

ORDINANCE NUMBER 1007

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, ADOPTING A NEGATIVE DECLARATION AND ADDING A NEW CHAPTER 5.50 TO THE MUNICIPAL CODE OF THE CITY OF PERRIS, REGARDING ADULT ORIENTED BUSINESS, AND REPEALING SECTION 9.22 REGARDING SELLERS OF SEX ORIENTED MATERIALS

WHEREAS, the City Council of the City of Perris wishes to promote the City of Perris's great interest in protecting and preserving the quality of the residential, commercial and industrial areas of the City, and the quality of life through effective land use planning; and

WHEREAS, the City Council of the City of Perris believes as true the studies conducted in the cities of Biloxi, Mississippi; Indianapolis, Indiana; Los Angeles, California; and Phoenix, Arizona which show Adult-Oriented Businesses cause secondary impacts which degrade the areas of the City in which they are located, cause a blighting effect on the City, and increase crime in general, and sex related crimes in particular, in the vicinity of the Adult Oriented Business; and

WHEREAS, prior to the adoption of this Ordinance, the City Council reviewed detailed studies prepared by other jurisdictions regarding the detrimental social and economic effects on persons and properties immediately surrounding established Adult Oriented Businesses. These studies included those prepared by the cities of Austin, Texas; Biloxi, Mississippi; Indianapolis, Indiana; Garden Grove, California; Los Angeles, California; and Phoenix, Arizona; and

WHEREAS, the City Council of the City of Perris believes the following statements are true, in part based upon its understanding of the experiences of cities such as Austin, Texas; Biloxi, Mississippi; Indianapolis, Indiana; Los Angeles, California; and Phoenix, Arizona:

A. Crime rates are higher in residential areas surrounding Adult Oriented Businesses than in commercial or industrial areas surrounding Sexually Oriented Businesses;

B. Areas within close walking distance of single and multiple family dwellings should be free of Adult Oriented Businesses;

C. Adult Oriented Businesses should not be located in areas of the City which are in the vicinity of residential uses, religious institutions, parks, schools and commercial zones;

D. The image of the City of Perris as a pleasant and attractive place to reside will be adversely affected by the presence of Adult Oriented Businesses in close proximity to residential uses, religious institutions, parks, schools and commercial zones;

E. The existence of Adult Oriented Businesses in close proximity to residential and commercial areas has been shown in some cities to reduce the property values in those areas;

F. The location of Adult Oriented Businesses on the main commercial thoroughfares of the City would give an impression of legitimacy to, and causes a loss of sensitivity to the adverse effect of pornography upon children, established family relations, respect for marital relationship and for the sanctity of marriage relations of others, and the concept of non-aggressive consensual sexual relations;

G. The City Council believes that allowing Adult Oriented Businesses in the City's M-2 zone is appropriate because such zone includes ample accessible real estate including acreage in all stages of development from raw land to developed, industrial warehouse, and shopping space that is easily accessible by freeways, highways and roads. Prohibiting Adult Oriented Businesses within the City's Commercial Zone is further justified based on the fact that Adult Oriented Businesses have been shown to reduce property values and decrease the patronage of those businesses in close proximity to the Adult Oriented Businesses;

H. Without the adoption of this Ordinance, Adult Oriented Businesses might be able to locate anywhere within the City by right, requiring no permit other than a business license to operate;

I. A reasonable regulation of the location of Adult Oriented Businesses protects the image of the community and its property values and protects its residents from the adverse secondary effects of such Adult Oriented Businesses, while providing those who desire to patronize Adult Oriented Businesses an opportunity to do so in appropriate areas within the City;

J. Regulations for Adult Oriented Businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for a problem to be created;

K. Adult Oriented Businesses should be regulated by developing zoning which will separate such land uses from other incompatible uses; and

L. Neither City experience nor any of the aforementioned studies reviewed by the City have demonstrated that clothing optional Hotels/Motels which do not operate as Adult Hotels/Motels cause any of the secondary effects discussed above.

WHEREAS, the aforementioned studies show that sex-related offenses are included within the category of secondary effects caused by unregulated or underregulated Adult Oriented Businesses; and

WHEREAS, the City Council believes that persons who have been convicted of sex-related offenses have shown a propensity to commit such offenses and should not be permitted to operate Adult Oriented Businesses for two (2) years after such conviction. This is because the sexually oriented nature of the business creates an increased opportunity for the commission of sex-related offenses by persons who have exhibited a propensity for the commission of such offenses; and

WHEREAS, the City Council believes as true the documents and judicial decisions in the public record established and submitted in conjunction with this Ordinance which demonstrate that various operational practices of Adult Oriented Businesses (as that term is defined in Section 5.50.010 of this Ordinance) increase criminal activity, including but not limited to sexually related criminal activity, and increase the likelihood of the transmission of diseases including but not limited to sexually transmitted diseases such as gonorrhea, syphilis, herpes, and acquired immune deficiency syndrome ("AIDS") and hepatitis-B; and

WHEREAS, the City Council believes the following statements are true, in part, based upon its understanding of the documents and judicial decisions in the public record established and submitted with this Ordinance:

A. Evidence indicates that dancers, models, entertainers, and other persons who publicly perform Specified Sexual Activities or publicly display Specified Anatomical Parts in Adult Oriented Businesses (as those terms are defined in Section 5.50.010) (collectively referred to as "Performers") have been found to engage in sexual activities with patrons of Adult Oriented Businesses on the site of the Adult Oriented Business;

B. Evidence has demonstrated that Performers employed by Adult Oriented Businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the Performers in live sex shows;

C. Evidence indicates that Performers at Adult Oriented Businesses have been found to engage in acts of prostitution with patrons of the establishment;

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

E. Many Individual Viewing Areas have been found to contain "glory holes" in the walls joining abutting Individual Viewing Areas which are used by customers to facilitate sexual activity between the occupants of the abutting Individual Viewing Areas;

F. Individual Viewing Areas have been found to be unsanitary due to the existence of semen, saliva, and blood on the walls and floors of the Individual Viewing Areas;

G. Medical science has found that the AIDS and hepatitis-B viruses are carried in the semen of infected males and have a potential life span of two to three hours outside the human body;

H. The existence of semen on the walls and floors of the Individual Viewing Areas can facilitate the transmission of the AIDS and hepatitis-B viruses;

I. The practice of individuals having anonymous and/or unprotected sexual relations in Individual Viewing Areas can facilitate the transmission of the AIDS and hepatitis-B viruses as well as other sexually transmitted diseases;

J. Poorly lit or unlit areas of Adult Oriented Businesses provide a location for people to engage in illegal sexual activities;

K. Police agencies have determined that some Adult Oriented Businesses and the operators thereof have been found to be directly engaged in (as well as aid and abet) criminal and illegal sexual activity. Such individuals also have been known to use aliases;

L. Many jurisdictions have found that Adult Oriented Businesses generate excessive noise and disorderly conduct, particularly at the closing time of the Adult Oriented Business, which creates an adverse noise public safety impact on surrounding businesses and communities; and

WHEREAS, the experiences of the cities of Palm Springs and Huntington Beach, California, indicate that disorderly conduct is likely to occur when crowds which are under the influence of alcohol become involved in sexually oriented activities; and

WHEREAS, while the City Council desires to protect the rights of those who provide adult oriented entertainment, it desires to do so in a manner which decreases, to the greatest extent feasible, the undesirable secondary effects associated with such entertainment; and

WHEREAS, based upon the evidence contained in the documents, judicial opinions, and other public records attached hereto as Exhibit "A," the City Council finds as follows:

A. The City has an interest in ensuring that individuals who operate Adult Oriented Businesses have not been convicted of certain criminal offenses, particularly sexually related offenses. The application requirements contained in Chapter 5.50 of the Perris Municipal Code further that interest;

B. Requiring the presence of one (1) security guard for every 200 patrons at Adult Oriented Businesses providing live entertainment is likely to reduce the disorderly conduct and illegal activity observed to occur at Adult Oriented Businesses in other jurisdictions;

C. Requiring Adult Oriented Businesses to close at 2:00 a.m. is likely to reduce the early morning criminal activity occurring at and near Adult Oriented Businesses and is likely to eliminate the existence of excessive noise and disorderly conduct in and around the community in the early hours of the morning;

D. The requirement that Adult Oriented Businesses only allow performances which are characterized by Specified Sexual Acts or future Specified Anatomical Parts such that patrons not be permitted within 6 feet of the Performers is likely to reduce the opportunities for illegal sexual activity to occur between Performers and patrons, and is particularly likely to reduce the opportunity for such illegal sexual activity to occur at the Adult Oriented Business;

E. Requiring Performers in Individual Viewing Areas to be completely separated from patrons by a floor to ceiling plexiglass or other clear, permanent barrier is likely to reduce the opportunity for illegal sexual activity to occur between Performers and patrons and reduce the possibility of the transmission of sexually transmitted diseases between Performers and patrons;

F. Requiring the entire interior portion of Individual Viewing Areas to be visible from aisles and public areas of the Adult Oriented Business is likely to reduce the opportunity for illegal sexual activity to occur within the Individual Viewing Area;

G. Requiring areas within Adult Oriented Businesses to be minimally illuminated to the standards contained in Chapter 5.50 is likely to reduce the opportunity for the occurrence of illegal sexual activity in dark portions of Adult Oriented Businesses;

H. Prohibiting any physical contact between Performers and patrons of Adult Oriented Businesses is likely to reduce the opportunity for the occurrence of illegal sexual activity between patrons and Performers;

I. Prohibiting holes or openings between the interior spaces of Individual Viewing Areas is likely to reduce the opportunity for the occurrence of illegal sexual activity between the occupants of Individual Viewing Areas;

J. Prohibiting the occupancy of more than one person in an Individual Viewing Area at any time is likely to reduce the opportunity for the Individual Viewing Area to be used for illegal sexual activity;

K. Prohibiting patrons of Adult Oriented Businesses from offering payments or gratuities and prohibiting Performers from accepting the same is likely to reduce the opportunity for illegal sexual activity to occur between patrons and Performers; and

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

WHEREAS, amendments to sections 19.08.468 and 19.65.020 are necessary to establish consistency between the proposed section 5.50 and the related existing code provisions; and

WHEREAS, it is not the intent of the City in adopting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact a content neutral Ordinance which addresses the secondary effects Adult Oriented Businesses have on the City; and

WHEREAS, the City staff has prepared an initial study pursuant to the California Environmental Quality Act ("CEQA"), has determined that this proposed Ordinance will not have any adverse impact on the environment, and accordingly has prepared and recommends adoption of a Negative Declaration; and

WHEREAS, after conducting a duly noticed public hearing on 20 June 1995, the Planning Commission voted to recommend adoption and approval of the draft Negative Declaration and this Ordinance; and

WHEREAS, on 10 July 1995, the City Council conducted a duly noticed public hearing on this Ordinance, and received testimony and information from the public and City staff.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Perris hereby ordains as follows:

Section 1: Pursuant to the City of Perris's CEQA Procedures and Article VI of the State CEQA Guidelines, it has been determined that the adoption of this Ordinance will not have a significant effect on the environment. This conclusion is based upon the Administrative Record, initial study and comments received during the public review period. Therefore, a Negative Declaration has been prepared according to CEQA. The City Council, having final approval authority over this project, has reviewed and considered the information contained in the Negative Declaration and the initial study, and has also reviewed and considered the comments received during the public review public period prior to the approval of this Project. Furthermore, the City Council has exercised its own independent judgment in reaching the above conclusion. The City Council therefore adopts the Negative Declaration.

Pursuant to Title XIV, California Code of Regulations, Section 753.5(c)(1), the City Council has determined that, after considering the record as a whole, there is no evidence that the proposed project will have the potential for any adverse effect on wildlife resources or the habitat upon which the wildlife depends. Furthermore, on the basis of substantial evidence, the City Council hereby

finds that any presumption of adverse impact has been adequately rebutted. Therefore, pursuant to Fish and Game Code Section 711.2 and Title XIV, California Code of Regulations, Section 753.5(a)(3), the payment of Fish and Game Department filing fees is not required in conjunction with this project.

Section 2: A new Chapter 5.50 is hereby added to the Perris Municipal Code to read in its entirety as follows:

Chapter 5.50

Adult Oriented Business

Section 5.50.005 Intent.

The intent of this Chapter is to regulate Adult Oriented Businesses which, because of their very nature, are believed to have any of the recognized significant secondary effects on the community which include, but are not limited to: depreciated property values and increased vacancies in residential and commercial areas in the vicinity of the Adult Oriented Businesses; higher crime rates, noise, debris or vandalism in the vicinity of Adult Oriented Businesses; and blighting conditions such as low level maintenance of commercial premises and parking lots which thereby have a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the Adult Oriented Businesses. It is neither the intent, nor effect of this section to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent, nor effect of this section to restrict or deny access by adults to Sexually Oriented Materials or Merchandise protected by the First Amendment, or to deny access by the distributors or exhibitors of Adult Oriented Business to their intended market.

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

Section 5.50.010 Definitions.

"Adult Bookstore": Any establishment, which as a regular and substantial course of conduct, displays and/or distributes Adult Merchandise, books, periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, slides, films, or other written, oral or visual representations which are distinguished or characterized by an emphasis on a matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. (See "Adult Oriented Business" for definition of regular and substantial portion of its business.)

"Adult Cabaret": A nightclub, bar, lounge, restaurant or similar establishment or concern which features as a regular and substantial course of conduct, any type of live entertainment, films, motion pictures, videos, slides, other photographic reproductions, or other oral, written, or visual representations which are characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

"Adult Hotel/Motel": A hotel or motel, which as a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television or other medium, material which is distinguished or characterized by the emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts and/or which rents, leases, or lets any room for less than a 12-hour period and/or rents, leases or lets any room more than once in a 24-hour period and/or which advertises the availability of any of the above.

"Adult Model Studio": Any premises where there is furnished, provided or procured a figure model or models who pose in any manner which is characterized by its emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts where such model(s) is being observed or viewed by any person for the purpose of being sketched, painted, drawn, sculptured, photographed, filmed, or videotaped for a fee, or any other thing of value, as a consideration, compensation, or gratuity for the right or opportunity to so observe the model or remain on the premises. Adult Model Studio shall not include any Live Art Class or any studio or classroom which is operated by any public agency, or any private educational institution authorized to issue and confer a diploma or degree under Section 94300 et seq. of the Education Code.

"Adult Motion Picture Arcade": Any business establishment or concern

containing coin or slug operated or manually or electronically controlled still, motion picture or video machines, projectors, or other image producing devices that are maintained to display images to an individual in Individual Viewing Areas when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts.

"Adult-Oriented Business": Any business establishment or concern which as a regular and substantial course of conduct performs as an Adult Bookstore, Adult Theater, Adult Motion Picture Arcade, Adult Cabaret, Stripper, Adult Model Studio or Adult Hotel/Motel (but not Clothing Optional Hotel/ Motel); any business establishment or concern which as a regular and substantial course of conduct sells or distributes Sexually Oriented Merchandise or Sexually Oriented Material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts. "Adult Oriented Business" does not include those uses or activities, the regulation of which is preempted by state law. "Adult Oriented Business" shall also include any business establishment or concern which, as a regular and substantial course of conduct provides or allows performers, models, actors, actresses, or employees to appear in any place in attire which does not opaquely cover Specified Anatomical Parts. For the purposes of this Section, a business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Parts as a regular and substantial course of conduct when one or more of the following conditions exist:

A. The area devoted to Adult merchandise and/or Sexually Oriented Material exceeds more than 25 percent of the total display or floor space area open to the public;

B. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Parts at least six (6) times in any month in any given year;

C. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts;

"Adult Theater": a business establishment or concern which, as a regular and

substantial course of conduct, presents live entertainment, motion pictures, videos, slide photographs, or other pictures or visual reproductions which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Parts.

"Live Art Class": Any premises on which all of the following occur: there is conducted a program of instruction involving the drawing, photographing, or sculpting of live models exposing Specified Anatomical Parts; instruction is offered in a series of at least 2 classes; the instruction is offered indoors; an instructor is present in the classroom while any participants are present; and pre-registration is required at least 24 hours in advance of participation in the class.

"Sexually Oriented Material": Any element of Sexually Oriented Merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video, or other written, oral, or visual representation or presentation which, for purposes of sexual arousal, provides depictions which are characterized by an emphasis on matter depicting, describing, or relating to Specific Sexual Activities or Specified Anatomical Parts.

"Sexually Oriented Merchandise": Sexually oriented implements and paraphernalia, such as, but not limited to: dildos, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sado-masochistic activity.

"Specified Anatomical Parts":

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

"Specified Sexual Activities":

- (1) Actual or simulated sexual 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 function in the context of a sexual relationship, any of the following depicted sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia; or
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
- (5) Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
- (6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, vaginal or anal irrigation; or
- (8) Striptease or the removal of clothing to the point where Specified Anatomical Parts are not opaquely covered.

No Adult Oriented Business shall be permitted to operate, engage in, conduct or carry on business within the City unless the owner of the business first obtains both an Adult Oriented Business Permit and a Business License from the City of Perris. If an Adult Oriented Business intends to serve alcoholic beverages, the business shall also be required to obtain a conditional use permit from the city for the service of the alcoholic beverages.

Section 5.50.020 Application Requirements.

The property owner, or authorized agent of the property owner, is eligible to request an Adult Oriented Business Permit. A single Adult Oriented Business Permit shall suffice for the operation of any single Adult Oriented Business on any particular site or in any particular structure within the City.

The following information is required at the time an Adult Oriented Business Permit is submitted to the Community Development Department:

- A. A completed Adult Oriented Business Permit application signed by the property owner or authorized representative.
- B. A non-refundable deposit and/or fee as set forth by resolution of the City Council.
- C. A Letter of Justification describing the proposed project and explaining how it will comply with the findings/requirements contained in Section 5.50.030.
- D. All other information as required by City of Perris Adult Oriented Business Permit Information Sheet.

Section 5.50.025 Findings/Requirements.

The City Director of Planning and Community Development shall issue an Adult Oriented Business Permit within forty-five (45) days of receipt of a complete application if it finds that:

- A. The Adult Oriented Business shall be located in the City's M-2 zoning district.
- B. The Adult Oriented Business shall not be located within one thousand (1000) feet of any residential or commercial zone.¹

¹ The distance of separation required by Findings B and C shall be made using a straight line, without regard to intervening structures or objects, from the property line of the lot on which the Adult Oriented Business shall be located to the nearest property line of the lot upon which is located a residential use, religious institution, park or school from which the measurement is being taken. Where the sensitive receptor

C. The Adult Oriented Business shall not be located within one thousand (1000) feet of any lot upon which there is properly located a public park, school or religious institution. The distances shall be measured as provided in Paragraph "B" of this subsection.¹

D. The Adult Oriented Business complies with the City's parking standards for the underlying use. Where no City parking standards exist for a particular underlying use, the applicant shall provide one (1) space per occupant as based upon the maximum occupancy as determined by the Building Official.

E. The Adult Oriented Business shall not be located completely or partially within any mobile structure or pushcart.

F. The Adult Oriented Business shall not stage any Special Events, promotions, festivals, concerts or similar events which would increase the demand for parking beyond the approved number of spaces for the particular use or which would increase occupancy beyond the maximum building occupancy as determined by the Fire Marshall as required by law.

G. The Adult Oriented Business shall not conduct any massage, acupuncture, tattooing, acupressure, fortune-telling or escort services on the premises.

H. The Adult Oriented Business shall provide a security system that visually records and monitors all parking lot areas. All indoor areas of the Adult Oriented Business shall be open to public view at all times with the exception of restroom facilities. "Accessible to the public" shall include but not be limited to those areas which are only accessible to members of the public who pay a fee and/or join a private club or organization.

I. The Adult Oriented Business complies with the City's sign regulations.

J. The Adult Oriented Business complies with the development and design requirements of the zone in which it is to be located.

K. The Adult Oriented Business shall not display any Sexually Oriented Material, Sexually Oriented Merchandise or display which would be visible from any location other than from within the Adult Oriented Business.

L. The Adult Oriented Business shall not allow admittance to any person under the age of 18 if no liquor is served, or under the age of 21 if liquor is served.

M. The Adult Oriented Business shall not operate between the hours of midnight

site is located on the same lot as the Adult Oriented Business, the distance between the two shall be measured in a straight line between the front doors of each use without regard to intervening structures or objects.

and 10:00 am.

N. Neither the applicant, if an individual, nor any of the officers or general partners, if a corporation or partnership, of the Adult Oriented Business have been found guilty within the past two (2) years of a misdemeanor or felony classified by the State as a sex-related offense and have not violated any of the provisions of an Adult Oriented Business Permit or similar permit or license in any city, county, territory, or state.

O. The Adult Oriented Business shall provide separate restroom facilities for male and female patrons. The restrooms shall be free from Sexually Oriented Materials and Sexually Oriented Merchandise. Only one person shall be allowed in the restroom at any time, unless otherwise required by law, in which case the Adult Oriented business shall employ a restroom attendant of the same sex as the restroom users who shall be present in the restroom during operating hours. The attendant shall prevent any person(s) from engaging in any Specified Sexual Activities within the restroom and shall ensure that no person of the opposite sex is permitted in the restroom.

P. The interior of the Adult Oriented Business shall be configured such that there is an unobstructed view, unassisted by camera, video surveillance, or other equipment or materials, of every public area of the premises, including but not limited to the interior of all Individual Viewing Areas, from a manager's station which is no larger than 32 square feet of floor area with no single dimension being greater than 8 feet in a public portion of the establishment. No public area, including but not limited to the interior of any Individual Viewing Area, shall be obscured by any door, curtain, wall, two way mirror or other device which would prohibit a person from seeing into the interior of the Individual Viewing Area from the manager's station. A manager shall be stationed in the manager's station at all times the business is in operation or open to the public in order to enforce all rules and regulations. No Individual Viewing Area shall be designed or operated to permit occupancy of more than one person at a time. "Individual Viewing Area" shall mean any area designed for occupancy of one person for the purpose of viewing live performances, pictures, movies, videos or other presentations.

Q. All areas of the Adult Oriented Business shall be illuminated at a minimum of five (5) foot-candles, minimally maintained and evenly distributed at ground level.

R. The Individual Viewing Areas of the Adult Oriented Business shall be operated and maintained with no holes, openings or other means of direct visual or physical access between the interior space of two or more Individual Viewing Areas.

S. A traffic study has been prepared for the Adult Oriented Business in conformance with the City's Traffic Study Guidelines. The applicant shall demonstrate that the project will not result in a reduction in any roadway level of service below that level of service designated in the general plan for that roadway. If the applicant so desires, rather than be denied the

permit, the applicant may elect to construct the requisite street improvements determined by the City's traffic engineer to be necessary to allow the project to operate without reducing the level of service below that level designated in the City's general Plan for that roadway.

T. The Adult Oriented Business shall comply with the Noise Element of the General Plan, Interior and Exterior Noise Standards and any mitigation measures necessary to reduce the project's noise impacts to the City's articulated noise standard.

U. The Adult Oriented Business shall comply with all building and construction standards of the Uniform Building Code, Title 24 of the California Code of Regulations, and all other federal, state and City-adopted standards for the specific use.

V. Whenever live entertainment is provided, patrons shall be physically separated from Performers by a buffer zone of at least six (6) feet. "Live Entertainment," for the purposes of this requirement, shall mean any existent display by a human being which is characterized by an emphasis on Specified Anatomical Parts or Specified Sexual Activities. This provision shall not apply to an Individual Viewing Area where the stage is completely separated from the Individual Viewing Area by a floor to ceiling permanent, solid barrier.

W. No building, premises, structure, or other facility shall be permitted to contain more than one type of Adult Oriented Business as such types of Adult Oriented Business are defined in Section 5.50.010. For the purposes of this section, the catch-all phrase "Adult Oriented Business" shall not be considered a single type of Adult Oriented Business.

X. No Individual Viewing Area may be occupied by more than one (1) person at any one time.

Y. No patron shall directly or indirectly pay or give any gratuity to any Performer and no Performer shall solicit or accept any gratuity from any patron.

The City Director of Planning and Community Development shall deny the requested permit if the above findings have not been made.

Section 5.50.030 Permit Duration.

An Adult Oriented Business Permit shall be valid for a period of one (1) year from the date of issuance.

Section 5.50.035 Permit Renewal.

An Adult Oriented Business Permit shall be renewed on a year to year basis

provided that the permittee and the Adult Oriented Business continues to meet the requirements set forth in this Chapter. A request for Permit renewal must be accompanied by a completed Adult Oriented Business Permit application. If said application conforms to the previously approved application and the Adult Oriented Business has not changed, the permit shall be renewed by the Director of Planning and Community Development for another year. Any change or alteration in that nature or operation of the Adult Oriented Business will require the renewal to be reviewed by the Director of Planning and Community Development. The renewal fee for an Adult Oriented Business Permit shall be established by ordinance or resolution of the City Council.

Section 5.50.040 Permits Non-Transferable; Use Specific.

No Adult Oriented Business Permit may be sold, transferred, or assigned by any permittee or by operation of law, to any other person, group, partnership, corporation or any other entity. Any such sale, transfer, or assignment or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of the Permit and the Permit shall be thereafter null and void. An Adult Oriented Business Permit held by a corporation or partnership is subject to the same rules of transferability as contained above. Any change in the nature or composition of the Adult Oriented Business from one element of an Adult Oriented Business to another element of an Adult Oriented Business shall also render the Permit null and void. An Adult Oriented Business Permit shall only be valid for the exact location specified on the Permit.

Section 5.50.045 Enforcement and Revocation.

A. Inspections.

The Permittee shall permit officers of the City of Perris, the County of Riverside, and each of their authorized representatives to conduct unscheduled inspections of the premises of the Adult Oriented Business for the purpose of ensuring compliance with the law at any time the Adult Oriented Business is open for business or occupied.

B. Revocation grounds.

The Director of Planning and Community Development may revoke an Adult Oriented Business Permit when he or she discovers that any of the following

have occurred:

- (1) Any of the findings contained in Section 5.50.025 above ceases to be satisfied;
- (2) The application contains incorrect, false or misleading information;
- (3) The applicant is convicted of any felony or misdemeanor which is classified as a sex or sex related offense, any violation of the City's Zoning Ordinance, any violation of the City's massage ordinance, or any violation of any other adult business ordinance of any other city, county, or state;
- (4) Individual Viewing Areas are being operated with more than one occupant at any one time, or are being maintained with holes, openings or other means of direct visual access between the interior space of two or more Individual Viewing Areas. For the purpose of this section, "Individual Viewing Area" shall mean a viewing area designed for single occupancy;
- (5) Any person has been convicted of a sex related offense as a result of his or her activity on the premises of the Adult Oriented Business; or
- (6) Any person or persons has engaged in any Specified Sexual Activities on the premises.

C. Revocation Notice.

Upon determining that the grounds for permit revocation exist, the Director of Planning and Community Development shall furnish written notice of the proposed revocation to the permittee. Such notice shall summarize the principal reasons for the proposed revocation, shall state that the permittee may appeal the decision within fifteen (15) calendar days of the posting or the post-marked date on the notice. The notice shall be delivered both by posting the notice at the location of the Adult Oriented Business and by sending the same, certified mail, return receipt requested and postage pre-paid, to the permittee as that name and address appears on the permit. Not later than fifteen (15) calendar days after the latter of the mailing or posting of the notice, the permittee may file an appeal of the Director of Planning and Community Development's determination with the City Clerk.

If the appeal is filed within fifteen (15) calendar days of the mailing or posting of the notice referenced above, the appeal hearing shall be provided as contained in Subsection D below.

D. Reapplication after Revocation.

No person, corporation, partnership or member thereof or any other entity may obtain an Adult Oriented Business Permit for a business for a five (5) year period once its Permit has been revoked.

Section 5.50.050 Violation and Penalty.

- (1) Every person, whether acting as an individual owner, employee of the owner, permittee, or operator or employee of the permittee, or whether acting as a mere helper for the owner, permittee employer or operator, or whether acting as a participant or worker in any way, who operates or conducts or who participates in the operation of an unpermitted Adult Oriented Business, or who violates any provisions of this Chapter, including but not limited to any provision of Section 5.50.025, shall be guilty of a misdemeanor and shall be fined not more than One Thousand Dollars (\$1,000.00) for each offense or imprisoned for not more than six (6) months in the county jail or each offense, or both. Each day the violation continues shall be regarded as a separate offense for which the full penalty may be imposed.
- (2) Any establishment operated, conducted or maintained contrary to the provisions of this Chapter is unlawful and a public nuisance, and the City Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such Adult Oriented Business and restrain and enjoin any person from operating, conducting or maintaining such an establishment contrary to the provisions of this Chapter.

Section 3: Section 19.08.468 of the Perris Municipal Code, the definition of "restaurant" is hereby amended to read as follows:

19.08.468 Restaurant. "Restaurant" shall mean an establishment that serves prepared food as

the primary function, with or without the incidental sales of alcoholic beverages served for on-site consumption.

Section 4: Section 19.65.020 of the Perris Municipal Code, relating to permitted zones for sale of alcoholic beverages is hereby amended to read as follows:

19.65.020 Permitted Zoning for Alcoholic Beverage Sales. The sale of alcoholic beverages for off-site and/or on-site consumption shall only be allowed in the C-1 and C-2 zones, provided that the appropriate permits have been obtained. The sale of alcoholic beverages for on-site consumption shall be conditionally permitted in the M-2 zone, and sale for off-site consumption shall not be permitted in the M-2 zone.

Section 5: Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6: The Director of Planning and Community Development is hereby authorized and directed to file a Notice of Determination upon the final approval of this amendment.

Section 7: Section 9.22 of the Zoning Ordinance of the City of Perris is hereby repealed and is of no further force or effect.

Section 8: The City Clerk of the City of Perris shall certify to the passage and adoption of this ordinance and the same shall be published as required by law and shall take effect as provided by law.

APPROVED, ADOPTED AND SIGNED this 31st day of July, 1995.

MAYOR OF THE CITY OF PERRIS

ATTEST:

City Clerk

Approved as to form:

City Attorney

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF PERRIS)

I, Beti An Hynes, City Clerk of the City of Perris, California, do hereby certify that the foregoing Ordinance Number 1007 was introduced at a regular meeting of the City Council of the City of Perris held on the 10th day of July 1995, and adopted by the City Council of the City of Perris at the regular meeting thereof held on the 31st day of July, 1995 by the following called vote:

Ayes: Torres, Baitinger, Denney and Fletcher
Noes: None
Absent: Long

City Clerk