

CALIFORNIA COASTAL COMMISSION

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October 23, 2001

RECORD PACKET COPY

Fri 15d

TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: DEBORAH LEE, SOUTH COAST DEPUTY DIRECTOR
SHERILYN SARB, DISTRICT MANAGER, SAN DIEGO AREA OFFICE
LAURINDA OWENS, COASTAL ANALYST, SAN DIEGO AREA OFFICE**

**SUBJECT: STAFF RECOMMENDATION ON MAJOR AMENDMENT 2-2001 TO
THE CITY OF IMPERIAL BEACH LOCAL COASTAL PROGRAM
(For Public Hearing and Possible Action at the Meeting of November 13-17, 2001)**

SYNOPSIS**SUMMARY OF AMENDMENT REQUEST**

The City is proposing to amend its implementation ordinances in several ways. The proposed amendment was adopted by the City in two separate ordinances, although the changes affect the same sections of the zoning code.

First, the definitions sections of the zoning ordinance would be expanded to include a definition of "body piercing establishment" and "school". The proposed amendment would prohibit tattoo and body piercing establishments in the C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) zones. It would also establish criteria for permitting such uses in the C-1 (General Commercial) zone subject to the approval of a Conditional Use Permit (CUP) provided, however, that such establishments not be located within 100 feet of any residentially zoned property. Furthermore, the amendment will prohibit such establishments within 200 feet of any bar, cocktail lounge, or liquor stores, body piercing establishments, churches, educational institutions or schools, public parks or tattoo establishments.

Also proposed are changes to the zoning ordinance to regulate palm reading and fortune telling establishments. Specifically, the definitions sections of the zoning ordinance would be expanded to include a definition of "fortune telling establishment" and "palm reading establishment". The proposed amendment would prohibit fortune telling establishments and palm reading establishments within the C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) zones. It would also establish criteria for permitting such uses in the C-1 (General Commercial) zone subject to approval of a Conditional Use Permit (CUP) provided, however, that such establishments not be located within 100 feet of any residential zone, 500 feet of any mobilehome park, manufactured housing community or senior housing development or 1,000 feet of any similar establishment.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that, following a public hearing, the Commission approve the proposed City of Imperial Beach Implementation Plan Amendment 2-2001, as submitted.

The appropriate resolutions and motions begin on page 4. The findings for approval of the Implementation Plan Amendment as submitted begin on page 4.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

ADDITIONAL INFORMATION

Further information on the City of Imperial Beach LCP amendment #2-2001 may be obtained from **Laurinda R. Owens**, Coastal Planner, at (619) 767-2370.

PART I. OVERVIEW

A. LCP HISTORY

On June 30, 1981, the City of Imperial Beach formally submitted its Land Use Plan (LUP) for Commission approval. The plan, as originally submitted, comprised the City's entire General Plan (10 elements and a policy plan). Since the plan contained a large volume of material that was not coastal-related and policies addressing coastal issues were found throughout many of the elements, staff summarized the coastal policies into one document. This policy summary along with the Land Use Element was submitted to the Commission as the LCP Land Use Plan.

On September 15, 1981, the Commission found substantial issue with the LUP, as submitted, denied and then conditionally approved the LUP with recommended policy changes for all policy groups. The City resubmitted the LCP Land Use Plan in early 1982, incorporating most of the Commission's suggested policy modifications. This included modification language related to the preservation and protection of Oneonta Slough/Tijuana River Estuary and South San Diego Bay, preservation and enhancement of coastal access and the provision for visitor-serving commercial uses in the Seacoast District. On March 16, 1982, the Commission certified the City of Imperial Beach LCP Land Use Plan as submitted. The land use plan was effectively certified by the Commission on November 18, 1982. In 1983, prior to certification of the Implementation Plan, the Commission approved an amendment to the LUP to correct a mapping error.

On August 15, 1983, the City began issuing coastal development permits pursuant to Section 30600.5 (Hannigan provisions) of the Coastal Act based on project compliance with its certified LUP. The City then submitted its entire Zoning Ordinance in order to implement the provisions of the certified Land Use Plan. The zoning ordinance was completely rewritten in order to implement the LUP. On September 26, 1984, the Commission approved the LCP/Implementation Plan as submitted. As of February 13, 1985, the City has been issuing coastal development permits under a certified local coastal program. Subsequent to the Commission's actions on the land use plan and implementation plan, there have been twenty-two amendments to the certified local coastal program.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

PART II. LOCAL COASTAL PROGRAM SUBMITTAL - RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

- I. **MOTION:** *I move that the Commission reject the Implementation Program Amendment Number 2-2001 for the City of Imperial Beach as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby certifies the Implementation Program Amendment No. 2-2001 for the City of Imperial Beach as submitted and adopts the findings set forth below on grounds that the Implementation Program Amendment will meet the requirements of and be in conformity with the provisions of the certified Land Use Plan, and certification of the Implementation Program Amendment will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF IMPERIAL BEACH'S IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED

A. AMENDMENT DESCRIPTION

The amendment request will modify several provisions of the zoning code. The changes were adopted by the City Council in two separate actions, which are attached to this report as Exhibits 1 and 2. However, the changes are similar in nature and affect the same sections of the zoning code. Specifically, the definitions section of the zoning ordinance would be expanded to include a definition of "body piercing establishment" and "school". The proposed amendment would prohibit tattoo and body piercing establishments in the C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) zones. It would also establish criteria for permitting such uses in the C-1 (General Commercial) zone subject to the approval of a Conditional Use Permit (CUP) provided, however, that such establishments not be located within 100 feet of any residentially zoned property. Furthermore, the amendment will prohibit such establishments within 200 feet of any bar, cocktail lounge, or liquor stores, body piercing establishments, churches, educational institutions or schools, public parks or tattoo establishments.

Also proposed are changes to the zoning ordinance to regulate palm reading and fortune telling establishments. Specifically, the definitions sections of the zoning ordinance would be expanded to include a definition of "fortune telling establishment" and "palm reading establishment". The proposed amendment would prohibit fortune telling establishments and palm reading establishments within the C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) zones. It would also establish criteria for permitting such uses in the C-1 (General Commercial) zone subject to approval of a Conditional Use Permit (CUP) provided, however, that such establishments not be located within 100 feet of any residential zone, 500 feet of any mobilehome park, manufactured housing community or senior housing development or 1,000 feet of any similar establishment.

B. FINDINGS FOR APPROVAL

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

a) Purpose and Intent of the Ordinance. The purpose and intent of the Definitions section is to provide definitions of terms utilized within the City's Zoning Ordinance such that the terms are applied consistently throughout the City.

The purpose of the C-1 General Commercial zone is to provide areas for businesses to meet the local demand for commercial goods and services. It is intended that the dominant type of commercial activity in the C-1 zone will be community and neighborhood serving retail and office uses.

The purpose of the C-2 Seacoast Commercial zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. The dominant type of commercial use in this zone will be visitor-serving retail leaseholds which include uses such as specialty stores, surf shops, restaurants, hotels and motels. The development standards of this zone encourage pedestrian activity through the design and siting of building frontages and parking provisions.

The purpose of the C-3 Neighborhood Commercial zone is to provide areas for businesses to meet the local neighborhood demand for commercial goods and services. It is intended that the dominant type of commercial activity in the zone will be neighborhood serving retail and office uses such as markets, professional offices, personal services, restaurants and hardware stores. The purposes of each of the above-described zones is contained not only in the implementation plan, but also in the Land Use Plan.

b) **Major Provisions of the Ordinance.** The major provisions of each of the commercial ordinances establish the permitted uses within the zone, the required site plan review, uses that are prohibited, minimum lot sizes, setbacks and coverages, building height, parking and signage standards.

c) **Adequacy of the Ordinance to Implement the Certified LUP Segments.** The proposed changes consist of the addition of new definitions for several types of development, and changes to the permitted, conditionally allowable, and prohibited uses in the commercial zones. With regard to tattoo and body-piercing establishments, since September, 1999 the City of Imperial Beach has prohibited businesses that offer these services as well as any kind of permanent cosmetic and body decoration services in the City's commercial zones with an interim urgency ordinance which has been extended up to this date in time. Since then, the City has been researching the issue of such establishments to provide a final ordinance in the City's zoning code to further regulate such uses. Presently, the City permits tattoo establishments only within the General Commercial (C-1) Zone subject to approval of a CUP. The current Zoning Code does not specifically identify "body piercing" or other "permanent cosmetic and body decoration" activities in its definition of tattoo establishments. The ordinance contains these definitions (see Exhibit 1, p. 2). However, research concluded that these kinds of activities are commonly provided in any one establishment and warrant the same land use classification. The proposed amendment also adds a definition for school (an educational institution as defined in Title 19 of the Code). The purpose of adding the definition of school is related to the proposed locational criteria for such uses through the CUP process (i.e., such uses will not be permitted near schools, among other types of uses).

The City has concluded that a proliferation of body-piercing and tattooing establishments causes negative impacts to the community. Thus the purpose of the proposed revisions to the zoning ordinance are to establish locational criteria to discourage their use in certain parts of the city. As such, the proposed revisions to the City's Ordinance will result in permitting tattoo establishments and body piercing establishments in the C-1 Zone with a CUP provided such uses are not located within 100 feet of any residential zone or within 200 feet of any bar/cocktail/lounge/liquor store, church, another tattoo establishment, educational establishment or any park. Restricting such uses is analogous to restricting, for example, the location of bars and liquor stores, etc. Tattoo and body piercing establishments are proposed to be restricted from locating in close proximity to bars and liquor stores to discourage the use of alcohol prior to patronizing such establishments. The City has also found that because children are impressionable and may be adversely

influenced by adults and their activities, that tattoo and body piercing establishments should be restricted from being located near any school or park.

With regard to the second part of the subject amendment request, since September, 1999 the City of Imperial Beach has similarly prohibited businesses that offer palm reading, fortune telling and similar services through an interim urgency ordinance and extensions thereto. Presently, the City's ordinance permits these types of uses under the classification of "personal services" but this does not give a specific reference to the type of service being provided. For this reason, the zoning ordinance is being amended to include definitions of these types of uses (see Exhibit 2, p. 2). Currently this type of use in the zoning code is permitted in any of the three commercial zones (C-1, C-2 and C-3). Through the proposed revisions to the zoning ordinance, these uses would be prohibited in the C-2 and C-3 commercial zones in the City. The City was concerned at the time of the adoption of the interim zoning ordinance that such businesses were locating in the city with more frequency.

One of the adverse effects from the proliferation of such businesses within the community was that it was affecting the City's ability to attract and retain businesses and shoppers to the City of Imperial Beach. In addition, a concentration of such uses within the commercial zone may adversely affect property values. As such, the proposed zoning revisions will result in permitting such uses within the C-1 Zone, subject to a CUP, and subject to specific locational criteria designed to mitigate potential concerns of these uses. Specifically, such uses will not be permitted to be located within 100 feet of a residential zone, or within 500 feet of a mobile home park or senior housing project or within 1000 feet of a similar use (another palm reading business). The purpose of the location criteria is to restrict such uses near areas where there are large numbers of senior citizens. The last criteria will eliminate the congregation of such uses in close proximity to one another. The City has carefully assured that the proposed revisions to the zoning ordinance will not "zone out" such uses and has determined through studies that there will still be other areas of the C-1 zone where it would be appropriate for such uses to be located.

In general, the proposed changes to the zoning code will result in prohibiting tattoo and body piercing establishments as well as palm reading and fortune telling establishments in the City's C-2 and C-3 commercial zones. The above described tattoo and body piercing as well as palm reading establishments have been permitted in the past within the City. Although not specifically defined in the zoning ordinance, the proposed revisions to the ordinance will define and permit such uses through the Conditional Use Permit process only and subject to locational criteria.

The certified Land Use Plan contains policies addressing the standards that should be maintained for its commercial areas. Specifically, Policy L-4a. discusses "Attractive and Stimulating Surroundings" and states: "Commercial areas should be enjoyable places in which to shop and work...." In addition, Policy L-7 addressing "Revitalization" states as a goal for the community: "The retention of an attractive, human scale, beach oriented small town atmosphere requires a high level of street and property maintenance...." The policy goes on to include a number of measures to be implemented towards meeting this

goal. Some of these include the removal of graffiti, aggressive enforcement of City codes including building, zoning and health and safety, and promotion of commercial area revitalization through store front and landscape improvements, etc. Inasmuch as the City finds that tattoo/body piercing establishments and palm reading/fortune telling establishments diminish the attractiveness of the town as well as negatively affect the business area from being an "enjoyable place to shop", and is not in keeping with the City's goals for revitalization of the commercial areas, the proposed amendment which will result in restricting such uses and assuring that they are appropriately located, can be found consistent with, and adequate to implement the certified LUP. Further, through the proposed amendment, the negative impacts on the City will be carefully monitored and hopefully reduced.

Inasmuch as the proposed uses would be prohibited in the Seacoast District visitor-serving zone (C-2 Zone) the proposed amendment is intended to limit the adverse impacts that the City associates with these kinds of businesses on visitor-serving establishments. The proposed minor changes will make the zoning ordinance more restrictive than existing language and will not have an adverse impact on coastal resources.

In conclusion, since the proposed amendment conforms with the certified land use plan, the proposed ordinance can be found in conformance with, and adequate to, implement the certified land use plan (LUP).

PART IV. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.5 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA provisions. In the case of the subject LCP amendment, the Commission finds that approval of the subject LCP amendment, as submitted, would not result in significant environmental impacts under the meaning of the California Environmental Quality Act.

All portions of the proposed amendment to the City of Imperial Beach's Implementing Ordinances have been found consistent with and adequate to carry out the policies of the certified land use plan. The proposed amendment will result in changes to the implementation plan to regulate tattoo/body-piercing and fortune telling/palm reading establishments in C-1 (General Commercial), C-2 (Seacoast Commercial) and C-3 (Neighborhood Commercial) Zones for the purpose of reducing the negative impacts to

the community associated with such uses. No impacts to coastal resources will result from the proposed changes to permitted development types in commercial zones.

Any specific impacts associated with individual development projects would be assessed through the environmental review process, and, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that no significant unmitigable environmental impacts under the meaning of CEQA will result from the approval of the proposed LCP amendment as modified.

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ORDINANCE NO. 2001-971

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF IMPERIAL BEACH AMENDING
CHAPTER 19.04 OF THE ZONING ORDINANCE
TO DEFINE "BODY PIERCING" AND "SCHOOL"
AND AMENDING SECTIONS 19.26.020, 19.27.030 AND 19.28.020
REGARDING TATTOO AND BODY PIERCING ESTABLISHMENTS
IN THE C-1 (GENERAL COMMERCIAL), C-2 (SEACOAST COMMERCIAL)
AND C-3 (NEIGHBORHOOD COMMERCIAL) ZONES

WHEREAS, the City of Imperial Beach determined that the proliferation of businesses offering tattoo, body piercing, and any other "permanent cosmetic and body decoration" services, may adversely affect the City's ability to attract and retain businesses and shoppers to the City of Imperial Beach and result in negative impacts including diminished property values; and

WHEREAS, due to these concerns, the City enacted an ordinance, pursuant to Section 65858 of the Government Code, to temporarily prohibit these types of uses so that the City Manager could direct a study of the magnitude of such negative impacts which may adversely affect other land uses in the City and, if necessary, devise a zoning proposal to mitigate such impacts; and

WHEREAS, prior to the temporary prohibition, establishments offering tattoo and body piercing services were locating in the City of Imperial Beach with increasing frequency and many of these establishments were "clustered" in certain areas; and

WHEREAS, after study, it appears that there are planning and compatibility issues relating to these establishments and the adverse effects such establishments and their customers may have on nearby uses; and

WHEREAS, through its zoning ordinances, the City Council seeks to maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions which make the Imperial Beach community a pleasant place to live and work; and

WHEREAS, on August 1, 2001, a duly noticed public hearing was held and public comment was received regarding the need and necessity for amendment of the Zoning Ordinance regarding establishments offering tattoo and body piercing services within the City; and

WHEREAS, in order to promote, preserve and protect the public health, safety and general welfare of its residents and pursuant to the authority of Government Code Section 65850, the City Council of the City of Imperial Beach may adopt ordinances to regulate the intensity of land use; and

Exhibit 1
City of Imperial Beach LCPA 2-01
City Resolution "Tattoo/Body
Piercing Establishments"

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the proposed regulations would not have a significant impact on the environment and, pursuant to the California Environmental Quality Act Guidelines Section 15061.b3 (General Rule), would be exempt from the California Environmental Quality Act; and

WHEREAS, the City Council of the City Of Imperial Beach hereby finds that the proposed General Plan Amendment/Local Coastal Plan Amendment, pursuant to Government Code Section 65300.5, is internally consistent with the other policies of the General Plan, and also finds the proposed Zoning Ordinance Amendment, pursuant to Government Code Section 65860, is consistent with the General Plan/Local Coastal Plan; and

WHEREAS, the City Council of the City of Imperial Beach hereby finds that the regulations contained herein are in furtherance of a compelling governmental interest and are the least restrictive means of furthering that compelling governmental interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

SECTION 1: That Section 19.04.141 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

“19.04.141. Body piercing establishment.

“Body piercing establishment” means any business which offers as a service the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. “Body piercing” includes, but is not limited to, piercing of an ear, lip, tongue, nose, or eyebrow. “Body piercing” does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.”

SECTION 2: That Section 19.04.668 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

“19.04.668. School.

“School” means an educational institution as defined in Title 19 of this Code.”

SECTION 3: That a new Subsection is hereby added to Section 19.26.020 of Chapter 19.26 of the Imperial Beach Municipal Code, as Subsection B.6., to read as follows:

“6. Body piercing establishments may be permitted, subject to the approval of a Conditional Use Permit, however it is unlawful to establish any such body piercing establishment if the location is within one hundred feet of any property that is zoned as an R-1-6000, R-1-3800, R-3000-D, R-3000, R-2000, or R-1500 zone, or any other area that is primarily residential in character, as evidenced by letter designation in the zoning law of the City; or within two hundred feet of any of the following:

- a. Bar, cocktail lounge, or liquor store;
- b. Body piercing establishment;
- c. Church;
- d. Educational institution or school;
- e. Public park; or
- f. Tattoo establishment.

SECTION 4: That existing Subsections B.6. through B.18. of Section 19.26.020 of the Imperial Beach Municipal Code are hereby renumbered to Subsections B.7 through B.19.

SECTION 5: Subsection B.19. of Section 19.26.020. of the Imperial Beach Municipal Code is hereby amended to read as follows:

"19. Tattoo establishments may be permitted, subject to the approval of a Conditional Use Permit, however it is unlawful to establish any such tattoo establishment if the location is within one hundred feet of any property that is zoned as an R-1-6000, R-1-3800, R-3000-D, R-3000, R-2000, or R-1500 zone, or any other area that is primarily residential in character, as evidenced by letter designation in the zoning law of the City; or within two hundred feet of any of the following:

- a. Bar, cocktail lounge, or liquor store;
- b. Body piercing establishment;
- c. Church;
- d. Educational institution or school;
- e. Public park; or
- f. Tattoo establishment.

SECTION 6: A new Subsection 2. is hereby added to Section 19.27.030 of the Imperial Beach Municipal Code, to read as follows:

- "2. Body piercing establishments;"

SECTION 7: The existing Subsections 2. through 12. of Section 19.27.030 of the Imperial Beach Municipal Code are hereby renumbered to 3 through 13.

SECTION 8: A new Subsection C.4. is hereby added to Section 19.28.020 of the Imperial Beach Municipal Code, to read as follows:

- "4. Body piercing establishments;"

SECTION 9: The existing Subsections C.4. through C.16. of Section 19.28.020 of the Imperial Beach Municipal Code are hereby renumbered to C.5 through C.17.

SECTION 10: This ordinance shall become effective upon its certification by the California Coastal Commission, pursuant to Public Resources Code Section 30514(a), but not less than

thirty (30) days following its passage and adoption by the City Council of the City Of Imperial Beach.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, California, held the 1st day of August, 2001; and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 5th day of September, 2001 by the following roll call vote:

AYES:	COUNCILMEMBERS:	ROGERS, WINTER, BENDA
NOES:	COUNCILMEMBERS:	NONE
ABSENT:	COUNCILMEMBERS:	MCCOY, ROSE

Gail Benda

GAIL BENDA, MAYOR PRO TEM

ATTEST:

Linda A. Troyan

LINDA A. TROYAN, CMC
City Clerk

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDUGAL, CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and exact copy of Ordinance No. 2001-971 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 OF THE ZONING ORDINANCE TO DEFINE “BODY PIERCING” AND “SCHOOL” AND AMENDING SECTIONS 19.26.020, 19.27.030 AND 19.28.020 REGARDING TATTOO AND BODY PIERCING ESTABLISHMENTS IN THE C-1 (GENERAL COMMERCIAL), C-2 (SEACOAST COMMERCIAL) AND C-3 (NEIGHBORHOOD COMMERCIAL) ZONES.

Linda A. Troyan
CITY CLERK

9-13-01
DATE

ORDINANCE NO. 2001-973

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AMENDING CHAPTER 19.04 TO DEFINE "FORTUNE TELLING" AND "PALM READING" AND AMENDING SECTIONS 19.26.020, 19.27.030 AND 19.28.020 OF THE ZONING ORDINANCE REGARDING FORTUNE TELLING AND PALM READING ESTABLISHMENTS IN THE C-1 (GENERAL COMMERCIAL), C-2 (SEACOAST COMMERCIAL) AND C-3 (NEIGHBORHOOD COMMERCIAL) ZONES

WHEREAS, the City of Imperial Beach determined that the proliferation of businesses offering fortune telling and palm reading, and any other services whereby owners and operators of such businesses engage in, conduct, advertise or carry on the occupation, business, science or art of astrology, palmistry, phrenology, life reading, cartomancy, clairvoyance, necromancy or other occult art or science, for entertainment or otherwise, may adversely affect the City's ability to attract and retain businesses and shoppers to the City of Imperial Beach and result in negative impacts including diminished property values; and

WHEREAS, due to these concerns, the City enacted an ordinance, pursuant to Section 65858 of the Government Code, to temporarily prohibit these types of uses so that the City Manager could direct a study of the magnitude of such negative impacts which may adversely affect other land uses in the City and, if necessary, devise a zoning proposal to mitigate such impacts; and

WHEREAS, prior to the temporary prohibition, establishments offering fortune telling or palm reading services were locating in the City of Imperial Beach with increasing frequency and many of these establishments were "clustered" in certain areas; and

WHEREAS, after study, it appears that there are planning and compatibility issues relating to these establishments and the adverse effects such establishments and their customers may have on nearby uses; and

WHEREAS, through its zoning ordinances, the City Council seeks to protect residents, maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions which make the Imperial Beach community a pleasant place to live and work; and

WHEREAS, on September 5, 2001, a duly noticed public hearing was held and public comment was received regarding the need and necessity for amendment of the Zoning Ordinance regarding establishments offering fortune telling and palm reading services within the City; and

Exhibit 2

City of Imperial Beach LCPA 2-01
City Resolution "Fortune Telling/
Palm Reading" Establishments

WHEREAS, in order to promote, preserve and protect the public health, safety and general welfare of its residents and pursuant to the authority of Government Code Section 65850, the City Council of the City of Imperial Beach may adopt ordinances to regulate the intensity of land use; and

WHEREAS, the City Council of the City of Imperial Beach hereby finds that the regulations contained herein are in furtherance of a compelling governmental interest and are the least restrictive means of furthering that compelling governmental interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH AS FOLLOWS:

Section 1: That Section 19.04.372 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

“19.04.372. Fortune telling establishment.

“Fortune telling establishment” means any business which engages in, conducts, advertises, or offers as a service the occupation, business, science or art of astrology, palmistry, phrenology, life reading, fortune telling, palm reading, cartomancy, clairvoyance, necromancy or other occult art or science, for entertainment or otherwise.”

Section 2: That Section 19.04.587 is hereby added to Chapter 19.04 of the Imperial Beach Municipal Code to read as follows:

“19.04.587. Palm reading establishment.

“Palm reading establishment” means any business which engages in, conducts, advertises, or offers as a service the occupation, business, science or art of astrology, palmistry, phrenology, life reading, fortune telling, palm reading, cartomancy, clairvoyance, necromancy or other occult art or science, for entertainment or otherwise.”

Section 3: That a new Subsection is hereby added to Section 19.26.020 of Chapter 19.26 of the Imperial Beach Municipal Code, as Subsection B.11, to read as follows:

“11. Fortune telling or palm reading establishments may be permitted, subject to the approval of a Conditional Use Permit, however it is unlawful to establish any such fortune telling or palm reading establishment if the location is within:

- a. one hundred feet of any property that is zoned as an R-1-6000, R-1-3800, R-3000-D, R-3000, R-2000, or R-1500 zone, or any other area that is primarily residential in character, as evidenced by letter designation in the zoning law of the City, or
- b. five hundred feet of any mobilehome park, manufactured housing community, or senior housing development, or
- c. one thousand feet of any similar establishment.”

Section 4: The existing subsections 11 through 16 are hereby renumbered to 12 through 17.

Section 5: That a new Subsection is hereby added to Section 19.26.020 of Chapter 19.26 of the Imperial Beach Municipal Code, as Subsection B.18, to read as follows:

"18. Palm reading or fortune telling establishments may be permitted, subject to the approval of a Conditional Use Permit, however it is unlawful to establish any such fortune telling or palm reading establishment if the location is within:

- a. one hundred feet of any property that is zoned as an R-1-6000, R-1-3800, R-3000-D, R-3000, R-2000, or R-1500 zone, or any other area that is primarily residential in character, as evidenced by letter designation in the zoning law of the City, or
- b. five hundred feet of any mobilehome park, manufactured housing community, or senior housing development, or
- c. one thousand feet of any similar establishment."

Section 6: The remaining subsections B.17 through B.19 are hereby renumbered to 19 through 21.

Section 7: A new Subsection 9. is hereby added to Section 19.27.030 of the Imperial Beach Municipal Code, to read as follows:

"9. Fortune telling establishments;"

Section 8: The existing Subsections 9. and 10. of Section 19.27.030 of the Imperial Beach Municipal Code are hereby renumbered to 10 and 11.

Section 9: A new subsection 12 is hereby added to Section 19.27.030 of the Imperial Beach Municipal Code, to read as follows:

"12. Palm reading establishments;"

Section 10: The existing Subsections 11 through 13 of Section 19.27.030 of the Imperial Beach Municipal Code are hereby renumbered to 13 through 15.

Section 11: A new Subsection 11. is hereby added to Section 19.28.020 of the Imperial Beach Municipal Code, to read as follows:

"11. Fortune telling establishments;"

Section 12: The existing Subsections C.11. through C.15. of Section 19.28.020 of the Imperial Beach Municipal Code are hereby renumbered to 12 and 16.

Section 13: A new subsection C.17 is hereby added to Section 19.28.020 of the Imperial Beach Municipal Code, to read as follows:

"17. Palm reading establishments;"

Section 14: The existing Subsections C.16 and 17 of Section 19.28.020 of the Imperial each Municipal Code are hereby renumbered to 17 and 18.

Section 15: This ordinance shall become effective thirty (30) days following its passage and adoption.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Imperial Beach, held on the 5th day of September 2001, and thereafter **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Imperial Beach, California, held on the 19th day of September 2001 by the following roll call vote:

AYES: COUNCILMEMBERS: ROGERS, WINTER, BENDA, ROSE
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: MCCOY

Diane Rose
DIANE ROSE, MAYOR

ATTEST:

Linda A. Trovan

LINDA A. TROYAN, CITY CLERK

APPROVED AS TO FORM:

Lynn R. McDougal

LYNN R. MCDOUGAL, CITY ATTORNEY

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be true and exact copy of Ordinance No. 2001-973, an Ordinance AMENDING CHAPTER 19.04 TO DEFINE "FORTUNE TELLING" AND "PALM READING" AND AMENDING SECTIONS 19.26.020, 19.27.030 AND 19.28.020 OF THE ZONING ORDINANCE REGARDING FORTUNE TELLING AND PALM READING ESTABLISHMENTS IN THE C-1 (GENERAL COMMERCIAL), C-2 (SEACOAST COMMERCIAL) AND C-3 (NEIGHBORHOOD COMMERCIAL) ZONES.

Linda A. Trovan
CITY CLERK

9-28-01.
DATE

