



Planning and Building Agency
 Planning Division
 20 Civic Center Plaza
 P.O. Box 1988 (M-20)
 Santa Ana, CA 92702
 (714) 647-5804
 www.santa-ana.org

ADULT ENTERTAINMENT BUSINESS LAND USE PERMIT APPLICATION

SUBMITTAL REQUIREMENTS: The filing requirements for an adult entertainment business land use permit are listed below. It is important to review the submittal requirements with a Planner to establish the correct and specific materials necessary to submit with your application. **Incomplete applications cannot be processed and will be returned to the applicant together with a checklist specifying the items that are incomplete.**

The applicant must thoroughly respond to the applicable directives below in order that this information can be used to make the required findings for the proposed project (use additional sheets if more space is necessary to complete your response).

I. ADULT ENTERTAINMENT BUSINESS LAND USE PERMIT REQUIREMENT

An adult entertainment business land use permit is required when commercial or manufacturing zoned properties are proposed to be used for the operation or establishment of an adult entertainment business, or for the expansion of an existing adult entertainment business land use. The regulations applicable to the adult entertainment business land use permit are set forth in Article XVII of Chapter 41 of the Santa Ana Municipal Code.

II. TYPE OF ADULT ENTERTAINMENT BUSINESS REQUESTED

Please be specific as to the type or types of adult entertainment business for which a permit is sought. Types of adult entertainment businesses are defined in section 41.1701.6 of the Santa Ana Municipal Code (see Article XVII of Chapter 41 of the Santa Ana Municipal Code located in the City's libraries and/or the Planning Division Public Counter). Please be aware that should a permit be issued, it will only give the applicant the right to operate the type of adult entertainment business specified below.

III. ADULT ENTERTAINMENT BUSINESS LAND USE PERMIT JUSTIFICATION

A. Describe how the requested use complies with the applicable development and design requirements of the underlying zoning district in which it is to be located and with the applicable standards of Article XVII of Chapter 41 of the Santa Ana Municipal Code.

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B. Describe how the requested use will provide and maintain (a) wastewater to establish and maintain an unrestricted flow in sanitary sewers during average and peak conditions as established by the City's Sewer Master Plan, and (b) solid waste services to establish and maintain a level of service consistent with the City's Source Reduction and Recycling Element (see the Sewer Master Plan and Source Reduction and Recycling Element located in the City's libraries and/or the Planning Division Public Counter).

C. Describe how the requested adult entertainment business meets the zoning criteria of section 41-1702(a) of the Santa Ana Municipal Code; i.e., is located in one of the following zoning districts: C2, C3, C4, CR, M1, and M2.

D. Describe how the requested adult entertainment business meets the distance criteria of section 41-1702(b) of the Santa Ana Municipal Code.

- (1) The proposed adult entertainment business is more than one thousand (1,000) [feet from] any other existing adult entertainment business.
- (2) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing public premises as defined in the Business and Professions Code selling liquor or beer for consumption on the premises as its primary business.
- (3) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing public dance halls as defined in section 11-1.
- (4) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing massage establishment as defined in section 22-1.
- (5) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing peep show establishment as defined in section 12-22.
- (6) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing residential zone, park, day care, child care facility, religious institution or school.
- (7) The proposed adult entertainment business is more than one hundred twenty-five (125) feet from the right-of-way line of any freeway or street designated as an arterial in the current circulation element of the general plan. This distance shall be measured along a straight line from the right of way line, as shown on the city's official map, to the parcel line of the proposed adult entertainment business, without regard to intervening structures.

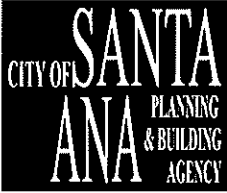
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- (8) The distances set forth in subsections (1) through (6), above, shall be measured as a radius from the primary entrance of the proposed adult entertainment business to the property lines of the parcel so zoned or used, without regard to intervening structures.
- (9) Any waiver of the provisions of this subsection shall be pursuant to the provisions of division 1 of article V of this chapter; provided, however, that any such application shall be reviewed and determined as provided in section 41-1705 of this Code.

- E. Submit fourteen (14) sets of plans with a scale map showing the exterior walls of the requested adult use which extends at least one thousand (1,000) feet from each wall. The submitted map shall be of sufficient quality and detail that distances accurate to plus or minus one foot can be scaled directly from it.

- F. Will the requested use sell or vend alcohol for on-site or off-site consumption? If so, the applicant must also submit an application for a Conditional Use Permit (CUP) pursuant to section 41-196 of the Santa Ana Municipal Code.

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**ADULT ENTERTAINMENT
 BUSINESS LAND USE
 PERMIT APPLICATION**

I hereby certify that all of the information contained in this application is, to the best of my knowledge and belief, true and correctly represented. I also certify that:

- 1) The requested adult entertainment business does not involve an applicant, if an individual, or any of the officers or general partners of an applicant, if a corporation or partnership, that have been found guilty or pleaded nolo contendere within the past four (4) years of a misdemeanor or a felony classified by the state as a sex or sex-related offense;

- 2) I acknowledge that section 41-1706(7) of the Santa Ana Municipal Code provides that the application may be denied if I have submitted false or misleading information on this application.

- 3) I have not had an application for an adult entertainment business land use permit denied or revoked in the twelve (12) months preceding the date of this application; and,

- 4) I acknowledge that this permit, if granted, does not excuse the applicant from compliance with any other local, state or federal law or regulation.

Date

Signature of Applicant

APPLICATION NO. _____

ARTICLE XVII. - ADULT ENTERTAINMENT BUSINESSES

Sec. 41-1700. - Specific purposes.

In addition to the general purposes listed in section 41-1, the specific purposes of this article are to:

- (a) Establish a procedure which places strict limits on processing time and eliminates any possibility for the exercise of unfettered discretion in reviewing applications for establishing adult entertainment businesses.
- (b) Ensure orderly and thorough city review of applications for certain adult entertainment businesses including but not limited to adult business uses.
- (c) Establish reasonable and uniform regulations that will reduce possible adverse secondary effects that adult entertainment businesses may have upon the residents of the city and preserve the integrity of existing commercial areas of the city and of residential areas which are in close proximity to such commercial areas.
- (d) To protect the rights conferred by the United States Constitution to adult entertainment businesses in a manner that ensures the continued and orderly development of property within the city and diminishes those undesirable negative secondary effects that recognized studies have shown to be associated with the development and operation of adult entertainment businesses.
- (e) To allow a process whereby the unusual site development features or operating characteristics of uses which must comply with this article may be conditioned through an individual review, in order to be compatible with the surrounding uses of property, while preserving the applicant's rights to objective standards and prompt administrative and judicial review.

(Ord. No. NS-2373, § 8, 12-7-98)

Sec. 41-1701. - Definitions.

The words and phrases, whenever used in this article, shall be construed as defined in sections 41-1701.1—41-1701.11, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases. The words used in the present tense include the future tense, and words in the singular number include the plural number.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.1. - Day care.

The term "day care" as used in this article shall mean only those day care facilities that are licensed by the State of California.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.2. - Establishment of an adult entertainment business.

As used herein, to "establish" an adult entertainment business shall mean and include any of the following:

- (1) The opening or commencement of any adult entertainment business as a new business;
- (2) The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business defined herein;

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- (3) The addition of any of the adult entertainment businesses defined herein to any other existing adult entertainment business; or
- (4) The relocation of any such adult entertainment business.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41.1701.3. - Residential zone.

As used herein, "residential zone" shall mean those areas of the city, or surrounding jurisdictions, which are designated as residential pursuant to the land use element of the jurisdiction's general plan.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41.1701.4. - Specified anatomical areas.

As used herein, "specified anatomical areas" shall mean and include any of the following:

- (1) Less than completely and opaquely covered human (i) genitals or pubic region; (ii) buttocks; and (iii) female breast below a point immediately above the top of the areola;
- (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 subsections (1) or (2) above.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.5. - Specified sexual activities.

As used herein, "specified sexual activities" shall mean and include any of the following, whether performed directly or indirectly through clothing or other covering:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Excretory functions as part of or in connection with any of the other activities described in subsections (1) through (3) of this section.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.6. - Adult entertainment businesses.

As used in this article, the term "adult entertainment businesses" means any one (1) of the following:

- (1) *Adult arcade*. The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions [that] regularly feature, but in no event more than twenty (20) per cent of the number of which, are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ARTICLE XVII. - ADULT ENTERTAINMENT BUSINESSES

- (2) *Adult bookstore.* The term "adult bookstore" as used in this chapter, is an establishment that regularly features, but in no event has more than twenty (20) per cent of its stock in trade in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and or specified anatomical areas.
- (3) *Adult cabaret.* The term "adult cabaret" as used in this chapter, means a cabaret, restaurant, or similar business establishment which: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features live performances by persons who appear semi-nude.
- (4) *Adult hotel/motel.* The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions that regularly feature, but in no event more than twenty (20) per cent of the number of which, are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six-hour period, or rents, leases, or lets any single room more than twice in a twenty-four-hour period.
- (5) *Adult motion picture theater.* The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and regularly feature, but in no event more than twenty (20) per cent of the number of which, are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- (6) *Adult theater.* The term "adult theater" as used in this chapter, means a legitimate theater, concert hall, auditorium, or similar establishment primarily devoted to theatrical performances which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.
- (7) *Modeling studio.* The term "modeling studio" as used in this chapter, means a business which meets the definition of a figure modeling studio pursuant to article IV of chapter 12 of this Code or which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the state board of education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.7. - Religious institution.

The term "religious institution" as used in this article, is a structure which is used primarily for religious worship and related religious activities.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.8. - Distinguished or characterized by an emphasis upon.

ARTICLE XVII. - ADULT ENTERTAINMENT BUSINESSES

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

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.9. - Regularly features.

The term "regularly features" with respect to an adult entertainment business means a regular and substantial course of conduct. For purposes of an adult theater or adult cabaret 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-day period; three (3) or more occasions within a sixty-day period; or four (4) or more occasions within a one-hundred-eighty-day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.10. - School.

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

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1701.11. - Semi-nude.

The term "semi-nude" as used in this article shall mean a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1702. - Permitted zones and locations for adult entertainment businesses.

- (a) No adult entertainment business may be located within the city, except in one (1) of the following zoning districts: C2, C3, C4, CR, M1 and M2.
- (b) No adult entertainment business may be located within the city unless it meets the following distance criteria:
 - (1) The proposed adult entertainment business is more than one thousand (1,000) [feet from] any other existing adult entertainment business.
 - (2) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing public premises as defined in the Business and Professions Code selling liquor or beer for consumption on the premises as its primary business.

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- (3) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing public dance halls as defined in section 11-1.
- (4) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing massage establishment as defined in section 22-1.
- (5) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing peep show establishment as defined in section 12-22.
- (6) The proposed adult entertainment business is more than one thousand (1,000) feet from any existing residential zone, park, day care, child care facility, religious institution or school.
- (7) The proposed adult entertainment business is more than one hundred twenty-five (125) feet from the right-of-way line of any freeway or street designated as an arterial in the current circulation element of the general plan. This distance shall be measured along a straight line from the right of way line, as shown on the city's official map, to the parcel line of the proposed adult entertainment business, without regard to intervening structures.
- (8) The distances set forth in subsections (1) through (6), above, shall be measured as a radius from the primary entrance of the proposed adult entertainment business to the property lines of the parcel so zoned or used, without regard to intervening structures.
- (9) Any waiver of the provisions of this subsection shall be pursuant to the provisions of division 1 of article V of this chapter; provided, however, that any such application shall be reviewed and determined as provided in section 41-1705 of this Code.

(Ord. No. NS-2373 § 8, 12-7-98; Ord. No. NS-2446, § 26, 9-18-00)

Sec. 41-1703. - Adult entertainment business land use permit requirements.

- (a) *Permit required.* No adult entertainment business may be operated or established within the city by right; all persons wishing to operate or establish an adult entertainment business within the city must apply for and obtain a ministerial adult entertainment business land use permit under this article. The city's development project plan approval process, set forth at section 41-668 et seq. of this Code, shall not apply to applications solely for the issuance of an adult entertainment business land use permit under this article.
- (b) *Application.* Any person desiring to operate or establish an adult entertainment business within the city shall file with the planning and building agency an adult entertainment business land use permit application on a standard application form supplied by the planning and building agency.
- (c) *Existing adult entertainment businesses.* The city council declares that all adult entertainment businesses legally established as of the effective date of Ordinance No. NS-2373 shall not be deemed to be nonconforming to chapter 41, as amended, for failure to seek and obtain an adult entertainment business land use permit for a period of one (1) year. The city council further declares that all legally established adult entertainment businesses, as that term is defined in this article, shall be deemed to be conforming for the use or uses specified in any conditional use permit or live entertainment permit issued to the use. For the purposes of this article the adult entertainment businesses located at the following addresses shall be deemed to be legally established: 213 North Harbor Boulevard, 225 North Harbor Boulevard, 1109 North Harbor Boulevard, 2721 West Edinger Avenue, and 2701 East Edinger Avenue.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1704. - Permit—Contents of application.

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- (a) *Initiation.* The permit process shall be initiated by the filing of a complete application with the executive director. The executive director shall determine the completeness of the application within thirty (30) calendar days of its submittal.
- (b) *Contents.* The city council, by resolution, shall set forth the contents required for such applications for an adult entertainment business land use permit.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1705. - Same—Decision to grant or deny.

- (a) *Action on application.* The planning manager or designee shall act as the decision-maker on the application and shall ministerially grant or deny an application for an adult entertainment business land use permit.
- (b) *Investigation.* Upon the filing of a completed application, the decision-maker shall cause to be made an appropriate investigation, including consultation with other city agencies and inspection of the premises as needed. Consultation is not grounds for the city to unilaterally delay in reviewing a completed application.
- (c) *Notice and hearing.*
 - (1) An application for an adult entertainment business land use permit shall be mailed and noticed at least fourteen (14) days prior to the public hearing as follows:
 - i. By mail, to the property owner and the project applicant, if different;
 - ii. By mail to all owners of property within three hundred (300) feet of the site boundaries, as shown on the latest equalized tax assessment roll; and
 - iii. By posting along public streets within three hundred (300) feet of the site boundaries.
 - (2) The decision-maker shall conduct the public hearing as prescribed in section 3-4 of this Code. In reaching a decision on an application, the decision-maker shall not be bound by the formal rules of evidence.
- (d) *Time for hearing.* After the investigation has been completed the decision-maker shall conduct a noticed public hearing, as prescribed by this section, on the application for an adult entertainment business land use permit.
- (e) *Action on application.* The decision-maker shall render a decision on the application for an adult entertainment business land use permit within thirty (30) days of receiving a complete application. The decision shall be made no later than the same day as the final hearing on the application, and if not in writing, a written decision shall be prepared within three (3) business days of the decision. As provided in subsection 1-19(d) of this Code, the written decision shall state that the time within which judicial review of the decision must be sought is governed by Code of Civil Procedure § 1094.6. The failure of the decision-maker to render such a decision within this time frame shall be deemed to constitute a denial.
- (f) *Final decision.* The decision-maker's written decision shall be hand delivered or mailed to the applicant, and shall be final.
- (g) *Court proceedings.* All challenges to the decision-maker's action shall be governed by the provisions of Code of Civil Procedure § 1094.5, except that the city shall prepare and certify the administrative record of proceedings, should it be requested by the petitioner, within thirty (30) days of the request.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1706. - Same—Approval criteria.

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- (a) *Findings.* The decision-maker shall ministerially approve an application for an adult entertainment business land use permit subject to its compliance with this article, where the information submitted by the applicant substantiates the following findings:
- (1) The proposed use complies with the applicable development and design requirements of the underlying zoning district in which it is to be located and with the applicable standards of this article.
 - (2) The proposed use will provide and maintain wastewater to establish and maintain an unrestricted flow in sanitary sewers during average and peak conditions as established by the city's approved sewer master plan, as amended from time to time.
 - (3) The proposed use will provide and maintain solid waste services to establish and maintain a level of service consistent with the city's approved source reduction and recycling element.
 - (4) The proposed use is located in a zoning district in which an adult entertainment business is permitted pursuant to subsection 41-1702(a).
 - (5) The adult entertainment business meets the distance criteria of subsection 41-1702(b), which shall be measured as of the date of the completed application.
 - (6) The proposed use does not involve an applicant, if an individual, or any of the officers or general partners of an applicant, if a corporation or partnership, that have been found guilty or pleaded nolo contendere within the past four (4) years to a misdemeanor or a felony classified by the state as a sex or sex-related offense.
 - (7) The applicant has not submitted false or misleading information on the application.
 - (8) The applicant has not had an application for an adult entertainment business land use permit denied or revoked in the twelve (12) months preceding the date of the current application.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1707. - Same—Period of validity.

Any adult entertainment business land use permit approved pursuant to this article shall become null and void unless the proposed use is established within one (1) year of the date from the approval. The permit holder may apply for a single one-year extension of the permit, provided that such application is filed prior to the expiration of the permit. Any application for an extension shall be reviewed by the same procedure as the original permit application. For purposes of this section, a proposed use shall be deemed to be established if a building permit for the project has been issued and construction diligently pursued; or, a certificate of occupancy has been issued; or, a complete application for an extension has been submitted.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1708. - Same—Revocation.

- (a) *Findings.* Any permit issued pursuant to the provisions of this article may be revoked by the city on the basis of any of the following:
- (1) The business or use has been conducted in a manner which violates the provisions of this article, the permit itself, fails to conform to the plans, specifications or procedures described in the application, or which violates the occupant load limits set by the fire marshal.
 - (2) The permittee has failed to obtain or maintain all required city, county, and state licenses and permits.
 - (3) The permit is being used to conduct an use different from that for which it was issued.

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- (4) The permittee has misrepresented a material fact in the application for permit or has not answered each question therein truthfully.
 - (5) Due to changes in on-site conditions, the adult entertainment business lacks sufficient on-site parking area for employees and the public under the standards set forth in the city's parking ordinance, except for an existing use that is legal and nonconforming with respect to parking.
 - (6) The permitted business creates sound levels which violate the noise control ordinance of the city.
 - (7) That the use for which the approval was granted has been discontinued, ceased to exist or has been suspended for a continuous period of six (6) months or more.
- (b) *Notice of hearing.* The grantor of the permit shall notice and conduct a public hearing, as prescribed in this Code, on the proposed permit revocation.
 - (c) *Hearing.* The planning manager or designee shall conduct the revocation hearing and hear testimony regarding the proposed revocation from any interested party. The hearing body shall not be bound by the formal rules of evidence at the hearing.
 - (d) *Notice.* Written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the permittee, shall be personally delivered or sent by certified mail to the permittee at least ten (10) days prior to the hearing.
 - (e) *Decision.* The grantor shall revoke, not revoke, or not revoke but add conditions to, the permittee's adult entertainment business land use permit.
 - (f) *Decision and notice.* Within ten (10) working days of the conclusion of the hearing, the decision-maker shall render a decision supported by written findings. A copy of the decision and written findings shall be mailed to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.
 - (g) *Time for decision.* The decision-maker shall make its decision within thirty (30) days of the public hearing.
 - (h) *Appeal of decision or call for review.* If the decision on revocation is made by the planning manager or designee, any interested person may appeal the decision to the planning commission, or the decision may be reviewed by the city council pursuant to a call for review by the council, pursuant to subsection 41-645(c).
 - (i) *Effective date.* The effective date of a decision to revoke an adult entertainment business land use permit shall be as provided in section 41-645.
 - (j) *Renewal.* In the event a permit is revoked pursuant to this article, another adult entertainment business land use permit shall not be granted to the permittee or on the site of the permit within twelve (12) months after the date of such revocation.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1709. - Grant of authority.

- (a) No person may operate an adult entertainment business without a grant of authority. Every applicant who is granted an adult entertainment business land use permit shall at the same time automatically be issued by the chief of police a grant of authority to operate the adult entertainment business.
- (b) The grant of authority shall be renewed yearly by the operator, who shall apply for renewal no later than thirty (30) days prior to the expiration of the grant.
- (c) Should any holder of a grant of authority desire to transfer or assign the grant, the proposed new holder shall file a request to transfer the grant of authority no later than thirty (30) days prior to the date the new business operator intends to initiate operations.

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- (d) The chief of police or designee shall renew or transfer a grant of authority no later than fifteen (15) calendar days following the request for renewal or issuance of a transfer providing only that the business operator if an individual, or any of the officers or general partners of the business owner, if a corporation or partnership, has not been found guilty or pleaded nolo contendere within the past four (4) years to a misdemeanor or a felony classified by the state as a sex or sex-related offense.
- (e) The chief of police shall make available applications to renew or transfer a grant of authority.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1710. - Grant of authority—Non-transferable.

- (a) An adult entertainment business land use permit approved pursuant to this article shall be deemed to run with the land.
- (b) Should a grant of authority be sold, transferred or assigned by the holder or by operation of law, to any other person, group, partnership, corporation or any other party, and any such sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such grant, and such grant shall be thereafter null and void. A grant of authority permit held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above.
- (c) Any change in the nature or composition of the adult entertainment business from one adult entertainment business to another type of adult entertainment business shall also render the grant and the permit null and void. A grant of authority and an adult entertainment business land use permit shall be valid only for the exact location specified in the permit.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1711. - Development and operating standards.

The following development and operating standards shall be applied to the operation of any adult entertainment business:

- (a) *Hours of operation.*
 - (1) It shall be unlawful for any operator or employee of an adult business to allow such adult business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of midnight and 10:00 a.m. of any day.
 - (2) The hours of operation of any adult business which has a license from the state alcohol beverage control board shall be governed by the provisions of its alcohol beverage control permit and not by this section.
- (b) *Exterior lighting requirements.* All exterior areas of the adult business shall be illuminated at a minimum of five (5.00) footcandles, minimally maintained as defined in this Code, and evenly distributed at ground level, with appropriate devices to screen, deflect or defuse the lighting in such manner as to prevent glare or affected light from creating adverse impacts on adjoining and nearby public and private properties.
- (c) *Interior lighting requirements.* All interior areas of an adult entertainment business which are accessible by the public shall be illuminated at a minimum of ten (10.00) footcandles, minimally maintained as defined in this Code and evenly distributed at floor areas.
- (d) *Access provision.* The operator shall not permit any doors on the premises to be locked during business hours and, in addition, the operator shall be responsible to see that any room or area on the premises shall be readily accessible at all times and shall be open to view in its entirety for inspection by any law enforcement officer.

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- (e) *Minors' access.*
- (1) *X-rated movies.* X-rated movies or video tapes shall be restricted to persons over eighteen (18) years of age. If an establishment that is not otherwise prohibited from providing access to persons under eighteen (18) years of age sells, rents, or displays videos that have been rated "X" or rated "NC-17" by the motion picture rating industry ("MPAA"), or that have not been submitted to the MPAA for a rating, and which consist of images which are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas", such videos shall be located in a specific section of the establishment where persons under the age of eighteen (18) shall be prohibited, and shall not be visible from outside of the premises.
 - (2) *Other adult materials.* Access to adult materials shall be restricted to persons over eighteen (18) years of age.
 - (3) *Minor on premises unlawful.* It shall be unlawful for any employee, owner, operator, responsible managing employee, manager or permittee of an adult entertainment business to allow any person below the age of eighteen (18) years upon the premises or within the confines of any adult entertainment business, either as a patron or employee, if no liquor is served, or under the age of twenty-one (21) if liquor is served.
- (f) *On-site manager; security measures.* All adult businesses shall have a responsible person who shall be at least eighteen (18) years of age, or at least twenty-one (21) years of age if the business has a license from ABC, and shall be on the premises to act as manager at all times during which the business is open. The individual or individuals designated as the on-site manager shall be registered by the owner with the chief of police or designee to receive all complaints and be responsible for all violations taking place on the premises.

The adult entertainment business shall provide state licensed security guards to patrol and monitor the parking lot areas during all business hours. A sign indicating compliance with this provision shall be posted on the exterior of the premises between four (4) to six (6) feet from the ground and shall be in addition to the allowable wall sign area pursuant to article XI of this chapter. The sign shall not exceed two (2) feet by three (3) feet and shall at a minimum be one (1) foot by one and one-half (1½) feet and shall be placed in a conspicuous location designated by the chief of police or designee.

At all times that the business is in operation and thereafter until all patrons, employees and independent contractors have left the premises, at least one (1) security guard shall be on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is open. The security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons with the requirements of this article. Any security guard required by this subsection shall be uniformed in such a manner as to be readily identifiable as a security guard by the public. Except as provided by this section, provision of security guards shall be in accordance with chapter 24 of this Code. As specified in section 24-2, every security guard employed shall first be approved by the chief of police or designee, which approval shall be granted no later than thirty (30) days from the date of submission.

No security guard required by this section shall act in any other capacity, including but not limited to doorperson, ticket seller, ticket taker, or admittance person, while acting as a security guard.

- (g) *Sign requirements.* All adult entertainment businesses shall comply with the following sign requirements, in addition to those of article XI of this chapter. Should a conflict exist between the requirements of article XI and this subsection, the more restrictive shall prevail.
- (1) All exterior signs shall be flat (i.e., not angled to the front wall of the building) wall signs.
 - (2) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building or any area accessible to public pedestrians.

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- (3) Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance requirements.
- (h) *Operating requirements for live entertainment.* The following additional requirements shall pertain to adult entertainment businesses providing live entertainment. No person, association, partnership, or corporation shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on the operation of an adult entertainment business that involves live entertainment unless each and all of the following requirements are met:
 - (1) No employee, owner, operator, responsible managing employee, manager or permittee of such use shall allow any person below the age of eighteen (18) years upon the premises or within the confines of any adult entertainment business if no liquor is served, or under the age of twenty-one (21) if liquor is served and the facility is not an eating establishment.
 - (2) No person shall dance with or otherwise perform within six (6) feet of a patron while performing for compensation or while on licensed premises. This six-foot separation shall be marked by a railing of at least thirty (30) inches in height or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).
 - (3) No employee, owner, operator, responsible managing employee, manager or permittee of such use shall allow any performer to dance or otherwise perform within six (6) feet of a patron while performing for compensation or while on licensed premises. This six-foot separation shall be marked by a railing of at least thirty (30) inches in height or other physical barrier designed to obstruct any contact between the entertainer and the patron(s).
 - (4) No owner, operator, responsible managing employee, manager or permittee shall permit or allow at licensed premises any patron to approach within six (6) feet of a nude or semi-nude entertainer or entertainer displaying specified anatomical areas, or permit or allow such an entertainer to approach within six (6) feet of a patron.
 - (5) All employees of an adult entertainment business, other than nude or semi-nude entertainers while performing, shall, at a minimum while on or about the licensed premises, wear an opaque covering which covers their specified anatomical areas.
 - (6) If patrons wish to tip performers, receptacles shall be at least six (6) feet from the stage or other area used by the performers. Patrons shall not provide tips directly to the performers or place tips in the performers' costumes.
 - (7) When patrons are at the establishment, no patron shall be allowed to directly touch, fondle or caress a performer, as those terms are defined in *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9th Cir. 1986), nor shall any performer be allowed to directly touch, fondle or caress a patron. This prohibition does not extend to incidental touching. Patrons shall be advised of the separation and no touching requirements by signs placed on the barrier described in subsection (3), above.
 - (8) The adult entertainment business shall provide dressing rooms for performers which are separated by gender and exclusively dedicated to the performers' use and which the performers shall use for changing at all times. Performers may share a dressing room. No owner, operator, responsible managing employee, manager or permittee shall permit or allow at licensed premises any patron to be present in such dressing rooms.
 - (9) The adult entertainment business shall provide an entrance/exit for performers which is separate from the entrance/exit used by patrons, which the performers shall use at all times.
 - (10) The adult entertainment business shall provide access for performers between the stage and dressing room which is completely separated from the patrons. If such separate access is not physically feasible, the adult entertainment business shall provide a minimum three-foot wide walk aisle for performers between the dressing room area and the stage,

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with a railing, fence or other physical barrier separating the patrons and the performers capable or (and which actually results in) preventing any physical contact between the patrons and performers. Nothing in this section is intended to exempt the adult entertainment business from compliance with the provisions of Title 24 of the California Code of Regulations pertaining to handicapped accessibility.

- (11) The adult entertainment business shall have a sign posted in a conspicuous place at or near each entranceway to the establishment which lists the titles and prices of all offered entertainment.
- (i) *Adult dancing establishment.* An adult dancing establishment or adult cabaret shall have a stage provided for the display or exposure of any specified anatomical area by an employee to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet, separated by a distance of at least six (6) feet from the nearest area occupied by patrons and surrounded with a three-foot high barrier. No patron shall be permitted within six (6) feet of the stage while the stage is occupied by a performer.
- (j) *Theaters and cinemas.* A theater or cinema shall observe the following special requirements:
 - (1) If the theater or cinema contains a hall or auditorium area, the area shall comply with each of the following provisions:
 - a. Have individual, separate seats, not couches, benches, or the like, to accommodate the maximum number of persons who may occupy the area;
 - b. Have a continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and
 - c. Have a sign posted in a conspicuous place at or near each entranceway to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area.
 - (2) If an adult theater or adult cinema contains adult booths, each adult booth shall comply with each of the following provisions:
 - a. Have a sign posted in a conspicuous place at or near the entranceway which states the maximum number of persons who may occupy the booth, which number shall correlate with the number of seats in the booth;
 - b. Have a permanently open entranceway not less than two (2) feet wide and not less than six (6) feet high, not capable of being closed or partially closed by any curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated in the booth;
 - c. Have individual, separate seats, not couches, benches, or the like, which correlate with the maximum number of persons who may occupy the booth;
 - d. Have a continuous main aisle alongside the booth in order that each person situated in the booth shall be visible from the aisle at all times; and
 - e. Have, except for the entranceway, walls or partitions of solid construction without any holes or openings in such walls or partitions.
 - (3) If an adult theater or adult cinema is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those persons may not be seen from any public right-of-way, property zoned for residential use, religious assembly, school, public or private, or park or recreation area.

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(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1712. - Applicability to other regulations.

The provisions of this article are not intended to provide exclusive regulation of the regulated expressive business uses. Such uses must comply with any and all applicable regulations imposed in other articles of the zoning code, other city ordinances and state and federal law. Should a conflict exist between the provisions of this article and the provisions of other articles of chapter 41 of this Code, the provisions of this article shall prevail.

(Ord. No. NS-2373 § 8, 12-7-98)

Sec. 41-1713. - Violations.

In addition to any other remedies provided by law or set forth in this chapter, including but not limited to injunctive relief, failure to comply with any requirement of this article shall constitute a misdemeanor punishable as set forth in section 1-8 of this Code.

(Ord. No. NS-2373 § 8, 12-7-98)

Secs. 41-1714—41-1749. - Reserved.