

ARTICLE 14F

ADULT-ORIENTED BUSINESSES

1. Purpose and Intent.

It is the purpose and intent of this Article to regulate Adult-Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of Adult-Oriented Businesses within the City, thereby reducing or elimination the adverse secondary effects from such Adult-Oriented Businesses. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or any communicative materials, deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of the ordinance to condone or legitimize the distribution of obscene material.

2. Definitions

For the purpose of this division, certain terms and words are defined as follows:

- (a) "Adult-Oriented Businesses" are those businesses defined as follows:
 - (1) "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly available or used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
 - (2) "Adult Bookstore," "Adult Novelty Store" or "Adult Video Store" means a commercial establishment which (1) has a significant or substantial portion of its stock-in-trade or (2) derives a significant or substantial portion of its revenues or (3) devotes a significant or substantial portion of its interior floor or display space or (4) devotes a significant or substantial portion of its business activities or employees" time, or advertising, to the sale, rental or viewing for any form of consideration, of any one or more of the following:

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.
 - (b) Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.”
 - (c) An establishment may have other significant or substantial business purposes that do not involve the offering for sale rental or viewing of materials, depicting or describing “specified sexual activities” or “specified anatomical areas,” and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its significant or substantial business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe “specified anatomical areas” or “specified sexual activities.”
- (3) “Adult cabaret” means a nightclub, bar, restaurant “bottle shop,” or similar commercial establishment whether or not alcoholic beverages are served, which regularly features: (a) persons who appear or in a state of nudity or seminude; (b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities,” or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”
- (4) “Adult motel” means a motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, and which regularly provides or makes available to patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of this adult oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offering a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupants to rent or sub-rent the sleeping room for a time period of less than ten (10) hours.

- (5) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions depicting or describing "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.
- (6) "Adult theatre" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities."
- (b) "Distinguished or characterized by an emphasis upon." As used in this ordinance, the term "distinguished or characterized by an emphasis upon" shall mean and refer to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal. App.3 151 (1981). No film, motion picture, video cassette or other photographic reproduction shall be deemed to be "distinguished or characterized by an emphasis upon" the depiction or description of specified sexual activities or specified anatomical areas as those phrases are used in the definitions of "adult arcade," "adult bookstore," "adult novelty store," "adult video store," or "adult motion picture theater," if such film, motion picture, video cassette or other photographic reproduction is in a version which has been rated by the Motion Picture Association of America or any other generally recognized rating agency, in the category of "G," "PG," "PG-13," or "R."
- (c) "Employee" means a person who works or performs in and/or for an Adult-Oriented Business, regardless or whether or not said person is paid a salary, wage or other compensation by the operator of said business.
- (d) "Establishment" means and includes any of the following:
- (1) The opening or commencement of any such business as a new business;
 - (2) The conversion of an existing business, whether or not an Adult-Oriented Business, to any of the Adult-Oriented Businesses defined in this chapter;
 - (3) The addition of any of the Adult-Oriented Businesses defined in this chapter to any other existing Adult-Oriented Business; or

- (4) The relocation of any such Adult-Oriented Business; or
 - (5) The substantial enlargement of any such Adult-Oriented Business.
- (e) “Figure model” means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.
 - (f) “Nudity or State of Nudity” means: (a) the appearance or display of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.
 - (g) “Operator” means and includes the owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.
 - (h) “Permitted or Licensed Premises” means any premises that requires a license and/or permit and that is classified as an Adult-Oriented Business.
 - (i) “Permittee and/or Licensee” means a person in whose name a permit and/or license to operate an Adult-Oriented Business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.
 - (j) “Person” means an individual, proprietorship, partnership, corporation, association, or other legal entity.
 - (k) “Public building” means any building owned, leased, or held by the United States, the state, the county, the City, any special district, school district, or any other agency or political subdivision of the state or the United States.
 - (l) “Public park” or “recreation area” means public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, open space, wilderness areas, or similar public land within the City which is under the control, operation, or management of the City park and recreation authorities..
 - a. “Regulatory Features” with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) day period; three (3) or more occasions within a sixty (60) day period; or four (4) or more occasions within a one hundred and eighty

(180) day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

- (m) “Religious institution” means any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- (n) “Residential District” means an area zoned for single family homes, duplexes, townhomes, multiple family residences, mobilehome parks or subdivisions, and recreational vehicle parks, as defined in the Zoning Ordinance.
- (o) “School” means any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- (p) “Semi-Nude” means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- (q) “Significant or substantial portion” means such a percentage of its activities, space allocation, revenues, advertising targeting, stock in trade, floor or display space, business receipts, revenues, or other business undertakings as to indicate to a reasonable person that the adult oriented portion of the business is one of its important activities, though not necessarily its only or even primary activity, for this purpose, evidence that 33% or more of its revenues are derived from such adult-oriented activities or materials, or that 33% or more of its interior floor space or display space is devoted to such adult-oriented activities or materials, or that 33% or more of its actual stock in trade regularly displayed and immediately available for use, rental, purchase, viewing or perusal is comprised of such adult-oriented materials, as defined in the subsections (a) and (b) of subsection 2 of this Section, shall be evidence that a “significant or substantial portion” of the business is devoted to such uses.
- (r) “Specified Anatomical Areas,” as used herein means and includes any of the following:
 - (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (3) Any device, costume or covering that simulates any of the body parts included in subdivisions (1) or (2) above.
- (s) “Specified Criminal Acts” shall mean acts which are sexual crimes against children, sexual abuse, rape or crimes connected with another Adult-Oriented Business included but not limited to distribution of obscenity or material harmful to minors, prostitution or pandering, including any of the offenses wet forth in sections 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(b) and 647(d) of the California Penal Code as those sections now exist may hereinafter be amended or renumbered or the equivalent of the aforesaid offenses outside the State of California.
- (t) “Specified Sexual Activities,” as used in this Division, means and includes any of the following whether performed directly or indirectly through clothing or other covering:
 - (1) The fondling or other intentional touching of human genitals for purpose of sexual arousal, or fondling or other intentional toughing of human genitals, pubic region, anus, or female breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - (3) Masturbation, actual or simulated;
 - (4) Human genitals in a state of sexual stimulation, arousal or tumescence; or
 - (5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this subsection.
- (u) “Transfer of Ownership or Control of an Adult-Oriented Business” means and includes any of the following:
 - (1) The sale, lease or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means;
 - (3) The establishment of a trust, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership of control.

3. Adult-Oriented Business Regulatory Permit Required.

- (a) Every person who proposes to maintain, operate or conduct an Adult-Oriented Business in the City shall file an application with the City Manager upon a form provided by the City and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable.

4. Applications.

- (a) Adult-Oriented Business Regulatory Permits are nontransferable, except in accordance with this "Article Therefore, all applications shall include the following information:
- (1) If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen (18) years of age.
 - (2) If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
 - (3) If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.
- (b) If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten (10) percent or greater interest in the business entity shall sign the application.
- (c) If the applicant intends to operate the Adult-Oriented Business under a name other than that of the applicant, the applicant shall file the fictitious name of the Adult-Oriented Business and show proof of registration of the fictitious name.
- (d) Whether the applicant has ever been convicted of specified criminal acts.
- (e) A description of the type of Adult-Oriented Business for which the Permit is requested and the proposed address where the Adult-Oriented Business will operate, plus the names and addresses of the owners and lessors of the Adult-Oriented Business site.
- (f) The address to which notice of action on the application is to be mailed.

- (g) The names of all employees, independent contractors, and other persons who will perform at the Adult-Oriented Business, who are required by Section 8-107 to obtain an Adult-Oriented Business Performer License.
- (h) A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Adult-Oriented Business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (i) a certificate and straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the Adult-Oriented Business, and the property lines of any of the following which are located within 1000 ft. of the primary entrance of the Adult-Oriented Business for which a Permit is requested; any other Adult-Oriented Business, religious institution, school, boys club, girls club, youth organization, public park, public building regularly frequented by children, any residence, or residential district.
- (j) A diagram of the off-street parking areas and premises entries of the Adult-Oriented Business showing the location of the lighting system required by this Article.
- (k) If the City Manger determines that the applicant has completed the application improperly, the City Manager shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of the (10) days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the City Manager to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.
- (l) The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining an Adult-Oriented Business Regulatory Permit.

5. Investigation and Action on Application.

- (a) Upon receipt of a completed application and payment of the application and Permit fees, the City Manager shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an Adult-Oriented Business Regulatory Permit. The City Manager may designate another City employee to perform his or her functions under this Article.

- (b) Within thirty (30) days of receipt of the completed application, the City Manager shall complete the investigation, grant or deny the application in accordance with the provisions of this Section, and so notify the applicant as follows:
 - (1) The City Manager shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the City Manager shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the City Manager shall attach to the application an Adult-Oriented Business Regulatory Permit.
 - (4) The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- (c) The City Manager shall grant the application and issue the Adult-Oriented Business Regulatory Permit upon findings that the proposed business meets the locational criteria of this Article; and that the applicant has met all of the development and performance standards and requirements of this Article, unless the application is denied for one or more of the reasons set forth in this Article. The permittee shall post the Permit conspicuously in the Adult-Oriented Business premises.
- (d) If the City Manager grants the application or if the City Manager neither grants nor denies the application within thirty (30) days after it is stamped as received (except as provided in this Article), the applicant may begin operating the Adult-Oriented Business for which the Permit was sought, subject to strict compliance with the development and performance standards and requirements of this Article.

6. Permit Denial.

The City Manager shall deny the application for any of the following reasons:

- (a) The building structure, equipment, or location used by the business for which an Adult-Oriented Business Regulatory Permit is required do not comply with the requirements and standards of the health, zoning, fire and safety laws of the City and the State of California, or with the locational or development and performance standards and requirements of these regulations.
- (b) The applicant, his or her employee agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an Adult-Oriented Business Regulatory Permit.

- (c) An applicant is under eighteen (18) years of age.
- (d) The required application fee has not been paid.
- (e) The Adult-Oriented Business does not comply with the zoning ordinance locational standards, as prescribed in this Article.
- (f) The Applicant has been convicted of a specified criminal act, unless the conviction occurred more than five years prior to the date of the application.

7. Permit expiration

Each Adult-Oriented Business Regulatory Permit shall expire one (1) year from the date of issuance, and may be renewed only by filing with the City Manager a written request for renewal, accompanied by the Annual Permit Fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for Permits.

8. Transfer of Adult-Oriented Business Regulatory Permits.

- (a) A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business Regulatory Permit at any place other than the address of the Adult-Oriented Business stated in the application for the Permit.
- (b) A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business Regulatory Permit to another person unless and until the transferee obtains an amendment to the Permit from the City manager stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with this Article, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the City Manager determines in accordance with this Article that the transferee would be entitled to the issuance of an original Permit.
- (c) No Permit may be transferred when the City manager has notified the permittee that the Permit has been or may be suspended or revoked.
- (d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the Permit shall be deemed revoked.

9. Adult-Oriented Business Performer Permit.

- (a) No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business, without a valid Adult-Oriented Business Performer Permit issued by the City. All persons who have been issued an Adult-Oriented Business Regulatory Permit shall promptly supplement the information provided as part of the application for the Permit required by this Article, with the names of all Performers required to obtain an Adult-Oriented Business Performer Permit, within thirty (30) days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business Regulatory Permit.
- (b) The City Manager shall grant, deny and renew Adult-Oriented Business Performer Permits.
- (c) The application for a Permit shall be made on a form provided by the City Manager. An original and two copies of the completed and sworn permit application shall be filed with the City Manager.
- (d) The completed application shall contain the following information and be accompanied by the following documents:
 - (1) The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
 - (2) Age, date and place of birth;
 - (3) Height, weight, hair and eye color;
 - (4) Present residence address and telephone number;
 - (5) Whether the applicant has ever been convicted of:
 - (i) Any of the offenses set forth in Sections 315, 316, 266a, 266b, 266c, 266e, 266g, 266h, 266i, 647(a), 647(b) and 647(d) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.
 - (ii) The equivalent of the aforesaid offenses outside the State of California.
 - (6) Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place

of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.

- (7) State driver's license or identification number;
 - (8) Satisfactory written proof that the applicant is at least eighteen (18) years of age;
 - (9) The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
 - (10) If the application is made for the purpose of renewing a Permit, the applicant shall attach a copy of the Permit to be renewed.
- (e) The completed application shall be accompanied by a nonrefundable application fee. The amount of the fee shall be set by resolution of the City Council.
 - (f) Upon receipt of an application and payment of the application fees, the City Manager shall immediately stamp the application as received and promptly investigate the application.
 - (g) If the City Manager determines that the applicant has completed the application improperly, the City Manager shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than the (10) days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) days, of the time for the City Manager to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

10. Investigation and Action on Application.

- (a) Within five (5) days after receipt of the properly completed application, the City Manager shall grant or deny the application and so notify the applicant as follows:
 - (1) The City Manager shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
 - (2) If the application is denied, the City Manager shall attach to the application a statement of the reasons for denial.
 - (3) If the application is granted, the City Manager shall attach to the application an Adult-Oriented Business Performer Permit.

- (4) The application as granted or denied and the Permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.
- (b) The City Manager shall grant the application and issue the Permit unless the application is denied for one or more of the reasons set forth in subsection (d) of this section.
- (c) If the City Manager grants the application or if the City Manager neither grants nor denies the application within five (5) days after it is stamped as received (except as provided in this Article), the applicant may begin performing in the capacity for which the Permit was sought.
- (d) The City Manager shall deny the application for any of the following reasons:
 - (1) The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a Permit or in any report or document required to be filed with the application;
 - (2) The applicant is under eighteen (18) years of age;
 - (3) The Adult-Oriented Business Performer Permit is to be used for performing in a business prohibited by State or City law.
 - (4) The applicant has been registered in any state as a prostitute within the last 5 years.
 - (5) The applicant has been convicted of any of the offenses enumerated in this Article or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A Permit may be issued to any person convicted of the described crimes if the conviction occurred more than five (5) years prior to the date of the application.
- (e) Each Adult-Oriented Business Performer Permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the City Manager a written request for renewal, accompanied by the application fee and a copy of the Permit to be renewed. The request for renewal shall be made at least thirty (30) days before the expiration date of the Permit. When made less than thirty (30) days before the expiration date, the expiration of the Permit will not be stayed. Application for renewals shall be acted on as provided herein for applications for Permits.

11. Suspension or Revocation of Adult-Oriented Regulatory Permits and Adult Oriented-Business Performer Permits.

- (a) The City Manager shall issue a warning, suspend, or revoke an Adult-Oriented Business Regulatory Permit or Adult-Oriented Business Performer Permit for any of the following causes arising from the acts or omissions of the Permittee, or an employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business:
- (1) The Permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a Permit, or in any report or record required to be file with the City.
 - (2) The Permittee, employee, agent, partner, director, stockholder, or manager of an Adult-Oriented Business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the Adult-Oriented Business, or in the case of an Adult-Oriented Business Performer, the permittee has engaged in one of the activities described below while on the premises of an Adult-Oriented Business:
 - (i) Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.
 - (ii) Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.
 - (iii) Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.
 - (iv) The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code.
 - (v) Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4.
 - (vi) Any conduct prohibited by this chapter.
 - (3) Failure to abide by any disciplinary action previously imposed by an appropriate City official.

- (b) The disciplinary action imposed by the City Manager shall be based upon the severity of the violation. The City Manager shall impose one of the following:
 - (1) a warning, if the violation is minor;
 - (2) suspension of permit for a specified period not to exceed six months, for a substantial violation that was intentional or should have been avoided by reasonable diligence; and
 - (3) revocation of permit for serious, intentional, or repeated violations.
- (c) Any action of the City Manager to suspend or revoke an Adult-Oriented Business Regulatory Permit, or an Adult-Oriented Business Performer Permit shall be stayed for a period of the days, to allow the Permittee to appeal the decision of the City Manager pursuant to this Article. If the action of the City Manager is not appealed within the ten-day period, the action shall become final and be enforced. If the action is properly appealed, the action shall be stayed pending resolution of the appeal.
- (d) Notwithstanding subsection (c) above, the City Manager may summarily suspend an Adult-Oriented Business Permit or an Adult-Oriented Business Performer Permit pending correction of the violation, if there is clear and convincing evidence of a violation of this Article or state law that threatens the health and safety of the community. In such cases, an expedited hearing shall be held by the City Manager within 24 hours, or at a reasonable time thereafter upon request of the Permittee. The expedited hearing shall be conducted in conformance with this Article. The only issue at the expedited hearing shall be whether or not the suspension shall remain in effect pending appeal pursuant to this Article.

12. Appeal of Denial, Suspension or Revocation.

- (a) After denial of an application for an Adult-Oriented Business Regulatory Permit or an Adult-Oriented Business Performer Permit, or after denial of renewal of a Permit, or suspension or revocation of a Permit, the applicant or person to whom the Permit was granted may seek review of such administrative action by the City Manager. Within ten days of notice of denial, suspension or revocation of an Adult-Oriented Business Regulatory Permit or an Adult-Oriented Business Performer Permit, or after denial of renewal of a permit, or a suspension or revocation of a permit, the applicant or permittee may appeal the action of the City Manager by filing a notice of appeal with the City Manager. Within seven days of the receipt of the notice of appeal, the City Manager shall appoint a hearing officer and set a hearing date, which date shall be not less than 15 days after the filing of the appeal. The permittee or applicant may request a reasonable continuance of a hearing date. The hearing officer shall conduct a hearing using the procedures customary to administrative appeals, with the goal

of conducting the hearing in as informal and efficient manner as possible while preserving the substantial rights of the parties. At a minimum, the hearing procedure shall include the following:

- (1) All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness.
- (b) The determination of the hearing officer shall be final and subject to a prompt judicial review pursuant to California Code of Civil Procedure 1094.5. The City shall make all reasonable efforts to expedite judicial review, if requested by the applicant or permittee.

13. Adult-Oriented Business Development and Performance Standards.

- (a) Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Code and building regulations and standards adopted by the City.
- (b) No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- (c) All off-street parking areas and premise entries of the Adult-Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the Adult-Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.
- (d) The premises within which the Adult-Oriented Business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-

or-way or within any other building or other separate unit within the same building.

- (e) Except for those businesses also regulated by the California Department of Alcoholic Beverage Control, an Adult-Oriented Business shall be open for business only between the hours of 8:00 a.m. and midnight on any particular day.
- (f) The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of the City Manager or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time.
- (g) All indoor areas of the Adult Oriented Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.
- (h) Any Adult-Oriented Business which is also an adult arcade," shall comply with the following provisions:
 - (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.
 - (2) The view area specified in subsection (1) shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. No patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
 - (3) No viewing room may be occupied by more than one person at any one time.
 - (4) The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of any two such booths or rooms.
 - (5) Customers, patrons or visitors shall not be allowed to stand idly by in the vicinity of any such video booths, or from remaining in the common area of

such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

(6) The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the Adult-Oriented Business.

(i) All areas of the Adult-Oriented Business shall be illuminated at a minimum of the following foot-candles, minimally maintained and evenly distributed at ground level:

Area	Foot-Candles
Bookstores and other retail establishments	20
Theatres and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10
Motels/Hotels	20 (in public areas)
Modeling studios	20

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

- (k) The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities:
- (1) No person shall perform, live entertainment for patrons of an Adult-Oriented Business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the Adult-Oriented Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.
 - (2) The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
 - (3) The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.
 - (4) The Adult-Oriented Business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the Adult-Oriented Business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
 - (5) No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Oriented Business.
 - (6) Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.
 - (7) No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.
 - (8) No owner or other person with managerial control over an Adult-Oriented Business (as that term is defined herein) shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully

opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

- (l) Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:
 - (1) Adult-Oriented Businesses featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five (35) persons, an additional security guard shall be on duty.
 - (2) Security guards for other Adult-Oriented Businesses may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in this Article from occurring on the premises.
 - (3) Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the Permit issued pursuant to these regulations.

14. Register and Permit Number of Employees.

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

15. Display of Permit and Identification Cards.

- (a) Every Adult-Oriented Business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Adult-

Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

- (b) The City Manager shall provide each Adult-Oriented Business Performer required to have a Permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.
- (c) An Adult-Oriented Business Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult-Oriented Business.

16. Employment of and Services Rendered to Persons Under the Age of Eighteen (18) Years Prohibited.

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

17. Inspection.

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

18. Regulations Nonexclusive.

The provisions of this article regulating Adult-Oriented Businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council.

19. Employment of Persons without Permits Unlawful.

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

20. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

21. Variance.

A variance to the provisions of this Article may be granted if strict application of this Article would violate the applicant's Constitutional rights. Upon such application, the City Council is authorized to waive any of the requirements of this Article if the applicant shows, to the satisfaction of the City Council, that strict enforcement of the provisions of this Article would violate the applicant's Constitutional rights.

22. Adult-Oriented Businesses.

No Adult-Oriented Business, as defined in Section 2, shall be established or located in any zone in the City other than "C-2" or "M-1," or within certain distances of certain specified land-uses or zones as set forth below:

- (a) No such business shall be established or located within 750 feet of any existing residential zone, park, church, recreational facility frequented by minors, or school;
- (b) No business shall be established or located within 500 feet of any business or establishment licensed by the Alcoholic Beverage Control Board to serve or sell alcoholic beverages;
- (c) No such business shall be established or located such that it fronts upon, or has direct access to any street which has a designated full width right-of-way, or 88 feet or more as prescribed in the Circulation Element of the General Plan, whether said street is fully improved or not;
- (d) The distance as set forth above shall be measured as a radius from the very entrance of the Adult-Oriented Business to the property lines of the property so zoned or used, except that fully enclosed without regard to intervening structures."