dealing with land use and crime-related problems associated with such establishments, the City Council on March 8, 1983 imposed a four-month moratorium on new adult-related businesses. That moratorium was recently extended to September 8, 1983. The purpose of the moratorium was to provide time for development of new zoning and regulatory measures designed to deal with the problems associated with adult businesses. Since the City Council asked that these measures be presented in July, the attached ordinances are submitted to be passed for publication and set for City Council hearing on August 9, 1983. In the interim, the Law and Legislation Committee can review the matter, and the Planning Commission can review the zoning ordinance changes.

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18

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Under the revised ordinance, all adult businesses except for bookstores, theatres, cabarets, arcades, and adult hotels or motels are subject to a three year amortization period if they are a non-conforming use on the effective date of the ordinance. Under certain circumstances, that period can be extended to five years.

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This ordinance will replace the existing "massage parlor" ordinance, which has proven ineffective to deal with regulatory problems of adult businesses, mainly because new establishments evade its terms by using other names. Under the new ordinance, "adult-related establishments" is broadly defined to include virtually all adult businesses. Specifically excluded are bookstores, theatres, arcades, cabarets, and adult hotels or motels.

The new ordinance establishes a permit process whereby both the establishment and each employee who provides the specified services is required to obtain an annual permit. To obtain the permit, an application must be filed with the Chief of Police who will do the necessary background investigation to ensure that the facility will not conduct or allow illegal activity on the premises. The City Manager will, after the investigation and recommendation of the Chief of Police, take action on the application. Once issued, permits are subject to revocation on enumerated grounds, and must be renewed annually on application.

In the past, there has been some confusion between the "business operation tax certificate" and a regulatory permit. This ordinance makes it clear that the two are separate and distinct, so that if a business is indeed covered by the new ordinance, both the tax certificate and the permit are required prior to operation.

RECOMMENDATION

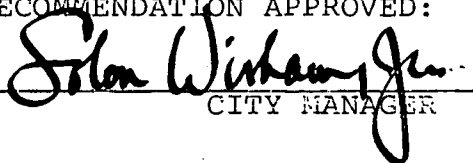
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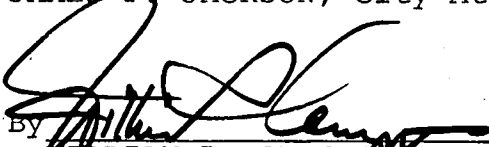
Respectfully submitted,

RECOMMENDATION APPROVED:

JAMES P. JACKSON, City Attorney

For:


CITY MANAGER


BY
WILLIAM P. CARNAHAN
Deputy City Attorney

WPC:kn
Attachments

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF
AN ORDINANCE REPEALING CHAPTER 28, ARTICLE IV,
RELATING TO MASSAGE PARLORS AND ADDING CHAPTER 28
ARTICLE IV, RELATING TO ADULT-RELATED ESTABLISHMENTS
AND DECLARING THIS ORDINANCE AN EMERGENCY TO TAKE
EFFECT IMMEDIATELY

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

SECTION 1. Findings.

There has been a proliferation throughout the City of Sacramento of commercial adult-related establishments such as escort bureaus, introductory services, public bathhouses, model studios, sexual encounter centers and similar businesses which offer patrons services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas (other than adult bookstores, adult motion picture theater, adult cabarets and adult arcades, adult hotels and motels.)

While the City Council is simultaneously addressing the deleterious effects of proliferation through zoning ordinance amendments, there are other effects related to such businesses which are properly addressed through a regulatory ordinance designed to ensure that illegal activities do not take place on the premises or otherwise in connection with the business.

In the City of Sacramento there is a demonstrable relationship between high incidence of unlawful prostitution and drug-related crime, and the adult-related establishments covered by this ordinance. Such businesses operate as fronts for houses of prostitution, and for illegal drug related transactions. The

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massage parlor ordinance, repealed by this ordinance, while effective in some respects does not serve to control illegal activities in other types of adult-related establishments. New and existing businesses, to evade the massage parlor ordinance, have changed their names to escort bureaus and others identified in this ordinance.

A system of requiring regulatory permits for establishments and for those persons rendering services to customers will assist in ensuring that illegal activities do not occur on the premises or otherwise in connection with the business. Extensive police and safety and health-related screening will occur prior to issuance of a permit, and upon renewal. If criminal activity occurs on the premises, or if other provisions of this ordinance are violated, establishment and individual permits are subject to revocation. Criminal liability also exists for violation of the ordinance. These provisions will provide the police department with both preventative and investigatory tools to control illegal activity in such businesses, and will promote and protect the public health, safety and welfare.

By expanding the definition of "adult-related establishment," it is the intent of the City Council to prevent evasion of the provisions of this ordinance through the device of calling the business by a new or different name. If specified sexual activities are involved, or if specified anatomical areas are displayed, this ordinance is intended to apply to both the premises and the individuals who provide such services to

patrons, regardless of the individual's title or position, or of ¹⁸
the name given to the business.

SECTION 2.

Repeal of Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is repealed.

SECTION 3.

Addition of New Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is added, to read as follows:

PERMITS

ARTICLE IV. Adult-Related Establishments

Sec. 28.40 Definitions.

For the purpose of this article, 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, introductory service, 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 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 motion picture theater, adult mini motion picture theater, adult hotel or motel, or cabaret, as defined in Section 22 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended.

(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 to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(i) Introductory service. "Introductory service" means a business which, for pecuniary compensation, consideration, hire or reward will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(j) 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.

(k) 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.

(l) 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.

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

(n) Modeling Studio. "Modeling Studio" means a business which provides, for pecuniary compensation, 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.

(o) Operate an Adult-Related Establishment. As used in this article "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 out call massage service or activities within a massage establishment.

(p) Out-Call Massage Service. "Out-Call Massage Service" means any business, not licensed as a massage establishment under the provisions of this article, 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.

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

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

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

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

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

(3) 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).

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."

(t) Sexual Encounter Center. "Sexual Encounter Center" means a business which provides two 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.

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

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

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

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

(1) 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

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the following depicted sexually oriented acts or conduct: anal-
lingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio,
necrophilia, pederasty, pedophilia, piquerism, sapphism,
zooerasty; or

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

(3) Use of human or animal masturbation, sodomy, oral copu-
lation, coitus, ejaculation; or,

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

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

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

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

Sec. 28.41 Permit required for operation of an adult-related
establishment.

It shall be unlawful, a misdemeanor and a public nuisance for
any person to operate an adult-related establishment as owner
or otherwise, unless the owner thereof has first received an
adult-related establishment permit.

Sec. 28.42 Application for permit for an adult-related
establishment.

(a) Any person desiring to obtain a permit to operate an
adult-related establishment shall apply to the Chief of Police
on a form provided by the City Clerk. Before submitting such

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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 chapter. 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:

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

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

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

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

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

(6) Two portrait photographs at least 2" x 2" of the applicant and any operator;

(7) The business license or tax certificate history of the applicant and any operator, whether such person in

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previously operating in this or another city, county or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(8) All convictions of any person with an ownership interest and any operator of offenses specified in Section 28.48 within five (5) years of the date of application;

(9) 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; and

(10) 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) In addition to the information required under subsections (b) and (c) above, the applicant and any operator of a massage establishment or out call massage service must furnish a

diploma or certificate of graduation from a recognized school of massage, provided, however, that no such diploma or certificate must be provided for any applicant or operator who will not have physical contact with any customer or client.

(e) The Chief of Police may take fingerprints and additional photographs of the applicant and any operator, and may confirm the height and weight of the applicant and any operator.

(f) The application for a permit does not authorize conducting an adult-related establishment until such permit has been granted. The issuance of a Business Operation Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize conducting an adult-related establishment until the necessary regulatory permit has been lawfully granted.

Sec. 28.43 Corporate applicants; exemption.

The provisions of Section 28.42(b)(4), (5), (6), and (8), 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.

Sec. 28.44 Additional permits required.

(a) No person shall give a massage for a fee or any other form of consideration unless a massage technician's permit is first obtained.

(b) No person shall act as an "escort" unless an escort permit is first obtained.

(c) No person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained.

The issuance of a Business Operations Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize 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.

Sec. 28.45 Application for massage technician, escort or figure model permit.

(a) An application for a massage technician, 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 chapter. 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) Two 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;

(8) Whether the applicant has been convicted of any offense specified in Section 28.48 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 therefor 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 may take fingerprints and a photograph of the applicant and may confirm the information submitted.

Sec. 28.46 Verification of application.

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

Sec. 28.47 Investigation and recommendations.

(a) Upon receiving an application for an adult-related establishment permit, the Chief of Police shall:

(1) Within a reasonable period, not exceeding 90 days of the filing of the application, investigate the application and recommend approval or denial to the City Manager; and

(2) Within 10 days, refer the application to the Division of Building Inspections, the Fire Department and the Sacramento County Health Department.

The Division of Building Inspections, the Fire Department and the Sacramento County Health Department shall inspect the premises and make separate recommendations to the City Manager, within 30 days of the filing of the application. The applicant shall pay a fee established by the City Council to the County Health Officer to reimburse the County Health Officer's public health services for their inspection.

(b) Upon receiving an application for a massage technician, escort or figure model permit, the Chief of Police shall investigate the application and recommend approval or denial to the City Manager within 60 days.

Sec. 28.48 Issuance of permit for an adult related establishment.

(a) The City Manager shall act on the application for an adult-related establishment permit within 120 days after the filing of such application, and shall issue the permit if all requirements for an adult-related establishment described in this section are met, unless the City Manager finds:

(1) 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 Building, Health, Housing and Fire Codes of the City of Sacramento.

(2) 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 266i, 355, 316, 318, or subdivision

(b) of Section 647 of the California Penal Code, any offense requiring registration under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale 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 above if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

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

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

(6) 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.

Sec. 28.49 Issuance of massage technician, escort or figure model permit.

(a) The City Manager shall act on the massage technician, escort or figure model application within 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 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration

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under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, and 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 such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

(3) That the applicant has had a massage technician, 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.

Sec. 28.50 Appeals.

(a) Adult-related establishment permits. Any applicant aggrieved by the decision of the City Manager relating to the issuance or denial of a permit for an Adult-Related Establishment

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.

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.

(b) Massage technician, 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, 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.

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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.

(c) Appointment of Hearing Examiner. The City Council may employ the procedure specified in Safety Code §§2.323 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 §2.327, and judicial review shall be governed by §2.328.

Sec. 28.52 Term and renewal of adult-related establishment permits.

(a) The term of an adult-related establishment permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year on written application to the Chief of Police. The application shall be filed at least one-hundred-twenty (120) days but not more than one-hundred-fifty (150) days prior to the expiration date of the current valid permit. The applicant shall follow all the procedures and provide

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all of the information required by Section 28.42 of this article and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.48 of this article.

Sec. 28.52 Term and renewal of massage technician, escort and figure model permits.

(a) The term of a massage technician, escort or figure model permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year 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 28.45 of this article, and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.49 of this article.

(c) For purposes of this section, the "expiration date" of a massage establishment or out call massage service permit granted prior to (amendment date), 1983, shall be deemed to be (one year from amendment date), 1984.

Sec. 28.53 Name and place of business -- change of location.

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

Sec. 28.54 Waiver of application requirements.

The City Manager shall waive the requirements of Section 28.42(d) and 28.45(c) of this article if the applicant presents satisfactory evidence of attendance of not less than one hundred (100) hours of instruction at a school within or outside this state or in any foreign country that provides education substantially equal to or in excess of the education requirements of this article.

Sec. 28.55 Revocation or suspension of Adult-Related Establishment permit.

(a) Any permit issued for an adult-related establishment may be revoked or suspended by the City Manager, after a hearing, in any case where any of the provisions of this article are violated, when the permittee, operator, or any employee of the permittee or operator, including a massage technician, escort or figure model, has engaged in conduct which violates any state law or city ordinance at the adult-related establishment and the operator or permittee knew or, with the exercise of reasonable diligence should have known of such violations at the time they occurred, or in any case, where the operator refuses to permit any duly authorized city police officer or health inspector of

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the County of Sacramento to inspect the premises or the operations therein during the hours such premises are open for business. Such permit may also be revoked or suspended after hearing when such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation and hygiene.

(b) The City Manager shall hold a public hearing prior to the revocation or suspension of any permit under subsection (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.

(c) The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the permittee.

Sec. 28.56 Revocation of massage technician, escort or figure model permit.

After following the procedure in Section 28.55(b), the City Manager may revoke or suspend a massage technician, escort or figure model permit for conviction of any of the crimes specified in Section 28.49. The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the massage technician, escort or figure model.

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Sec. 28.57 Appeals of suspension or revocation of Adult-Related Establishment permit or massage technician, escort or figure model permit.

Any permittee aggrieved by the decision of the City Manager in suspending or revoking a permit may, within ten (10) days after the date such decision is mailed to the permittee, appeal to the Council by filing a written notice thereof with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Manager shall be final. The appeal shall be noticed, set for hearing, heard and determined in the manner prescribed in Section 28.50.

Sec. 28.58 Judicial review.

Judicial review of any final decision under §28.50 or §28.57 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.

Sec. 28.59 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-related establishment. The services available shall be described in readily understandable language. No adult-related establishment shall render or provide, or offer to render or provide, any service not listed in accordance with this section.

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Sec. 28.60 Register of massage technicians, 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 must 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) 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 Article, their permit numbers.

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

Sec. 28.61 Massage technician, escort and figure model identification card.

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

Sec. 28.62 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-related establishment to employ any person who is not at least eighteen (18) years of age.

Sec. 28.63 Requirements for massage establishments.

(a) No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage. No person shall perform a massage on a member of the general public while on the premises of a school of massage.

(b) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Towels, coverings and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(c) Wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

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(d) Instruments for massage shall not be used on more than one patron unless they are sterilized before each use by approved sterilization methods.

(e) All massage technicians shall wear garments which cover the entire body, exclusive of the head, neck, arms, legs, hands and feet, while giving a massage. Such garments shall not be transparent.

Sec. 28.64 Sanitation requirements for bathhouses.

Towels shall not be supplied to more than one patron unless such towels have first been laundered and disinfected. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once a day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

Sec. 28.65 Display of permit.

(a) Every adult-related establishment granted a permit, except an out call massage service, shall display said permit in a conspicuous place within the adult-related establishment so that the same may be readily seen by persons entering the premises.

(b) Permittees engaged in an out call massage service must have their permit available for inspection at all times while providing out call massage services.

Sec. 28.66 Business Operations Tax.

Nothing in this chapter shall relieve the owner of any adult-related establishment, or any massage technician, figure model or escort from paying the applicable business operations tax pursuant to Chapter 23 of the Sacramento City Code. The issuance of a business tax certificate shall not authorize conducting an adult related establishment, the giving of a massage, or acting as a figure model in a modeling studio, or acting as an escort, until the necessary regulatory permit has been lawfully granted.

Sec. 28.67 Transfer of permit.

(a) Upon sale, transfer or relocation of an adult-related establishment, 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.

No adult-related establishment 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

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of Police with the receipt or a copy thereof at the time of applying for a transfer under this section.

(b) Massage technician, escort and figure model permits shall not be transferable.

Sec. 28.68 Employment of massage technicians, 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 article. 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 article.

(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 article. 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 article.

(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 article. 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 article.

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(d) 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 28.48, where the offense occurred at the adult-related establishment or any adult-related establishment owned, controlled or operated by the permittee or operator.

Sec. 28.69 Hours of operation.

No adult-related establishment shall operate or remain open for business between the hours of 10:00 P.M. and 8:00 A.M. of the following day.

Sec. 28.70 Applicability to existing businesses and massage technicians.

The provisions of this article shall be applicable to all massage establishments and out call massage services and all owners or operators thereof and all massage technicians whether such business or activity was in operation before or after the effective date of this ordinance.

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Sec. 28.71 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 article 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 60 days from said date to comply with the provisions of this article. Any person who has filed a timely application for a permit within said time limit shall not be subject to the provisions of this article relating to possession or display of a permit until a permit is issued or denied to the applicant.

Sec. 28.72 Exclusions.

This article shall not include hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of the State of California, or persons working under the direction of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of California.

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Sec. 28.73 Penalties, Enforcement.

In addition to the remedy of revocation of any permit issued under this article, any person, firm or corporation violating the provisions of this article 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 months, or both such fine and imprisonment.

SECTION 4. Severability.

City Council hereby declares that it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this ordinance are severable and if for any reason any sentence, paragraph or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the need to protect the public safety, health and welfare by having this ordinance become effective prior to September 9, 1983, which is the expiration date of the moratorium on new adult-related establishments. If there is a time lag between expiration of the moratorium and the effective date of this ordinance, new nonconforming uses may be established during that interim, resulting in further deleterious proliferation with consequent adverse effect or efforts to control crime in such establishments.

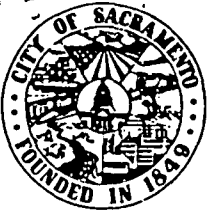
ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK



CITY OF SACRAMENTO

M-83004

CITY PLANNING DEPARTMENT
927 TENTH STREET
SUITE 300
SACRAMENTO, CA 95814
TELEPHONE (916) 449-5604

MARTY VAN DUYN
PLANNING DIRECTOR

PUBLIC NOTICE

Date: July 26, 1983

NOTICE IS HEREBY GIVEN that the City Council will consider the following proposal at a public hearing scheduled to begin at 7:30 P.M. in the Council Chamber, located on the second floor of City Hall, 915 I Street, Sacramento, California, on August 9, 1983.

The proposed project is:

- 1) Amendment to the City Zoning Ordinance No. 2550-4th Series relating to adult related establishments regarding the expansion of the definitions section to include bathhouse, escort service, massage establishment, modeling studio, sexual encounter centers and similar-type businesses and requiring these adult, non-conforming uses to conform or discontinue within a specified period of time. (M83-004).
- 2) Amendment to the City Code repealing CH. 28, Article IV and adding CH. 28, Article IV, relating to adult related establishments regarding the expansion of the definitions section to include bathhouse, escort service, massage establishment, modeling studio, sexual encounter centers and similar-type businesses and requiring these adult businesses and personnel to obtain the necessary licenses and permits for this activity. (M83-004).

If you need further information, please contact the planner on duty at the City Planning Department, 449-5604, and please refer to the above M number.

Sincerely,

M. Minkler
for Suzanne Glimstad, Secretary to
the City Planning Commission

CC: HY
LEM
CP
SD
SC
SG





CITY OF SACRAMENTO

CITY PLANNING DEPARTMENT
927 TENTH STREET
SUITE 300
SACRAMENTO, CA 95814
TELEPHONE (916) 449-5604

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If you need further information, please contact the planner on duty at the City Planning Department, 449-5604, and please refer to the above M number.

Sincerely,

M. Minkler
for Suzanne Glimstad, Secretary to
the City Planning Commission

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO

M 83-004

(PROOF OF SERVICE BY MAIL - 1013A, 201526. 2.17 PM '83)

STATE OF CALIFORNIA)
) SS.
COUNTY OF SACRAMENTO)

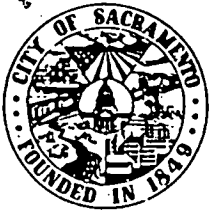
The below signed verily states:

That I am an employee of the Sacramento City Planning Department and that I am a citizen of the United States and a resident of the County aforementioned; that I am over the age of Eighteen years and not a party to the within entitled proceedings; that my business address is 927 10th Street, Suite 300, Sacramento, California. (95814)

On July 18 1983 I Served the applicant, and the property owners whose names appear on the attached list(s) at the addresses shown, Public Notices in said proceedings by placing a true copy thereof in sealed envelope with postage thereon fully prepaid in the United States Post Office Mail Box at Sacramento, California

I CERTIFY OR DECLARE UNDER
PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Betty M. Williams



CITY OF SACRAMENTO

RECEIVED
CITY CLERKS OFFICE
CITY OF SACRAMENTO

JUL 26 2 17 PM '83

CITY PLANNING DEPARTMENT

927 TENTH STREET
SUITE 300

SACRAMENTO, CA 95814
TELEPHONE (916) 449-5604

MARTY VAN DUYN
PLANNING DIRECTOR

PUBLIC NOTICE

DATE: July 18, 1983

M#83-004

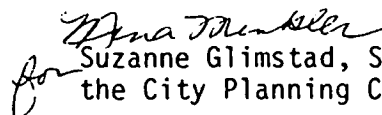
NOTICE IS HEREBY GIVEN that the City Planning Commission will consider an amendment to the City Zoning Ordinance No. 2550-4th Series relating to adult related establishments regarding the expansion of the definitions section to include bathhouse, escort service, massage establishment, modeling studio, sexual encounter centers and similar-type businesses and requiring these adult, non-conforming uses to conform or discontinue within a specified period of time.

The City Planning Commission will consider this proposal at a public hearing scheduled to begin at 5:30 P.M. in the Council Chamber, located on the second floor of City Hall, 915 I Street, Sacramento, California, on July 28, 1983.

In addition, the City Environmental Coordinator has determined that the proposed amendment will not have a significant adverse impact on the environment and has prepared a Negative Declaration. A copy of the Negative Declaration may be reviewed or obtained at the Planning Department, 927 10th Street, Suite 300, Sacramento, CA. Any appeal of the decision to prepare the Negative Declaration must be filed with the Sacramento City Planning Department before 5:00 P.M. on July 28, 1983.

If you need further information, please contact the planner on duty at the City Planning Department, 449-5604, and please refer to the above M number.

Sincerely,


Suzanne Glimstad, Secretary to
the City Planning Commission

(COPIES OF THE ORDINANCE ARE AVAILABLE AT THE PLANNING DEPARTMENT UPON REQUEST.)

City Planning Department
927-10th Street, Suite 300
Sacramento, CA 95814

PUBLIC NOTICE

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) That said use is situated more than five hundred (500) feet, measured from the nearest property lines of each of the affected parcels from any residential or agricultural zone.

(3) That said use is situated more than five hundred (500) 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.

(1) That 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; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

SECTION 8.

[illegible]

effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) The use must be located more than five hundred (500) feet, measured from the nearest property lines of each of the affected parcels, from any residential or agricultural zone.

(2) The use must be located more than five hundred (500) 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 five hundred (500) feet from the Old Sacramento historical park.

(3) 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of sexual relationship, and any of the following depicted sexually oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty; or,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) That said use is situated more than five hundred (500) feet, measured from the nearest property lines of each of the affected parcels from any residential or agricultural zone.

(3) That said use is situated more than five hundred (500) 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.

(1) That 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; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

SECTION 8.

[illegible]

effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) The use must be located more than five hundred (500) feet, measured from the nearest property lines of each of the affected parcels, from any residential or agricultural zone.

(2) The use must be located more than five hundred (500) 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 five hundred (500) feet from the Old Sacramento historical park.

(3) 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.

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF
AN ORDINANCE REPEALING CHAPTER 28, ARTICLE IV,
RELATING TO MASSAGE PARLORS AND ADDING CHAPTER 28
ARTICLE IV, RELATING TO ADULT-RELATED ESTABLISHMENTS
AND DECLARING THIS ORDINANCE AN EMERGENCY TO TAKE
EFFECT IMMEDIATELY

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

SECTION 1. Findings.

There has been a proliferation throughout the City of Sacramento of commercial adult-related establishments such as escort bureaus, introductory services, public bathhouses, model studios, sexual encounter centers and similar businesses which offer patrons services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas (other than adult bookstores, adult motion picture theater, adult cabarets and adult arcades, adult hotels and motels.)

While the City Council is simultaneously addressing the deleterious effects of proliferation through zoning ordinance amendments, there are other effects related to such businesses which are properly addressed through a regulatory ordinance designed to ensure that illegal activities do not take place on the premises or otherwise in connection with the business.

In the City of Sacramento there is a demonstrable relationship between high incidence of unlawful prostitution and drug-related crime, and the adult-related establishments covered by this ordinance. Such businesses operate as fronts for houses of prostitution, and for illegal drug related transactions. The

massage parlor ordinance, repealed by this ordinance, while effective in some respects does not serve to control illegal activities in other types of adult-related establishments. New and existing businesses, to evade the massage parlor ordinance, have changed their names to escort bureaus and others identified in this ordinance.

A system of requiring regulatory permits for establishments and for those persons rendering services to customers will assist in ensuring that illegal activities do not occur on the premises or otherwise in connection with the business. Extensive police and safety and health-related screening will occur prior to issuance of a permit, and upon renewal. If criminal activity occurs on the premises, or if other provisions of this ordinance are violated, establishment and individual permits are subject to revocation. Criminal liability also exists for violation of the ordinance. These provisions will provide the police department with both preventative and investigatory tools to control illegal activity in such businesses, and will promote and protect the public health, safety and welfare.

By expanding the definition of "adult-related establishment," it is the intent of the City Council to prevent evasion of the provisions of this ordinance through the device of calling the business by a new or different name. If specified sexual activities are involved, or if specified anatomical areas are displayed, this ordinance is intended to apply to both the premises and the individuals who provide such services to

patrons, regardless of the individual's title or position, or of the name given to the business.

SECTION 2.

Repeal of Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is repealed.

SECTION 3.

Addition of New Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is added, to read as follows:

PERMITS

ARTICLE IV. Adult-Related Establishments

Sec. 28.40 Definitions.

For the purpose of this article, 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, introductory service, 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 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 motion picture theater, adult mini motion picture theater, adult hotel or motel, or cabaret, as defined in Section 22 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended.

(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 to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(i) Introductory service. "Introductory service" means a business which, for pecuniary compensation, consideration, hire or reward will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(j) 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.

(k) 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.

(l) 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.

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

(n) Modeling Studio. "Modeling Studio" means a business which provides, for pecuniary compensation, 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.

(o) Operate an Adult-Related Establishment. As used in this article "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 out call massage service or activities within a massage establishment.

(p) Out-Call Massage Service. "Out-Call Massage Service" means any business, not licensed as a massage establishment under the provisions of this article, 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.

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

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

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

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

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

(3) 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).

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."

(t) Sexual Encounter Center. "Sexual Encounter Center" means a business which provides two 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.

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

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

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

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

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

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

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

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

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

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

Sec. 28.41 Permit required for operation of an adult-related establishment.

It shall be unlawful, a misdemeanor and a public nuisance for any person to operate an adult-related establishment as owner or otherwise, unless the owner thereof has first received an adult-related establishment permit.

Sec. 28.42 Application for permit for an adult-related establishment.

(a) Any person desiring to obtain a permit to operate an adult-related establishment shall apply to the Chief of Police on a form provided by the City Clerk. 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 chapter. 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:

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

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

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

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

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

(6) Two portrait photographs at least 2" x 2" of the applicant and any operator;

(7) 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 therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(8) All convictions of any person with an ownership interest and any operator of offenses specified in Section 28.48 within five (5) years of the date of application;

(9) 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; and

(10) 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) In addition to the information required under subsections (b) and (c) above, the applicant and any operator of a massage establishment or out call massage service must furnish a

diploma or certificate of graduation from a recognized school of massage, provided, however, that no such diploma or certificate must be provided for any applicant or operator who will not have physical contact with any customer or client.

(e) The Chief of Police may take fingerprints and additional photographs of the applicant and any operator, and may confirm the height and weight of the applicant and any operator.

(f) The application for a permit does not authorize conducting an adult-related establishment until such permit has been granted. The issuance of a Business Operation Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize conducting an adult-related establishment until the necessary regulatory permit has been lawfully granted.

Sec. 28.43 Corporate applicants; exemption.

The provisions of Section 28.42(b)(4), (5), (6), and (8), 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.

Sec. 28.44 Additional permits required.

(a) No person shall give a massage for a fee or any other form of consideration unless a massage technician's permit is first obtained.

(b) No person shall act as an "escort" unless an escort permit is first obtained.

(c) No person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained.

The issuance of a Business Operations Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize 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.

Sec. 28.45 Application for massage technician, escort or figure model permit.

(a) An application for a massage technician, 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 chapter. 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) Two 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;

(8) Whether the applicant has been convicted of any offense specified in Section 28.48 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 therefor 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 may take fingerprints and a photograph of the applicant and may confirm the information submitted.

Sec. 28.46 Verification of application.

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

Sec. 28.47 Investigation and recommendations.

(a) Upon receiving an application for an adult-related establishment permit, the Chief of Police shall:

(1) Within a reasonable period, not exceeding 90 days of the filing of the application, investigate the application and recommend approval or denial to the City Manager; and

(2) Within 10 days, refer the application to the Division of Building Inspections, the Fire Department and the Sacramento County Health Department.

The Division of Building Inspections, the Fire Department and the Sacramento County Health Department shall inspect the premises and make separate recommendations to the City Manager, within 30 days of the filing of the application. The applicant shall pay a fee established by the City Council to the County Health Officer to reimburse the County Health Officer's public health services for their inspection.

(b) Upon receiving an application for a massage technician, escort or figure model permit, the Chief of Police shall investigate the application and recommend approval or denial to the City Manager within 60 days.

Sec. 28.48 Issuance of permit for an adult related establishment.

(a) The City Manager shall act on the application for an adult-related establishment permit within 120 days after the filing of such application, and shall issue the permit if all requirements for an adult-related establishment described in this section are met, unless the City Manager finds:

(1) 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 Building, Health, Housing and Fire Codes of the City of Sacramento.

(2) 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 266i, 355, 316, 318, or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale 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 above if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

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

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

(6) 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.

Sec. 28.49 Issuance of massage technician, escort or figure model permit.

(a) The City Manager shall act on the massage technician, escort or figure model application within 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 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration

under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, and 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 such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

(3) That the applicant has had a massage technician, 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.

Sec. 28.50 Appeals.

(a) Adult-related establishment permits. Any applicant aggrieved by the decision of the City Manager relating to the issuance or denial or a permit for an Adult-Related Establishment

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.

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.

(b) Massage technician, 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, 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.

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.

(c) Appointment of Hearing Examiner. The City Council may employ the procedure specified in Safety Code §§2.323 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 §2.327, and judicial review shall be governed by §2.328.

Sec. 28.52 Term and renewal of adult-related establishment permits.

(a) The term of an adult-related establishment permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year on written application to the Chief of Police. The application shall be filed at least one-hundred-twenty (120) days but not more than one-hundred-fifty (150) days prior to the expiration date of the current valid permit. The applicant shall follow all the procedures and provide

all of the information required by Section 28.42 of this article and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.48 of this article.

Sec. 28.52 Term and renewal of massage technician,
escort and figure model permits.

(a) The term of a massage technician, escort or figure model permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year 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 28.45 of this article, and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.49 of this article.

(c) For purposes of this section, the "expiration date" of a massage establishment or out call massage service permit granted prior to (amendment date), 1983, shall be deemed to be (one year from amendment date), 1984.

Sec. 28.53 Name and place of business -- change of location.

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

Sec. 28.54 Waiver of application requirements.

The City Manager shall waive the requirements of Section 28.42(d) and 28.45(c) of this article if the applicant presents satisfactory evidence of attendance of not less than one hundred (100) hours of instruction at a school within or outside this state or in any foreign country that provides education substantially equal to or in excess of the education requirements of this article.

Sec. 28.55 Revocation or suspension of Adult-Related Establishment permit.

(a) Any permit issued for an adult-related establishment may be revoked or suspended by the City Manager, after a hearing, in any case where any of the provisions of this article are violated, when the permittee, operator, or any employee of the permittee or operator, including a massage technician, escort or figure model, has engaged in conduct which violates any state law or city ordinance at the adult-related establishment and the operator or permittee knew or, with the exercise of reasonable diligence should have known of such violations at the time they occurred, or in any case, where the operator refuses to permit any duly authorized city police officer or health inspector of

the County of Sacramento to inspect the premises or the operations therein during the hours such premises are open for business. Such permit may also be revoked or suspended after hearing when such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation and hygiene.

(b) The City Manager shall hold a public hearing prior to the revocation or suspension of any permit under subsection (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.

(c) The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the permittee.

Sec. 28.56 Revocation of massage technician, escort or figure model permit.

After following the procedure in Section 28.55(b), the City Manager may revoke or suspend a massage technician, escort or figure model permit for conviction of any of the crimes specified in Section 28.49. The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the massage technician, escort or figure model.

Sec. 28.57 Appeals of suspension or revocation of Adult-Related Establishment permit or massage technician, escort or figure model permit.

Any permittee aggrieved by the decision of the City Manager in suspending or revoking a permit may, within ten (10) days after the date such decision is mailed to the permittee, appeal to the Council by filing a written notice thereof with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Manager shall be final. The appeal shall be noticed, set for hearing, heard and determined in the manner prescribed in Section 28.50.

Sec. 28.58 Judicial review.

Judicial review of any final decision under §28.50 or §28.57 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.

Sec. 28.59 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-related establishment. The services available shall be described in readily understandable language. No adult-related establishment shall render or provide, or offer to render or provide, any service not listed in accordance with this section.

Sec. 28.60 Register of massage technicians, 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 must 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) 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 Article, their permit numbers.

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

Sec. 28.61 Massage technician, escort and figure model identification card.

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

Sec. 28.62 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-related establishment to employ any person who is not at least eighteen (18) years of age.

Sec. 28.63 Requirements for massage establishments.

(a) No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage. No person shall perform a massage on a member of the general public while on the premises of a school of massage.

(b) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Towels, coverings and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(c) Wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

(d) Instruments for massage shall not be used on more than one patron unless they are sterilized before each use by approved sterilization methods.

(e) All massage technicians shall wear garments which cover the entire body, exclusive of the head, neck, arms, legs, hands and feet, while giving a massage. Such garments shall not be transparent.

Sec. 28.64 Sanitation requirements for bathhouses.

Towels shall not be supplied to more than one patron unless such towels have first been laundered and disinfected. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once a day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

Sec. 28.65 Display of permit.

(a) Every adult-related establishment granted a permit, except an out call massage service, shall display said permit in a conspicuous place within the adult-related establishment so that the same may be readily seen by persons entering the premises.

(b) Permittees engaged in an out call massage service must have their permit available for inspection at all times while providing out call massage services.

Sec. 28.66 Business Operations Tax.

Nothing in this chapter shall relieve the owner of any adult-related establishment, or any massage technician, figure model or escort from paying the applicable business operations tax pursuant to Chapter 23 of the Sacramento City Code. The issuance of a business tax certificate shall not authorize conducting an adult related establishment, the giving of a massage, or acting as a figure model in a modeling studio, or acting as an escort, until the necessary regulatory permit has been lawfully granted.

Sec. 28.67 Transfer of permit.

(a) Upon sale, transfer or relocation of an adult-related establishment, 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.

No adult-related establishment 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.

(b) Massage technician, escort and figure model permits shall not be transferable.

Sec. 28.68 Employment of massage technicians, 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 article. 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 article.

(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 article. 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 article.

(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 article. 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 article.

(d) 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 28.48, where the offense occurred at the adult-related establishment or any adult-related establishment owned, controlled or operated by the permittee or operator.

Sec. 28.69 Hours of operation.

No adult-related establishment shall operate or remain open for business between the hours of 10:00 P.M. and 8:00 A.M. of the following day.

Sec. 28.70 Applicability to existing businesses and massage technicians.

The provisions of this article shall be applicable to all massage establishments and out call massage services and all owners or operators thereof and all massage technicians whether such business or activity was in operation before or after the effective date of this ordinance.

Sec. 28.71 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 article 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 60 days from said date to comply with the provisions of this article. Any person who has filed a timely application for a permit within said time limit shall not be subject to the provisions of this article relating to possession or display of a permit until a permit is issued or denied to the applicant.

Sec. 28.72 Exclusions.

This article shall not include hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of the State of California, or persons working under the direction of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of California.

Sec. 28.73 Penalties, Enforcement.

In addition to the remedy of revocation of any permit issued under this article, any person, firm or corporation violating the provisions of this article 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 months, or both such fine and imprisonment.

SECTION 4. Severability.

City Council hereby declares that it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this ordinance are severable and if for any reason any sentence, paragraph or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the need to protect the public safety, health and welfare by having this ordinance become effective prior to September 9, 1983, which is the expiration date of the moratorium on new adult-related establishments. If there is a time lag between expiration of the moratorium and the effective date of this ordinance, new nonconforming uses may be established during that interim, resulting in further deleterious proliferation with consequent adverse effect or efforts to control crime in such establishments.

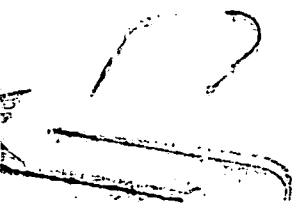
ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK



ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF
AN ORDINANCE REPEALING CHAPTER 28, ARTICLE IV,
RELATING TO MASSAGE PARLORS AND ADDING CHAPTER 28
ARTICLE IV, RELATING TO ADULT-RELATED ESTABLISHMENTS
AND DECLARING THIS ORDINANCE AN EMERGENCY TO TAKE
EFFECT IMMEDIATELY

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

SECTION 1. Findings.

There has been a proliferation throughout the City of Sacramento of commercial adult-related establishments such as escort bureaus, introductory services, public bathhouses, model studios, sexual encounter centers and similar businesses which offer patrons services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas (other than adult bookstores, adult motion picture theater, adult cabarets and adult arcades, adult hotels and motels.)

While the City Council is simultaneously addressing the deleterious effects of proliferation through zoning ordinance amendments, there are other effects related to such businesses which are properly addressed through a regulatory ordinance designed to ensure that illegal activities do not take place on the premises or otherwise in connection with the business.

In the City of Sacramento there is a demonstrable relationship between high incidence of unlawful prostitution and drug-related crime, and the adult-related establishments covered by this ordinance. Such businesses operate as fronts for houses of prostitution, and for illegal drug related transactions. The

massage parlor ordinance, repealed by this ordinance, while effective in some respects does not serve to control illegal activities in other types of adult-related establishments. New and existing businesses, to evade the massage parlor ordinance, have changed their names to escort bureaus and others identified in this ordinance.

A system of requiring regulatory permits for establishments and for those persons rendering services to customers will assist in ensuring that illegal activities do not occur on the premises or otherwise in connection with the business. Extensive police and safety and health-related screening will occur prior to issuance of a permit, and upon renewal. If criminal activity occurs on the premises, or if other provisions of this ordinance are violated, establishment and individual permits are subject to revocation. Criminal liability also exists for violation of the ordinance. These provisions will provide the police department with both preventative and investigatory tools to control illegal activity in such businesses, and will promote and protect the public health, safety and welfare.

By expanding the definition of "adult-related establishment," it is the intent of the City Council to prevent evasion of the provisions of this ordinance through the device of calling the business by a new or different name. If specified sexual activities are involved, or if specified anatomical areas are displayed, this ordinance is intended to apply to both the premises and the individuals who provide such services to

patrons, regardless of the individual's title or position, or of the name given to the business.

SECTION 2.

Repeal of Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is repealed.

SECTION 3.

Addition of New Article IV of Chapter 28.

Article IV of Chapter 28 of the Sacramento City Code is added, to read as follows:

PERMITS

ARTICLE IV. Adult-Related Establishments

Sec. 28.40 Definitions.

For the purpose of this article, 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, introductory service, 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 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 motion picture theater, adult mini motion picture theater, adult hotel or motel, or cabaret, as defined in Section 22 of the Comprehensive Zoning Ordinance of the City of Sacramento, Ordinance No. 2550, Fourth Series, as amended.

(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 to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(i) Introductory service. "Introductory service" means a business which, for pecuniary compensation, consideration, hire or reward will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(j) 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.

(k) 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.

(l) 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.

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

(n) Modeling Studio. "Modeling Studio" means a business which provides, for pecuniary compensation, 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.

(o) Operate an Adult-Related Establishment. As used in this article "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 out call massage service or activities within a massage establishment.

(p) Out-Call Massage Service. "Out-Call Massage Service" means any business, not licensed as a massage establishment under the provisions of this article, 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.

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

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

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

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

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

(3) 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).

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."

(t) Sexual Encounter Center. "Sexual Encounter Center" means a business which provides two 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.

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

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

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

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

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

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

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

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

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

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

Sec. 28.41 Permit required for operation of an adult-related establishment.

It shall be unlawful, a misdemeanor and a public nuisance for any person to operate an adult-related establishment as owner or otherwise, unless the owner thereof has first received an adult-related establishment permit.

Sec. 28.42 Application for permit for an adult-related establishment.

(a) Any person desiring to obtain a permit to operate an adult-related establishment shall apply to the Chief of Police on a form provided by the City Clerk. 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 chapter. 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:

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

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

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

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

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

(6) Two portrait photographs at least 2" x 2" of the applicant and any operator;

(7) 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 therefor, and the business activity or occupation subsequent to such action of suspension or revocation;

(8) All convictions of any person with an ownership interest and any operator of offenses specified in Section 28.48 within five (5) years of the date of application;

(9) 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; and

(10) 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) In addition to the information required under subsections (b) and (c) above, the applicant and any operator of a massage establishment or out call massage service must furnish a

diploma or certificate of graduation from a recognized school of massage, provided, however, that no such diploma or certificate must be provided for any applicant or operator who will not have physical contact with any customer or client.

(e) The Chief of Police may take fingerprints and additional photographs of the applicant and any operator, and may confirm the height and weight of the applicant and any operator.

(f) The application for a permit does not authorize conducting an adult-related establishment until such permit has been granted. The issuance of a Business Operation Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize conducting an adult-related establishment until the necessary regulatory permit has been lawfully granted.

Sec. 28.43 Corporate applicants; exemption.

The provisions of Section 28.42(b)(4), (5), (6), and (8), 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.

Sec. 28.44 Additional permits required.

(a) No person shall give a massage for a fee or any other form of consideration unless a massage technician's permit is first obtained.

(b) No person shall act as an "escort" unless an escort permit is first obtained.

(c) No person shall act as a "figure model" in a modeling studio unless a figure model permit is first obtained.

The issuance of a Business Operations Tax Certificate pursuant to Chapter 23 of the Sacramento City Code shall not authorize 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.

Sec. 28.45 Application for massage technician, escort or figure model permit.

(a) An application for a massage technician, 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 chapter. 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) Two 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;

(8) Whether the applicant has been convicted of any offense specified in Section 28.48 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 therefor 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 may take fingerprints and a photograph of the applicant and may confirm the information submitted.

Sec. 28.46 Verification of application.

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

Sec. 28.47 Investigation and recommendations.

(a) Upon receiving an application for an adult-related establishment permit, the Chief of Police shall:

(1) Within a reasonable period, not exceeding 90 days of the filing of the application, investigate the application and recommend approval or denial to the City Manager; and

(2) Within 10 days, refer the application to the Division of Building Inspections, the Fire Department and the Sacramento County Health Department.

The Division of Building Inspections, the Fire Department and the Sacramento County Health Department shall inspect the premises and make separate recommendations to the City Manager, within 30 days of the filing of the application. The applicant shall pay a fee established by the City Council to the County Health Officer to reimburse the County Health Officer's public health services for their inspection.

(b) Upon receiving an application for a massage technician, escort or figure model permit, the Chief of Police shall investigate the application and recommend approval or denial to the City Manager within 60 days.

Sec. 28.48 Issuance of permit for an adult related establishment.

(a) The City Manager shall act on the application for an adult-related establishment permit within 120 days after the filing of such application, and shall issue the permit if all requirements for an adult-related establishment described in this section are met, unless the City Manager finds:

(1) 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 Building, Health, Housing and Fire Codes of the City of Sacramento.

(2) 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 266i, 355, 316, 318, or subdivision

(b) of Section 647 of the California Penal Code, any offense requiring registration under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale 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 above if he finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

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

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

(6) 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.

Sec. 28.49 Issuance of massage technician, escort or figure model permit.

(a) The City Manager shall act on the massage technician, escort or figure model application within 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 266i, 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code, any offense requiring registration

under the provisions of Section 290 of the Penal Code, or any felony offense involving the sale of a controlled substance specified in Section 11054, 11055, 11056, 11057, and 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 such conviction occurred at least five (5) years prior to the date of the application and the applicant is otherwise qualified.

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

(3) That the applicant has had a massage technician, 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.

Sec. 28.50 Appeals.

(a) Adult-related establishment permits. Any applicant aggrieved by the decision of the City Manager relating to the issuance or denial of a permit for an Adult-Related Establishment

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.

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.

(b) Massage technician, 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, 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.

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.

(c) Appointment of Hearing Examiner. The City Council may employ the procedure specified in Safety Code §§2.323 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 §2.327, and judicial review shall be governed by §2.328.

Sec. 28.52 Term and renewal of adult-related establishment permits.

(a) The term of an adult-related establishment permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year on written application to the Chief of Police. The application shall be filed at least one-hundred-twenty (120) days but not more than one-hundred-fifty (150) days prior to the expiration date of the current valid permit. The applicant shall follow all the procedures and provide

all of the information required by Section 28.42 of this article and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.48 of this article.

Sec. 28.52 Term and renewal of massage technician, escort and figure model permits.

(a) The term of a massage technician, escort or figure model permit shall be for one (1) year, unless sooner suspended or revoked.

(b) A permit which has not been suspended or revoked may be renewed for a period of one (1) year 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 28.45 of this article, and verify the application according to Section 28.46 of this article. The Chief of Police and City Manager shall process the application according to Section 28.47 and 28.49 of this article.

(c) For purposes of this section, the "expiration date" of a massage establishment or out call massage service permit granted prior to (amendment date), 1983, shall be deemed to be (one year from amendment date), 1984.

Sec. 28.53 Name and place of business -- change of location.

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

Sec. 28.54 Waiver of application requirements.

The City Manager shall waive the requirements of Section 28.42(d) and 28.45(c) of this article if the applicant presents satisfactory evidence of attendance of not less than one hundred (100) hours of instruction at a school within or outside this state or in any foreign country that provides education substantially equal to or in excess of the education requirements of this article.

Sec. 28.55 Revocation or suspension of Adult-Related Establishment permit.

(a) Any permit issued for an adult-related establishment may be revoked or suspended by the City Manager, after a hearing, in any case where any of the provisions of this article are violated, when the permittee, operator, or any employee of the permittee or operator, including a massage technician, escort or figure model, has engaged in conduct which violates any state law or city ordinance at the adult-related establishment and the operator or permittee knew or, with the exercise of reasonable diligence should have known of such violations at the time they occurred, or in any case, where the operator refuses to permit any duly authorized city police officer or health inspector of

the County of Sacramento to inspect the premises or the operations therein during the hours such premises are open for business. Such permit may also be revoked or suspended after hearing when such business is being managed, conducted or maintained without regard for the public health or health of patrons or customers or without due regard to proper sanitation and hygiene.

(b) The City Manager shall hold a public hearing prior to the revocation or suspension of any permit under subsection (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.

(c) The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the permittee.

Sec. 28.56 Revocation of massage technician, escort or figure model permit.

After following the procedure in Section 28.55(b), the City Manager may revoke or suspend a massage technician, escort or figure model permit for conviction of any of the crimes specified in Section 28.49. The decision of the City Manager shall be in writing and shall be mailed postage prepaid to the massage technician, escort or figure model.

Sec. 28.57 Appeals of suspension or revocation of Adult-Related Establishment permit or massage technician, escort or figure model permit.

Any permittee aggrieved by the decision of the City Manager in suspending or revoking a permit may, within ten (10) days after the date such decision is mailed to the permittee, appeal to the Council by filing a written notice thereof with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Manager shall be final. The appeal shall be noticed, set for hearing, heard and determined in the manner prescribed in Section 28.50.

Sec. 28.58 Judicial review.

Judicial review of any final decision under §28.50 or §28.57 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.

Sec. 28.59 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-related establishment. The services available shall be described in readily understandable language. No adult-related establishment shall render or provide, or offer to render or provide, any service not listed in accordance with this section.

Sec. 28.60 Register of massage technicians, 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 must 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) 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 Article, their permit numbers.

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

Sec. 28.61 Massage technician, escort and figure model identification card.

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

Sec. 28.62 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-related establishment to employ any person who is not at least eighteen (18) years of age.

Sec. 28.63 Requirements for massage establishments.

(a) No massage establishment shall operate as a school of massage, or use the same facilities as that of a school of massage. No person shall perform a massage on a member of the general public while on the premises of a school of massage.

(b) Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens. Towels, coverings and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

(c) Wet and dry heat rooms, steam or vapor rooms or cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

(d) Instruments for massage shall not be used on more than one patron unless they are sterilized before each use by approved sterilization methods.

(e) All massage technicians shall wear garments which cover the entire body, exclusive of the head, neck, arms, legs, hands and feet, while giving a massage. Such garments shall not be transparent.

Sec. 28.64 Sanitation requirements for bathhouses.

Towels shall not be supplied to more than one patron unless such towels have first been laundered and disinfected. Wet and dry heat rooms, steam or vapor rooms and cabinets, shower rooms and compartments, toilet rooms and pools shall be thoroughly cleaned and disinfected as needed, and at least once a day the premises are open, with a disinfectant approved by the health department. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the health department. All walls, ceilings, floors and other physical facilities must be in good repair and maintained in a clean and sanitary condition.

Sec. 28.65 Display of permit.

(a) Every adult-related establishment granted a permit, except an out call massage service, shall display said permit in a conspicuous place within the adult-related establishment so that the same may be readily seen by persons entering the premises.

(b) Permittees engaged in an out call massage service must have their permit available for inspection at all times while providing out call massage services.

Sec. 28.66 Business Operations Tax.

Nothing in this chapter shall relieve the owner of any adult-related establishment, or any massage technician, figure model or escort from paying the applicable business operations tax pursuant to Chapter 23 of the Sacramento City Code. The issuance of a business tax certificate shall not authorize conducting an adult related establishment, the giving of a massage, or acting as a figure model in a modeling studio, or acting as an escort, until the necessary regulatory permit has been lawfully granted.

Sec. 28.67 Transfer of permit.

(a) Upon sale, transfer or relocation of an adult-related establishment, 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.

No adult-related establishment 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.

(b) Massage technician, escort and figure model permits shall not be transferable.

Sec. 28.68 Employment of massage technicians, 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 article. 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 article.

(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 article. 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 article.

(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 article. 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 article.

(d) 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 28.48, where the offense occurred at the adult-related establishment or any adult-related establishment owned, controlled or operated by the permittee or operator.

Sec. 28.69 Hours of operation.

No adult-related establishment shall operate or remain open for business between the hours of 10:00 P.M. and 8:00 A.M. of the following day.

Sec. 28.70 Applicability to existing businesses and massage technicians.

The provisions of this article shall be applicable to all massage establishments and out call massage services and all owners or operators thereof and all massage technicians whether such business or activity was in operation before or after the effective date of this ordinance.

Sec. 28.71 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 article 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 60 days from said date to comply with the provisions of this article. Any person who has filed a timely application for a permit within said time limit shall not be subject to the provisions of this article relating to possession or display of a permit until a permit is issued or denied to the applicant.

Sec. 28.72 Exclusions.

This article shall not include hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of the State of California, or persons working under the direction of any such persons or in any such establishments, nor shall this article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of California.

Sec. 28.73 Penalties, Enforcement.

In addition to the remedy of revocation of any permit issued under this article, any person, firm or corporation violating the provisions of this article 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 months, or both such fine and imprisonment.

SECTION 4. Severability.

City Council hereby declares that it would have passed this ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this ordinance are severable and if for any reason any sentence, paragraph or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Emergency.

This ordinance is hereby declared to be an emergency measure to take effect immediately. The facts constituting the emergency are the need to protect the public safety, health and welfare by having this ordinance become effective prior to September 9, 1983, which is the expiration date of the moratorium on new adult-related establishments. If there is a time lag between expiration of the moratorium and the effective date of this ordinance, new nonconforming uses may be established during that interim, resulting in further deleterious proliferation with consequent adverse effect or efforts to control crime in such establishments.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO.

19

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO (ORDINANCE NO. 2550 FOURTH SERIES AS AMENDED) PERTAINING TO ADULT-RELATED ESTABLISHMENTS, ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION PICTURE THEATERS, ADULT ARCADES AND ADULT HOTELS-MOTELS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

PASSED FOR PUBLICATION & CONTINUED TO 8-9-83

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

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, church, temple, or other place used exclusively for religious worship, school, park, playground or similar use, are reasonably necessary and will tend to prevent said deleterious effects.

The Council further finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, Old Sacramento historical park or similar uses.

19

SECTION 2.

Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read.

76. Adult-Related Establishment.

A bathhouse, escort bureau, introductory service, massage parlor, 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 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 theatre, adult arcade, or adult hotel-motel as defined in section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for hire or reward, (i) 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. A business which, for fee or other consideration, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(e) Introductory Service. A business which, for fee or other considerations will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(f) Modeling Studio. A business which provides, for fee or other consideration, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculptured, or otherwise depicted by persons paying such consideration or gratuity. This does not include schools maintained pursuant to standards set by the State Board of Education.

(g) Sexual Encounter Center. A business which provides two 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.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

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

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

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, and adult hotels-motels.

The following commercial activities, whether conducted intermittently or full time, which primarily involve the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials or the live display, exhibition, or viewing of activities, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or by an emphasis on specified anatomical areas:

(a) Adult bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial or significant 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.

(b) Adult cabaret. Adult cabaret is a building or portion thereof or area used for 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:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, used for 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.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by an 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.

(e) Adult Hotel-Motel. A hotel-motel wherein 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of 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,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) 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.

(2) 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, 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.

(3) 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.

(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:

(1) That 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; and

(2) That the proposed use will not enlarge or encourage the development of a "skid row" or otherwise blighted area; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

(4) That all applicable regulation of this ordinance and the City Code will be observed.

SECTION 8.

Section 2-C-46 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R	R	R	R	R	R	R	R	R	R	O	R	H	S	C	C	C	C	M-1	M-2	A	F	A
	1	1	1	2	2	2	3	3	4	4	5	6	7	8	9	1	2	3	4	5	6	7	
	A	A	B	A	B	A	A	A	A	A	A	A	A	A	A	A	A	A	M-1	M-1	C	C	S
(S) (S)																							
Adult-Related Establishment																			24	24	24	24	

SECTION 9.

Section 12-C of the Zoning Ordinance is hereby amended to read:

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or in existence prior to the effective date of Ordinance No. 83-034 and which do not comply with the provisions of sections 2-E-24(a)(1), (a)(2), and (a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any preexisting adult-related establishment will further be subject to the provisions of this subsection.

2. No legally established adult-related establishment shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within three (3) years from the effective date of this section, all adult-related establishments which do not conform to the provisions of section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding three (3) years, but in no event exceeding five (5) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the

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effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) 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.

(2) 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.

(3) 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 and from any adult-related establishment.

SECTION 11.

Section 2-C-44 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R 1	R 1 A	R 1 B	R 2	R 2 A	R 2 B	R 3	R 3 A	R 3 B	R 4	R 4 A	R 5	R 5 B	O	P	H	S	C	C	C	C	M-1 (S)	M-2 (S)	A	F	A S
Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, adult hotels-motels																				22	22	22	22	22		

SECTION 12.

This is hereby declared to be an emergency ordinance to take effect immediately. The facts constituting the emergency are the need for this ordinance to take effect before the expiration of the current moratorium ordinance prohibiting the establishment of all adult-related establishments, which will expire on September 9, 1983.

ENACTED:

EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 19

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO (ORDINANCE NO. 2550 FOURTH SERIES AS AMENDED) PERTAINING TO ADULT-RELATED ESTABLISHMENTS, ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION PICTURE THEATERS, ADULT ARCADES AND ADULT HOTELS-MOTELS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

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

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, church, temple, or other place used exclusively for religious worship, school, park, playground or similar use, are reasonably necessary and will tend to prevent said deleterious effects.

The Council further finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, Old Sacramento historical park or similar uses.

SECTION 2.

Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read.

76. Adult-Related Establishment.

A bathhouse, escort bureau, introductory service, massage parlor, 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 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 theatre, adult arcade, or adult hotel-motel as defined in section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for hire or reward, (i) 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. A business which, for fee or other consideration, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(e) Introductory Service. A business which, for fee or other considerations will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(f) Modeling Studio. A business which provides, for fee or other consideration, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculptured, or otherwise depicted by persons paying such consideration or gratuity. This does not include schools maintained pursuant to standards set by the State Board of Education.

(g) Sexual Encounter Center. A business which provides two 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.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

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

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

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, and adult hotels-motels.

The following commercial activities, whether conducted intermittently or full time, which primarily involve the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials or the live display, exhibition, or viewing of activities, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or by an emphasis on specified anatomical areas:

(a) Adult bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial or significant 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.

(b) Adult cabaret. Adult cabaret is a building or portion thereof or area used for 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:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, used for 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.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by an 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.

(e) Adult Hotel-Motel. A hotel-motel wherein 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of 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,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) 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.

(2) 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, 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.

(3) 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.

(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:

(1) That 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; and

(2) That the proposed use will not enlarge or encourage the development of a "skid row" or otherwise blighted area; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

(4) That all applicable regulation of this ordinance and the City Code will be observed.

SECTION 8.

Section 2-C-46 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R	R	R	R	R	R	R	R	R	R	O	R	H	S	C	C	C	M-1	M-2	A	F	A
	1	1	1	2	2	2	3	3	4	4	5	3	0	C	C	1	2	3	4	M-1	M-1	C
	A	B		A	B		A		A									(S)	(S)			S
Adult-Related Establishment																	24	24	24	24	24	

SECTION 9.

Section 12-C of the Zoning Ordinance is hereby amended to read:

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or in existence prior to the effective date of Ordinance No. 83-034 and which do not comply with the provisions of sections 2-E-24(a)(1), (a)(2), and (a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any preexisting adult-related establishment will further be subject to the provisions of this subsection.

2. No legally established adult-related establishment shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within three (3) years from the effective date of this section, all adult-related establishments which do not conform to the provisions of section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding three (3) years, but in no event exceeding five (5) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the

effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) 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.

(2) 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.

(3) 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 and from any adult-related establishment.

SECTION 11.

Section 2-C-44 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R 1	R 1A	R 1B	R 2	R 2A	R 2B	R 3	R 3A	R 3B	R 4	R 5	R 6	R 7	R 8	R 9	R 10	R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20	R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30	R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40	R 41	R 42	R 43	R 44	R 45	R 46	R 47	R 48	R 49	R 50	R 51	R 52	R 53	R 54	R 55	R 56	R 57	R 58	R 59	R 60	R 61	R 62	R 63	R 64	R 65	R 66	R 67	R 68	R 69	R 70	R 71	R 72	R 73	R 74	R 75	R 76	R 77	R 78	R 79	R 80	R 81	R 82	R 83	R 84	R 85	R 86	R 87	R 88	R 89	R 90	R 91	R 92	R 93	R 94	R 95	R 96	R 97	R 98	R 99	R 100	R 101	R 102	R 103	R 104	R 105	R 106	R 107	R 108	R 109	R 110	R 111	R 112	R 113	R 114	R 115	R 116	R 117	R 118	R 119	R 120	R 121	R 122	R 123	R 124	R 125	R 126	R 127	R 128	R 129	R 130	R 131	R 132	R 133	R 134	R 135	R 136	R 137	R 138	R 139	R 140	R 141	R 142	R 143	R 144	R 145	R 146	R 147	R 148	R 149	R 150	R 151	R 152	R 153	R 154	R 155	R 156	R 157	R 158	R 159	R 160	R 161	R 162	R 163	R 164	R 165	R 166	R 167	R 168	R 169	R 170	R 171	R 172	R 173	R 174	R 175	R 176	R 177	R 178	R 179	R 180	R 181	R 182	R 183	R 184	R 185	R 186	R 187	R 188	R 189	R 190	R 191	R 192	R 193	R 194	R 195	R 196	R 197	R 198	R 199	R 200	R 201	R 202	R 203	R 204	R 205	R 206	R 207	R 208	R 209	R 210	R 211	R 212	R 213	R 214	R 215	R 216	R 217	R 218	R 219	R 220	R 221	R 222	R 223	R 224	R 225	R 226	R 227	R 228	R 229	R 230	R 231	R 232	R 233	R 234	R 235	R 236	R 237	R 238	R 239	R 240	R 241	R 242	R 243	R 244	R 245	R 246	R 247	R 248	R 249	R 250	R 251	R 252	R 253	R 254	R 255	R 256	R 257	R 258	R 259	R 260	R 261	R 262	R 263	R 264	R 265	R 266	R 267	R 268	R 269	R 270	R 271	R 272	R 273	R 274	R 275	R 276	R 277	R 278	R 279	R 280	R 281	R 282	R 283	R 284	R 285	R 286	R 287	R 288	R 289	R 290	R 291	R 292	R 293	R 294	R 295	R 296	R 297	R 298	R 299	R 300	R 301	R 302	R 303	R 304	R 305	R 306	R 307	R 308	R 309	R 310	R 311	R 312	R 313	R 314	R 315	R 316	R 317	R 318	R 319	R 320	R 321	R 322	R 323	R 324	R 325	R 326	R 327	R 328	R 329	R 330	R 331	R 332	R 333	R 334	R 335	R 336	R 337	R 338	R 339	R 340	R 341	R 342	R 343	R 344	R 345	R 346	R 347	R 348	R 349	R 350	R 351	R 352	R 353	R 354	R 355	R 356	R 357	R 358	R 359	R 360	R 361	R 362	R 363	R 364	R 365	R 366	R 367	R 368	R 369	R 370	R 371	R 372	R 373	R 374	R 375	R 376	R 377	R 378	R 379	R 380	R 381	R 382	R 383	R 384	R 385	R 386	R 387	R 388	R 389	R 390	R 391	R 392	R 393	R 394	R 395	R 396	R 397	R 398	R 399	R 400	R 401	R 402	R 403	R 404	R 405	R 406	R 407	R 408	R 409	R 410	R 411	R 412	R 413	R 414	R 415	R 416	R 417	R 418	R 419	R 420	R 421	R 422	R 423	R 424	R 425	R 426	R 427	R 428	R 429	R 430	R 431	R 432	R 433	R 434	R 435	R 436	R 437	R 438	R 439	R 440	R 441	R 442	R 443	R 444	R 445	R 446	R 447	R 448	R 449	R 450	R 451	R 452	R 453	R 454	R 455	R 456	R 457	R 458	R 459	R 460	R 461	R 462	R 463	R 464	R 465	R 466	R 467	R 468	R 469	R 470	R 471	R 472	R 473	R 474	R 475	R 476	R 477	R 478	R 479	R 480	R 481	R 482	R 483	R 484	R 485	R 486	R 487	R 488	R 489	R 490	R 491	R 492	R 493	R 494	R 495	R 496	R 497	R 498	R 499	R 500	R 501	R 502	R 503	R 504	R 505	R 506	R 507	R 508	R 509	R 510	R 511	R 512	R 513	R 514	R 515	R 516	R 517	R 518	R 519	R 520	R 521	R 522	R 523	R 524	R 525	R 526	R 527	R 528	R 529	R 530	R 531	R 532	R 533	R 534	R 535	R 536	R 537	R 538	R 539	R 540	R 541	R 542	R 543	R 544	R 545	R 546	R 547	R 548	R 549	R 550	R 551	R 552	R 553	R 554	R 555	R 556	R 557	R 558	R 559	R 560	R 561	R 562	R 563	R 564	R 565	R 566	R 567	R 568	R 569	R 570	R 571	R 572	R 573	R 574	R 575	R 576	R 577	R 578	R 579	R 580	R 581	R 582	R 583	R 584	R 585	R 586	R 587	R 588	R 589	R 590	R 591	R 592	R 593	R 594	R 595	R 596	R 597	R 598	R 599	R 600	R 601	R 602	R 603	R 604	R 605	R 606	R 607	R 608	R 609	R 610	R 611	R 612	R 613	R 614	R 615	R 616	R 617	R 618	R 619	R 620	R 621	R 622	R 623	R 624	R 625	R 626	R 627	R 628	R 629	R 630	R 631	R 632	R 633	R 634	R 635	R 636	R 637	R 638	R 639	R 640	R 641	R 642	R 643	R 644	R 645	R 646	R 647	R 648	R 649	R 650	R 651	R 652	R 653	R 654	R 655	R 656	R 657	R 658	R 659	R 660	R 661	R 662	R 663	R 664	R 665	R 666	R 667	R 668	R 669	R 670	R 671	R 672	R 673	R 674	R 675	R 676	R 677	R 678	R 679	R 680	R 681	R 682	R 683	R 684	R 685	R 686	R 687	R 688	R 689	R 690	R 691	R 692	R 693	R 694	R 695	R 696	R 697	R 698	R 699	R 700	R 701	R 702	R 703	R 704	R 705	R 706	R 707	R 708	R 709	R 710	R 711	R 712	R 713	R 714	R 715	R 716	R 717	R 718	R 719	R 720	R 721	R 722	R 723	R 724	R 725	R 726	R 727	R 728	R 729	R 730	R 731	R 732	R 733	R 734	R 735	R 736	R 737	R 738	R 739	R 740	R 741	R 742	R 743	R 744	R 745	R 746	R 747	R 748	R 749	R 750	R 751	R 752	R 753	R 754	R 755	R 756	R 757	R 758	R 759	R 760	R 761	R 762	R 763	R 764	R 765	R 766	R 767	R 768	R 769	R 770	R 771	R 772	R 773	R 774	R 775	R 776	R 777	R 778	R 779	R 780	R 781	R 782	R 783	R 784	R 785	R 786	R 787	R 788	R 789	R 790	R 791	R 792	R 793	R 794	R 795	R 796	R 797	R 798	R 799	R 800	R 801	R 802	R 803	R 804	R 805	R 806	R 807	R 808	R 809	R 810	R 811	R 812	R 813	R 814	R 815	R 816	R 817	R 818	R 819	R 820	R 821	R 822	R 823	R 824	R 825	R 826	R 827	R 828	R 829	R 830	R 831	R 832	R 833	R 834	R 835	R 836	R 837	R 838	R 839	R 840	R 841	R 842	R 843	R 844	R 845	R 846	R 847	R 848	R 849	R 850	R 851	R 852	R 853	R 854	R 855	R 856	R 857	R 858	R 859	R 860	R 861	R 862	R 863	R 864	R 865	R 866	R 867	R 868	R 869	R 870	R 871	R 872	R 873	R 874	R 875	R 876	R 877	R 878	R 879	R 880	R 881	R 882	R 883	R 884	R 885	R 886	R 887	R 888	R 889	R 890	R 891	R 892	R 893	R 894	R 895	R 896	R 897	R 898	R 899	R 900	R 901	R 902	R 903	R 904	R 905	R 906	R 907	R 908	R 909	R 910	R 911	R 912	R 913	R 914	R 915	R 916	R 917	R 918	R 919	R 920	R 921	R 922	R 923	R 924	R 925	R 926	R 927	R 928	R 929	R 930	R 931	R 932	R 933	R 934	R 935	R 936	R 937	R 938	R 939	R 940	R 941	R 942	R 943	R 944	R 945	R 946	R 947	R 948	R 949	R 950	R 951	R 952	R 953	R 954	R 955	R 956	R 957	R 958	R 959	R 960	R 961	R 962	R 963	R 964	R 965	R 966	R 967	R 968	R 969	R 970	R 971	R 972	R 973	R 974	R 975	R 976	R 977	R 978	R 979	R 980	R 981	R 982	R 983	R 984	R 985	R 986	R 987	R 988	R 989	R 990	R 991	R 992	R 993	R 994	R 995	R 996	R 997	R 998	R 999	R 1000	R 1001	R 1002	R 1003	R 1004	R 1005	R 1006	R 1007	R 1008	R 1009	R 1010	R 1011	R 1012	R 1013	R 1014	R 1015	R 1016	R 1017	R 1018	R 1019	R 1020	R 1021	R 1022	R 1023	R 1024	R 1025	R 1026	R 1027	R 1028	R 1029	R 1030	R 1031	R 1032	R 1033	R 1034	R 1035	R 1036	R 1037	R 1038	R 1039	R 1040	R 1041	R 1042	R 1043	R 1044	R 1045	R 1046	R 1047	R 1048	R 1049	R 1050	R 1051	R 1052	R 1053	R 1054	R 1055	R 1056	R 1057	R 1058	R 1059	R 1060	R 1061	R 1062	R 1063	R 1064	R 1065	R 1066	R 1067	R 1068	R 1069	R 1070	R 1071	R 1072	R 1073	R 1074	R 1075	R 1076	R 1077	R 1078	R 1079	R 1080	R 1081	R 1082	R 1083	R 1084	R 1085	R 1086	R 1087	R 1088	R 1089	R 1090	R 1091	R 1092	R 1093	R 1094	R 1095	R 1096	R 1097	R 1098	R 1099	R 1100	R 1101	R 1102	R 1103	R 1104	R 1105	R 1106	R 1107	R 1108	R 1109	R 1110	R 1111	R 1112	R 1113	R 1114	R 1115	R 1116	R 1117	R 1118	R 1119	R 1120	R 1121	R 1122	R 1123	R 1124	R 1125	R 1126	R 1127	R 1128	R 1129	R 1130	R 1131	R 1132	R 1133	R 1134	R 1135	R 1136	R 1137	R 1138	R 1139	R 1140	R 1141	R 1142	R 1143	R 1144	R 1145	R 1146	R 1147	R 1148	R 1149	R 1150	R 1151	R 1152	R 1153	R 1154	R 1155	R 1156	R 1157	R 1158	R 1159	R 1160	R 1161	R 1162	R 1163	R 1164	R 1165	R 1166	R 1167	R 1168	R 1169	R 1170	R 1171	R 1172	R 1173	R 1174	R 1175	R 1176	R 1177	R 1178	R 1179	R 1180	R 1181	R 1182	R 1183	R 1184	R 1185	R 1186	R 1187	R 1188	R 1189	R 1190	R 1191	R 1192	R 1193	R 1194	R 1195	R 1196	R 1197	R 1198	R 1199	R 1200	R 1201	R 1202	R 1203	R 1204	R 1205	R 1206	R 1207	R 1208	R 1209	R 1210	R 1211	R 1212	R 1213	R 1214	R 1215	R 1216	R 1217	R 1218	R 1219	R 1220	R 1221	R 1222	R 1223	R 1224	R 1225	R 1226	R 1227	R 1228	R 1229	R 1230	R 1231	R 1232	R 1233	R 1234	R 1235	R 1236	R 1237	R 1238	R 1239	R 1240	R 1241	R 1242	R 1243	R 1244	R 1245	R 1246	R 1247	R 1248	R 1249	R 1250	R 1251	R 1252	R 1253	R 1254	R 1255	R 1256	R 1257	R 1258	R 1259	R 1260	R 1261	R 1262	R 1263	R 1264	R 1265	R 1266	R 1267	R 1268	R 1269	R 1270	R 1271	R 1272	R 1273	R 1274	R 1275	R 1276	R 1277	R 1278	R 1279	R 1280	R 1281	R 1282	R 1283	R 1284	R 1285	R 1286	R 1287	R 1288	R 1289	R 1290	R 1291	R 1292	R 1293	R 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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SACRAMENTO (ORDINANCE NO. 2550 FOURTH SERIES AS AMENDED) PERTAINING TO ADULT-RELATED ESTABLISHMENTS, ADULT BOOKSTORES, ADULT CABARETS, ADULT MOTION PICTURE THEATERS, ADULT ARCADES AND ADULT HOTELS-MOTELS AND DECLARING THE ORDINANCE TO BE AN EMERGENCY MEASURE TO TAKE EFFECT IMMEDIATELY

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

SECTION 1.

The City Council finds that certain uses of real property, specifically adult-related establishments, have serious objectionable effects, particularly when several of such uses are located in close proximity of each other; that such concentration tends to create a "skid-row" atmosphere and has a detrimental effect upon the adjacent area; that regulation of the locations of these uses is necessary to insure that such adverse effects will not contribute to the blight or downgrading neighborhoods or deter or interfere with the operation and development of hotels, motels, and lodging houses and other businesses in the City and that the regulations and standards hereinafter set forth in this ordinance are reasonably necessary and will tend to prevent the clustering of such establishments.

The Council further finds that, although the control of the concentration or clustering of such uses in any one area will tend to prevent the creation of "skid-row" and be otherwise beneficial to the people of the City, it will not prevent the deleterious effect of blight and devaluation of residential property resulting from the establishment of any of the above specified uses which is in close proximity to and which impacts residentially zoned property; that the regulations hereinafter set forth in this ordinance encourage and foster concern for the orderly planning and development of neighborhoods as well as to preserve existing neighborhoods; that the regulations set forth in this ordinance restricting the location of such uses with reference to residentially zoned property, church, temple, or other place used exclusively for religious worship, school, park, playground or similar use, are reasonably necessary and will tend to prevent said deleterious effects.

The Council further finds that due to the large numbers and concentrations of adult-related establishments which do not conform to the requirements of this ordinance, the elimination of such nonconforming uses through the reasonable amortization provisions of this ordinance is necessary in order to reverse the blight and deterioration caused by the clustering of such uses or their location in close proximity to residential property, or to churches, temples, or other places used exclusively for religious worship, schools, parks, playgrounds, Old Sacramento historical park or similar uses.

SECTION 2.

Section 22-A-75 hereby is added to the Comprehensive Zoning Ordinance, Ordinance No. 2550, Fourth Series, as amended [hereinafter "Zoning Ordinance"] to read:

75. Outcall Massage Service.

Any business or establishment where the primary function of such business is to engage in or carry on massage for pecuniary compensation or consideration, hire or reward not at a fixed location, but at a location designated by the customer or client.

SECTION 3.

Section 22-A-76 hereby is added to the Zoning Ordinance to read.

76. Adult-Related Establishment.

A bathhouse, escort bureau, introductory service, massage parlor, 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 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 theatre, adult arcade, or adult hotel-motel as defined in section 22-A-55.

(a) Bathhouse. An establishment whose primary business is to provide, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs.

(b) Escort. A person who, for hire or reward, (i) 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. A business which, for fee or other consideration, furnishes or offers to furnish escorts.

(d) Figure Model. Any person who, for hire or reward, poses to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

(e) Introductory Service. A business which, for fee or other considerations will help persons to meet or become acquainted with others for social purposes. For purposes of this subsection, "others" includes personnel of the introductory service.

(f) Modeling Studio. A business which provides, for fee or other consideration, figure models who display "specified anatomical areas" to be observed, sketched, photographed, painted, sculptured, or otherwise depicted by persons paying such consideration or gratuity. This does not include schools maintained pursuant to standards set by the State Board of Education.

(g) Sexual Encounter Center. A business which provides two 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.

SECTION 4.

Section 22-A-77 is hereby added to the Zoning Ordinance to read:

77. Specified Anatomical Areas.

"Specified Anatomical Areas" shall include:

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

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

SECTION 5.

Section 22-A-55 of the Zoning Ordinance is hereby amended to read:

55. Adult bookstores, adult cabarets, adult motion picture theaters, adult arcades, and adult hotels-motels.

The following commercial activities, whether conducted intermittently or full time, which primarily involve the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials or the live display, exhibition, or viewing of activities, distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities, or by an emphasis on specified anatomical areas:

(a) Adult bookstore. Adult bookstore is a building or portion thereof used by an establishment having a substantial or significant 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.

(b) Adult cabaret. Adult cabaret is a building or portion thereof or area used for 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:

(i) male or female topless or bottomless dancers, male or female impersonators, or similar entertainers;

(ii) male or female stripteasers, whether nude or partially clothed;

(iii) burlesque-type entertainment, including shows or skits which include topless or bottomless dancing, male or female impersonators, striptease, or similar entertainment.

(c) Adult Motion Picture Theater. Adult motion picture theater is a building or portion thereof or area, open or enclosed, used for 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.

(d) Adult Arcade. An adult arcade is a building or portion thereof open or enclosed, wherein coin or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any time, and where the images so displayed are distinguished or characterized by an 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.

(e) Adult Hotel-Motel. A hotel-motel wherein 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.

SECTION 6.

Section 22-A-56 of the Zoning Ordinance is hereby amended to read:

56. "Specified sexual activities" shall include the following:

(a) 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 sexual relationship, or the use of excretory functions in the context of 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,

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

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

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

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

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

(g) Human excretion, urination, menstration, vaginal or anal irrigation.

SECTION 7.

Section 2-E-24 of the Zoning Ordinance is hereby amended to read:

24. A special permit shall be required to establish an adult-related establishment in this zone.

(a) No special permit shall be issued for such use unless the following minimum standards have been met:

(1) 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.

(2) 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, 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.

(3) 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.

(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:

(1) That 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; and

(2) That the proposed use will not enlarge or encourage the development of a "skid row" or otherwise blighted area; and

(3) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement or redevelopment, either residential or nonresidential; and,

(4) That all applicable regulation of this ordinance and the City Code will be observed.

SECTION 8.

Section 2-C-46 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

USE	R 1	R 1	R 1	R 2	R 2	R 2	R 3	R 3	R 4	R 4	R 5	R 5	O 6	H 6	S 7	C 7	C 8	C 8	C 9	M-1 (S)	M-2 (S)	A	F	A C S
Adult-Related Establishment																	24	24	24	24	24			

SECTION 9.

Section 12-C of the Zoning Ordinance is hereby amended to read:

C. Adult-Related Establishments. The following regulations shall apply to nonconforming adult-related establishments in addition to the requirements of subsection "A" of this section. The provisions of this subsection shall prevail in the event of conflict with the provisions of subsection "A":

1. Nonconforming Uses Defined. All adult-related establishments legally established or in existence prior to the effective date of Ordinance No. 83-034 and which do not comply with the provisions of sections 2-E-24(a)(1), (a)(2), and (a)(3) shall be deemed nonconforming and may continue to operate provided, however, that any preexisting adult-related establishment will further be subject to the provisions of this subsection.

2. No legally established adult-related establishment shall be deemed nonconforming solely by virtue of the subsequent creation or expansion of any use or zone designated in sections 2-E-22(a)(1), 2-E-22(a)(2), 2-E-24(a) or 2-E-24(b).

3. Discontinuance of Nonconforming Activities. Within three (3) years from the effective date of this section, all adult-related establishments which do not conform to the provisions of section 2-E-24(a)(1), 2-E-24(a)(2) and 2-E-24(a)(3) shall be discontinued or brought into full conformity with this ordinance.

A special permit shall be issued to permit the activity to be continued for a period of time exceeding three (3) years, but in no event exceeding five (5) years, if the commission finds that the activity involves investment of money in leasehold or improvements such that the longer period is the minimum necessary to prevent undue financial hardship by permitting amortization of such funds invested.

4. In determining the extent of investment involved in the activity, the Commission shall only consider leases and improvements directly related to the particular adult entertainment establishment and acquired or entered into prior to the effective date of Ordinance No. 83-034.

5. The Planning Commission in granting a special permit may impose reasonable conditions as may be necessary to carry out the intent and purpose of this ordinance.

6. No existing lease for such a nonconforming use shall be renewed or extended, unless such lease is renewed or extended pursuant to an option agreement entered into prior to the

effective date of Ordinance 83-034. Any new owner or operator of a leased adult-related establishment shall prove that he has received either an assignment or sublease from the previous tenant.

7. Any nonconforming use which has been unoccupied or out of business for sixty (60) days or more, shall be deemed abandoned and shall not be reestablished except by the granting of special permit in accordance with Section 2-E-24.

8. In the event two or more lawfully established adult-related establishments are rendered nonconforming solely because of their location within one thousand (1,000) feet of one another, the adult-related establishment or establishments last established shall be the establishments required to discontinue operations or bring such operations into conformity with this ordinance.

SECTION 10.

Section 2-E-22-(a) of the Zoning Ordinance is hereby amended to read:

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 subsection (a) and (b) below.

(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:

(1) 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.

(2) 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.

(3) 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 and from any adult-related establishment.

Section 2-C-44 as shown on the table in Section 2C of the Zoning Ordinance is hereby amended to read:

SECTION 12.

ENACTED:

MAYOR

ATTEST:

CITY CLERK