

CALIFORNIA COASTAL COMMISSION

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RECORD PACKET COPY

March 25, 2004

TO: Commissioners and Interested Persons

FROM: Diane Landry, District Manager *DL*
Jonathan Bishop, Coastal Program Analyst

SUBJECT: **CITY OF GROVER BEACH: LOCAL COASTAL PROGRAM
MAJOR AMENDMENT NO. 1-04.** For public hearing and Commission action at its meeting of April 15th, 2004, to be held at the Radisson Santa Barbara, 1111 E. Cabrillo Blvd., Santa Barbara, CA 93103.

SUMMARY OF STAFF REPORT**DESCRIPTION OF AMENDMENT REQUEST**

The City of Grover Beach is proposing to amend the Zoning/Implementation portion of its Local Coastal Program to:

1. Add adult businesses to the list of permitted uses within the C-I (Coastal Industrial) Zoning District.

The standard of review for Zoning/Implementation Plan amendments is that they must be consistent with, and adequate to carry out, the policies of the certified Coastal Land Use Plan.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission **approve** the proposed amendment as submitted by the City for the reasons given in this report. No major Coastal Act issues are identified.

SUMMARY OF ISSUES AND COMMENTS

There are no known unresolved issues with the proposed amendments.

ADDITIONAL INFORMATION

For further information about this report or the amendment process, please contact Jonathan Bishop or Rick Hyman, Coastal Commission, 725 Front Street, Suite 300, Santa Cruz, CA 95060; Tel. (831) 427-4863.

ATTACHMENTS

Resolution Of Proposed Amendments

I. STAFF RECOMMENDATION

MOTION AND RESOLUTION

APPROVAL OF IMPLEMENTATION PLAN AMENDMENT #1-04 AS SUBMITTED

MOTION:

I move that the Commission reject Major Amendment #1-04 to the City of Grover Beach Local Coastal Program Zoning/Implementation Plan as submitted by the City.

Staff recommends a **NO** vote, which would result in approval of this amendment as submitted. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can result in rejection of the amendment.

RESOLUTION:

The Commission hereby certifies Major Amendment #1-04 to the Zoning/Implementation Plan of the City of Grover Beach LCP, for the specific reasons discussed in the following findings, on the grounds that, the amendment conforms with and is adequate to carry out the certified Land Use Plan; and approval of the amendment will not cause significant adverse environmental effects for which feasible mitigation measures have not been employed consistent with the California Environmental Quality Act.

II. RECOMMENDED FINDINGS

A. CONFORMANCE OF IMPLEMENTATION PLAN AMENDMENTS WITH THE LAND USE PLAN

The Commission finds and declares for the following Major Amendment # 1-04:

1. Add adult businesses to the C-I (Coastal Industrial) Zoning District.

On January 20, 2004, the City Council of the City of Grover Beach adopted Resolution No. 04-08 for a zoning ordinance text amendment to add adult businesses as a permitted use within the Coastal Industrial (C-I) zoning district. The amendment changes the use title from "adult-oriented recreational businesses" to "adult businesses," then modifies Table 2 entitled "Uses Permitted Within Industrial Districts" on page IX-110 of the zoning ordinance to include adult businesses as a permitted use. In addition, the amendment inserts definitions for a number of different types of adult businesses. Please see Exhibit 1 for the applicable City Council Resolutions and a complete copy of the text amendment (Ordinance No.04-02).

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of an LCP incorporates and refines the Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The Implementation Plan (IP), or zoning portion of an

LCP, typically sets out the various zone districts and site regulations that are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with and adequate to carry out the policies of the LUP and the LUP must be consistent with the Coastal Act.

In this case, the City of Grover Beach is proposing to amend the Implementation Plan (IP), or zoning portion of the LCP. The standard of review for zoning/implementation Plan amendments is that they must be consistent with, and adequate to carry out, the policies of the certified Land Use Plan.

The proposed addition of adult businesses to the list of permitted uses within the C-I (Coastal Industrial) Zoning District is consistent with the City of Grover Beach Land Use Plan because: 1) The Land Use Plan (LUP) does not contain any standards precluding or specific to adult businesses in the C-I Zoning District; 2) The amendment is generally consistent with the intent and pattern of existing developed areas within the C-I Zoning District; and 3) There are no impacts to coastal resources and/or public access and recreation as result of the proposed amendment

The proposed Zoning/Implementation Plan (IP) amendment is consistent with, and adequate to carry out, the policies of the City of Grover Beach certified Coastal Land Use Plan. Therefore, Staff recommends approval of the amendment as submitted.

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCP's and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

The City in this case drafted a Negative Declaration for the proposed amendments under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has not recommended any modifications to avoid and/or lessen any potential for adverse impacts to said resources. All public comments received to date have been addressed in the findings above. All above Land Use Plan findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives, nor feasible mitigation measures available, which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

RESOLUTION NO. 04-003

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GROVER BEACH RECOMMENDING APPROVAL OF A COASTAL DEVELOPMENT PERMIT TO THE CITY COUNCIL FOR A ZONING ORDINANCE TEXT AMENDMENT TO AMEND THE COASTAL INDUSTRIAL (C-I) ZONING DISTRICT TO PERMIT ADULT BUSINESSES

The Planning Commission of the City of Grover Beach recommends approval of a Coastal Development Permit to the City Council for a Zoning Ordinance Text Amendment to amend the Coastal Industrial (C-I) Zoning District to permit adult businesses, is APPROVED subject to the following findings:

FINDINGS:

1. The proposed amendment to add adult businesses to the C-I zoning district is consistent with the goals, policies, and maps in the Grover Beach General Plan.
2. The proposed amendment to add adult businesses to the C-I zoning district is consistent with the goals, policies, and maps in the Local Coastal Plan, and the Planning Commission of the City of Grover Beach intends to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act.
3. The proposed project will not impair the desirability of investment or occupation in the neighborhood.
4. The proposed project will not be injurious or detrimental to the health, safety, morals, comfort, and general welfare of the persons located in the neighborhood.

On motion by Commissioner Mires, seconded by Commissioner Calmenson, and on the following roll-call vote, to wit:

AYES: Commissioners Mires, Barnett, Conroy, Matsuura, Chair Calmenson
 NOES: None.
 ABSENT: Commissioners Leon and Versaw
 ABSTAIN: None.

the foregoing RESOLUTION NO. 04-003 was ADOPTED on this 13th day of January, 2004.



CHAIR CALMENSON

ATTEST:


 SECRETARY OF THE PLANNING COMMISSION

RESOLUTION NO. 04-08

**RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF GROVER BEACH ADOPTING A COASTAL DEVELOPMENT PERMIT
FOR A ZONING ORDINANCE TEXT AMENDMENT TO ADD ADULT BUSINESSES
TO THE COASTAL INDUSTRIAL (C-I) ZONING DISTRICT**

WHEREAS, the proposed amendment to add adult businesses to the C-I zoning district is consistent with the goals, policies, and maps in the Grover Beach General Plan; and

WHEREAS, the proposed amendment to add adult businesses to the C-I zoning district is consistent with the goals, policies, and maps in the Local Coastal Plan, and the City Council of the City of Grover Beach intends to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act; and

WHEREAS, the proposed project will not impair the desirability of investment or occupation in the neighborhood; and

WHEREAS, the proposed project will not be injurious or detrimental to the health, safety, morals, comfort, and general welfare of the persons located in the neighborhood.

On motion by Council Member Arnoldsen, seconded by Mayor Pro Tem Shoals, and on the following roll-call vote, to wit:

- AYES:** Council Members - Arnoldsen, Ekborn, Lieberman, Mayor Pro Tem Shoals, and Mayor Santos.
- NOES:** Council Members - None.
- ABSENT:** Council Members - None.
- ABSTAIN:** Council Members - None.

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a regular meeting by the City Council of the City of Grover Beach, California this 20th day of January, 2004.


DEE SANTOS, MAYOR

Attest:


DONNA L. McMAHON, CITY CLERK

ORDINANCE NO. 04-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF GROVER BEACH AMENDING THE ZONING ORDINANCE
ARTICLE IX, CHAPTER 1 OF THE GROVER BEACH MUNICIPAL CODE
REGARDING ADULT BUSINESS REGULATIONS**

WHEREAS, the City Council of the City of Grover Beach ("City Council") wishes to promote the City of Grover Beach's ("City") 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 of Grover Beach intends to carry out the Local Coastal Program in a manner fully consistent with the California Coastal Act; and

WHEREAS, the City Council believes as true and takes legislative notice of the studies conducted in the cities of Austin, Texas; Biloxi, Mississippi; Garden Grove, California; Indianapolis, Indiana; Los Angeles, California; and Phoenix, Arizona which show adult business 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, the City Council also takes judicial notice of the factual findings and legal conclusions in the numerous judicial decisions on the regulation of Adult business which include but are not limited to *Arcara v. Cloud Books, Inc.* (1986) 478 U.S. 697, 92 L.Ed.2d 568, 106 S.Ct. 3172; *Barnes v. Glen Theatre, Inc.* (1991) 501 U.S. 560, 115 L.Ed.2d 504, 111 S.Ct. 2456; *BSA, Inc. v. King County* (9th Cir. 1986) 804 F.2d 1104; *California v. La Rue* (1972) 409 U.S. 109, 34 L.Ed.2d 342, 93 S.Ct. 390; *DLS Inc. v. City of Chattanooga* (6th Cir. 1997) 107 F.3d 403; *Hang On, Inc. v. City of Arlington* (5th Cir. 1995) 65 F.3d 1248; *Hart Book Stores, Inc. v. Edmisten* (4th Cir. 1979) 612 F.2d 821; *Kev, Inc. v. Kitsap County* (9th Cir. 1986) 793 F.2d 1053; *Mitchell v. Com'n on Adult Entertainment Est.* (3rd Cir. 1993) 10 F.3d 123; *Renton v. Playtime Theaters, Inc.* (1986) 475 U.S. 41, 89 L.Ed.2d 29, 106 S.Ct. 925; *Spokane Arcase, Inc. v. City of Spokane* (9th Cir. 1996) 75 F.3d 663; *Star Satellite, Inc. v. City of Biloxi* (5th Cir. 1986) 779 F.2d 1074; *Tee & Bee, Inc. v. City of West Allis* (E.D. Wis. 1996) 936 F.Supp. 1479; *Young v. American Mini Theatres, Inc.* (1976) 427 U.S. 50, 49 L.Ed.2d 310, 96 S.Ct. 2440; *City of National City v. Weiner* (1992) 3 Cal.4th 832; *People v. Mirmirani* (1981) 30 Cal.3d 375; *Michigan v. Dizzy Duck* (1995) 535 N.W.2d 178; *770 Corp. v. County of Clark* (1996) 112 Nev. 185, 911 P.2d 1187, *Tily B. Inc. v. City of Newport Beach* (1999) 69 Cal.App.4th 1; and

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

A. Adult business should not be located in areas of the City which are in the vicinity of religious institutions, parks and schools, residential zones, or in close proximity to other adult businesses;

B. The image of the City of Grover Beach as a pleasant and attractive place to reside will be adversely affected by the presence of adult business in close proximity to religious institutions, parks, and schools and residential zones;

Ordinance No. 04-02
Adult Business Regulations

C. The City Council has determined that the Commercial Shopping (C-S) and Coastal Industrial (C-I) zoning districts are appropriate zoning districts for adult businesses;

D. The City Council has determined that due to the physical site development characteristics that orient businesses away from residential areas within shopping centers on West Grand Avenue in the C-S zoning district, parcels 060-252-005 and 060-254-007 should be exempt from proximity requirements with regard to separation from residential areas;

E. The City Council believes that allowing adult businesses in the manner provided herein is appropriate because such areas include ample accessible real estate that is easily accessible by freeways, highways and roads;

F. Without the adoption of this Ordinance, adult business might be able to locate anywhere within the City by right, requiring no permit other than a business tax certificate to operate, thereby subjecting the people of the City to the unmitigated secondary effects shown to accompany unregulated and under-regulated adult business;

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

H. Regulations for adult 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;

I. Adult businesses should be regulated by developing zoning which will separate such land uses from other incompatible uses; and

WHEREAS, the aforementioned studies show that sex-related offenses are included within the category of secondary effects caused by unregulated or under-regulated adult 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 businesses for five (5) 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 businesses increase criminal activity, including but not limited to sexually related criminal activity, and increase the likelihood of the transmission of

Ordinance No. 04-02
Adult Business Regulations

diseases including but not limited to sexually transmitted diseases such as gonorrhea, syphilis, herpes, 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 Areas in adult businesses (collectively referred to as "Performers") have been found to engage in sexual activities with patrons of adult businesses on the site of the adult businesses;
- B. Evidence has demonstrated that Performers employed by adult 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 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. 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 2 to 3 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 businesses provide a location for people to engage in illegal sexual activities;
- K. Police agencies have determined that some Adult business and the operators thereof have been found to be directly engaged in (as well as aid and

Ordinance No. 04-02
Adult Business Regulations

abet) criminal and illegal sexual activity. Such individuals also have been known to use aliases;

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

M. Once Approved, Sexually Oriented businesses have altered the interior floor plans of the business establishment in order to create areas that are not openly visible in order to provide for areas where their entertainers and patrons can more readily engage in prohibited physical sexual activity. In order to prevent this problem, it is necessary to prevent adult businesses from making alterations to their floor plans without the prior approval of the City;

N. Adult business have been found to regularly attempt to violate the operational requirements imposed upon them for the purposes of reducing the pernicious secondary effects such businesses cause. For this reason, frequent, unannounced inspections of such businesses are necessary to ensure compliance with these operational requirements; 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 comprising the record for this Ordinance, the City Council finds as follows:

A. The City has an interest in ensuring that individuals who operate adult businesses have not been convicted of certain criminal offenses, particularly sexually related offenses. The declaration requirements contained in this ordinance further that interest;

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

C. Requiring adult businesses to close at 12:00 midnight is likely to reduce the early morning criminal activity occurring at and near adult businesses, is likely to eliminate the existence of excessive noise and disorderly conduct in and around the community in the early hours of the morning, and is not likely to conflict with the closing hours of bars, thereby allowing the police to effectively use and allocate their limited resources;

D. The requirement that adult businesses only allow performances which are characterized by Specified Sexual Acts or feature Specified Anatomical Parts such that patrons not be permitted within six feet of the Performers is likely to: reduce the opportunities for illegal sexual activity to occur between Performers and Patrons reduce

Ordinance No. 04-02
Adult Business Regulations

the opportunities for illegal drug transactions to occur between Performers and Patrons and is particularly likely to reduce the opportunity for such illegal sexual activity to occur at the adult 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 business is likely to reduce the opportunity for illegal sexual activity to occur within the Individual Viewing Areas;

G. Requiring areas within adult businesses to be minimally illuminated to the standards contained in this ordinance are likely to reduce the opportunity for the occurrence of illegal sexual activity in dark portions of adult businesses;

H. Prohibiting any physical contact between Performers and Patrons of adult businesses is likely to reduce the opportunity for the occurrence of illegal sexual and narcotics 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 businesses from directly providing payments or gratuities to and prohibiting Performers from directly accepting the same is likely to reduce the opportunity for illegal sexual activity and/or drug transactions to occur between Patrons and Performers;

L. Prohibiting adult businesses from altering the interior floor plans of the business establishment unless and until approved by the City will prevent the alteration of the establishment in a manner which creates areas that are not openly visible to the public and those charged with enforcing this ordinance and thereby further limit the areas in which entertainers and patrons can more readily engage in prohibited physical sexual activity;

M. Providing for frequent, unannounced inspections of adult businesses will improve enforcement of this ordinance and reduce the pernicious secondary effects the businesses tend to create by creating a mechanism that determines non-compliance with these operational requirements; and

WHEREAS, while the City Council desires to protect the rights conferred by the United States Constitution to adult 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,

Ordinance No. 04-02
Adult Business Regulations

those undesirable secondary effects which the aforementioned studies have shown to be associated with the development and operation of adult businesses; and

WHEREAS, the City Council is aware of the recent increase in the establishment of businesses which provide adult-oriented entertainment; and

WHEREAS, in the absence of this Ordinance, the City would be unable to reduce or eliminate the secondary effects caused by the unregulated operation of adult businesses, and would therefore be forced to suffer the deleterious impacts of such secondary effects which include but are not limited to increased crime and blight; 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 businesses have on the City.

WHEREAS, the City Council finds that this Ordinance is a comprehensive, content-neutral zoning ordinance regulating the time, place and manner of operation of adult businesses pursuant to Government Code Section 65850.4 and Business and Professions Code Section 16000.

NOW, THEREFORE, the City Council of the City of Grover Beach, California, **DOES HEREBY ORDAIN AS FOLLOWS:**

PART 1: Review and approval of an Adult Business Permit is a ministerial action based on the standards contained in this Ordinance, and is therefore not subject to CEQA.

PART 2: Article IX of the Grover Beach Municipal Code is amended to read as follows:

Table 1, Uses Permitted Within Commercial Districts, page IX-83:

On page IX-84, General Commercial Uses, change the use title from "adult-oriented recreational businesses" to "adult businesses". Under the C-B-D zone column, adult-oriented recreational businesses, change P⁷ to NP. Under the newly titled adult businesses use under the C-S zoning district add P⁷. On page IX-89, delete text reference in item number 7, and insert, "Subject to Part 37 – General Provisions, Conditions and Exceptions, Section 9137.4", on Page IX-134.

PART 3:

Insert new text in Part 37 – General Provisions, Conditions and Exceptions, Section 9137.4, entitled, Adult Businesses, and renumber the remaining Sections of Part 37 sequentially. Adult Businesses shall be added as follows:

Sec. 9137.4 Adult Businesses

Intent

The intent of this chapter is to regulate uses 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 Adult

**Ordinance No. 04-02
Adult Business Regulations**

Businesses; interference with residential property owners' enjoyment of their property when such property is located in the vicinity of Adult Businesses due to increased crime, debris, noise and vandalism; higher crime rates in the vicinity of Adult 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 ensure that these adverse effects will not contribute to the blighting or downgrading of the neighborhoods in the vicinity of the Adult Businesses. It is neither the intent, nor the effect of this chapter to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent, nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors or exhibitors of sexually oriented materials to their intended market.

Nothing in this chapter 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.

Permit Required

No Adult 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 Business Permit and a Business Tax Certificate from the City.

Application Requirements

Persons eligible. The property owner, or authorized agent of the property owner, is eligible to request an Adult Business Permit.

The information requested below is required at the time an Adult Business Permit application is submitted to the Community Development Department:

- (1) A complete Adult Business Permit application signed by the property owner or its authorized representative and by the owner of the proposed Adult Business.
- (2) A nonrefundable deposit or fee as set forth by ordinance or resolution of the City Council.
- (3) A letter of justification describing the proposed project and explaining how it will satisfy the required findings.
- (4) Information required for public meetings and hearings.
- (5) All other information as required by the City's Adult Business Ordinance.

Ordinance No. 04-02
Adult Business Regulations

Issuance of Permit - Investigation

A. **Determination of Completeness.** The Community Development Director upon receipt of an Adult Business Application shall review said application within 30 days of submittal. The basis of this review shall be limited to the requirements of the Adult Business Ordinance including but not limited to Findings/Locational and Operational Requirements, and Application Requirements. If the application is determined complete, the Community Development Director shall consider the Adult Business Permit as provided below. Should the application be found incomplete, the applicant shall be advised of the needed or expanded information to complete said application. Upon resubmittal of said application, the review process for completeness shall be the same as the original submittal.

B. **Issuance of Permit.** The Community Development Director upon acceptance of a complete application shall either approve or disapprove the Adult Business permit within 30 days. A notice shall be mailed to property owners within 500 feet of the proposed Adult Business location. The notice shall include a description of the proposed Adult Business and the proposed location of said business. The Community Development Director shall approve or disapprove said Adult Business Permit. The criteria for approval or disapproval shall be based upon the requirements, findings, location, and operational criteria as established within the Adult Business Ordinance as adopted by the City of Grover Beach. The permit may be issued pending the conclusion and findings of the Grover Beach Police Department background investigation. Failure to issue or deny the permit upon the expiration of the time lines identified above the application has been found or deemed to be complete pursuant to this section shall result in the permit being deemed issued by operation of law.

C. **Prompt Judicial Review.** Any applicant whose permit has been denied pursuant to this chapter shall be afforded prompt judicial review of that decision as provided by law.

Findings/Locational and Operational Requirements.

The Community Development Director shall approve and issue an Adult Business Permit if he or she finds that:

A. The Adult Businesses shall not be located within 100 feet from any residentially zoned or used property (except for parcels 060-252-005 and 060-254-007), 500 feet of any lot upon which there is properly located¹ a public park or religious institution (except for parcel number 060-253-016 which may be located 250 feet from an Adult Business), 750 feet from any schools or 500 feet from any other Adult Business establishment as of the day the application for a Adult Business permit is filed².

¹ For the purposes of this section, a use is "located" upon a site if an application for the use to be placed upon the site has been filed with the City prior to receipt of the Adult Business application under review.

² The distance of separation required by subsection A 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 Business shall

Ordinance No. 04-02
Adult Business Regulations

- B. The Adult Business may only be permitted in the Commercial Shopping Center (C-S) and Coastal Industrial (C-I) zoning districts.
- C. The Adult Business shall comply with the City's zoning, building and development regulations.
- D. The Adult Business will not be located completely or partially within any mobile structure or pushcart.
- E. The Adult Business will not conduct any massage, tattooing, accupressure, fortune-telling or escort services on the premises.
- F. The Adult Business will provide a security system that visually records and monitors all parking lot areas. All indoor areas of the Adult Business accessible to the public will be open to public view at all times with the exception of restroom facilities. "Accessible to the public" will 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, as well as any area of the establishment where a patron can go by way of an invitation of an entertainer.
- G. The Adult Business shall comply with the objective portions of the City's sign regulations.
- H. The Adult Business shall comply with the objective development and design requirements of the zoning district in which it is to be located.
- I. The Adult 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 Business.
- J. The Adult 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 alcohol is served.
- K. The Adult Business shall not operate between the hours of midnight and 10:00 am.
- L. For the five (5) years prior to establishing the Adult Business and at all times during its operation in Grover Beach, neither the owner (if an individual) nor any of the directors, officers or general partners (if a corporation or partnership) or employees of the Adult Business shall have been found guilty of a misdemeanor or felony classified by the State as a sex-related offense including but not limited to a violation of the following Penal Code sections and their subparts and subsections: 220, 261, 262, 264, 264.1, 265, 266, (inc. 266a-266k) 267, 286,

be located to the nearest property line of the lot upon which is located a residential use, religious institution, park or school, or other adult use. If the residential use, religious institution, park or school, or other adult business from which the measurement is being taken is located on the same lot as the Adult 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.

**Ordinance No. 04-02
Adult Business Regulations**

286.5, 288, 288a, 289, 647, 647b 647d 647 or have either had an Adult Business Permit or similar license or permit suspended or revoked or have otherwise been found to have violated any of the provisions of an Adult Business Permit or similar permit, license or ordinance in any city, county, territory, or state. This shall be verified by evidence generated from the Grover Beach Police Department background investigation.

M. The owner of the Adult Business shall provide separate restroom facilities for male and female patrons. The restrooms will be free from Sexually Oriented Materials and Sexually Oriented Merchandise. Only one person will be allowed in the restroom at any time, unless otherwise required by law, in which case the owner of the Adult Business shall employ a restroom attendant/security officer of the same sex as the restroom users who shall be present in the public portion of the restroom during operating hours. The owner shall ensure that the attendant permits no person of the opposite sex in the restroom, that not more than one (1) person to enter a restroom stall and, with the exception of urination and excretion, that no persons engage in any Specified Sexual Activity in the public portion of the restroom.

N. The interior of the Adult Business shall be configured such that there is an unobstructed view, by use of the naked eye and unaided by video, closed circuit cameras or any other means, 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 eight (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, solely with the use of the naked eye and unaided by video, closed circuit cameras or any other means 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.

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

- Bookstores 20 foot-candles
- Retail Establishments 20 foot-candles
- Theater 5 foot-candles except during performances, at which times the lighting shall be at least 1.25 foot candles
- Cabaret 5 foot-candles except during performances, at which times the lighting shall be at least 1.25 foot candles
- Motion Picture Arcade 10 foot-candles in public areas
- Individual viewing booths 1.25 foot-candles
- Motion picture theater 10 foot-candles except during performances at which times the lighting shall be at least 1.25 foot candles

Ordinance No. 04-02
Adult Business Regulations

Motel/Hotel 20 foot-candles in public areas

P. The Individual Viewing Areas of the Adult 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 (2) or more Individual Viewing Areas.

Q. A traffic study prepared for the Adult Business in conformance with industry standards must 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.

R. The Adult Business shall comply with the Noise Element of the General Plan, Interior and Exterior Noise Standards and the noise ordinance of the City of Grover Beach.

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

T. Live entertainment shall only be performed either: a) on a stage raised at least eighteen (18) inches above the floor and separated from patrons by a fixed rail at least 30 inches in height placed at a distance of not less than eight (8) feet around the perimeter of the stage; or b) in a location other than on the stage such that the Performer is separated from any patron by not less than six (6) feet. This provision does 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 that cannot be opened between the public area and performer area.

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

V. No patron shall directly pay or give any gratuity to any Performer, and no Performer will solicit or accept any directly paid gratuity from any patron. For the purposes of this section, the phrase "directly pay" shall mean the person-to-person transfer of the gratuity. This section shall not prohibit the establishment of a non-human gratuity receptacle placed at least six (6) feet from the stage or area which the Performer is occupying.

W. No Performer will intentionally have any physical contact with any patron and no patron will intentionally have any physical contact with any Performer while on the premises of an Adult Business.

X. No exterior door or window shall be propped or kept open at any time during hours of operation and exterior doors or windows shall be covered with opaque coverings at all times.

**Ordinance No. 04-02
Adult Business Regulations**

Y. The Adult Business shall have a separate entrance and exit to the premises for Performers which are separate from the entrance and exit used by the public.

Z. Neither Live Entertainment, nor any Adult Material or Adult Merchandise shall be visible from anywhere outside the Adult Business.

AA. At least one (1) security guard shall be on duty outside the premises, patrolling the grounds and parking lot at all times live entertainment is offered. The security guard shall be charged with preventing violations of law and enforcing the provisions of this chapter. All security guards shall be uniformed so as to be readily identifiable as a security guard by the public. No person acting as a security guard shall act as a doorperson, ticket taker or seller, or similar functionary while acting as a security guard. For all Adult Businesses providing Live Entertainment, an additional security guard shall be provided with each increase in maximum occupancy of two hundred (200) persons.

BB. The Adult Business shall be operated consistent with the floor plan approved by the City. No changes to the floor plan shall be implemented unless and until the changes have first been approved by the City.

Permits Nontransferable; Use Specific

No Adult 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 such permit, and such permit shall be thereafter null and void. An Adult Business permit held by an individual in 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 Business from one element of an Adult Business use to another element of an Adult Business shall also render the permit null and void. An Adult Business permit shall only be valid for the exact location specified on the permit.

Violation and Penalty

A. 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 an activity referred to in this chapter without first obtaining a Adult Business permit from the City shall be guilty of a misdemeanor. Except as provided herein, and as provided by the penal code, no violation of this Chapter shall be criminally punished.

B. Any establishment operated, conducted or maintained contrary to the provisions of this chapter is unlawful and a public nuisance; and the City Attorney may commence an action or actions, proceeding or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law, and

Ordinance No. 04-02
Adult Business Regulations

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 Business and restrain and enjoin any person from operation, conducting or maintaining such an establishment contrary to the provisions of this division.

Enforcement and Revocation

A. **Inspections.** The permittee shall permit officers of the City and each of their authorized representatives to conduct unscheduled inspections of the premises of the Adult Business for the purpose of ensuring compliance with the law at any time the Adult Business is open for business or occupied.

B. **Revocation Grounds.** The Director of Community Development may revoke a Adult Business Permit when he or she discovers that any of the following have occurred:

1. Any of the locational/operational requirements above are violated;
2. The application contains incorrect, or false information;
3. The permittee is convicted of any felony or misdemeanor which is classed as a sex or sex-related offense including but not limited to a violation of the following Penal Code sections and their subparts and subsections: 220, 261, 262, 264, 264.1, 265, 266, (inc. 266a-266k) 267, 286, 286.5, 288, 288a, 289, 647, 647b 647d 647, any violation of the City's massage ordinance, or any violation of any other adult business ordinance of any other city, county, or state; or
4. Any person has been convicted of a sex-related offense including but not limited to a violation of the following Penal Code sections and their subparts and subsections: 220, 261, 262, 264, 264.1, 265, 266, (inc. 266a-266k) 267, 286, 286.5, 288, 288a, 289, 647, 647b 647d 647 as a result of his or her activity on the premises of the Adult Business.

Revocation Notice. Upon determining that the grounds for permit revocation exist, the Director of 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 request a public hearing within fifteen (15) calendar days of the postmarked date on the notice, and shall be delivered both by posting the notice at the location of the Adult Business and by sending the same, certified mail, return receipt requested and postage prepaid, addressed to the permittee as that name and address appears on the permit. Within fifteen (15) calendar days after the latter of the mailing or posting of the notice, the permittee may file an appeal request for public hearing with the Community Development Director, where it shall be considered on the next available Planning Commission agenda.

Ordinance No. 04-02
Adult Business Regulations

PART 4: Delete Section 9117.13, page IX-63.

PART 5: Modify Table 2, Uses Permitted Within Industrial Districts, Page IX-110, as follows:

On page IX-111, Commercial Service Uses, add the use "adult businesses" as the first use listed in this section. Insert a P^a in the C-1 zoning district column. On page IX-115, add item number 9, and insert, " Subject to Part 37 – General Provisions, Conditions and Exceptions, Section 9137.4", on page IX-134.

PART 6: On page IX-188, in Part 48 – Definitions, delete the following definitions:

adult bookstore, adult motion picture theater, adult mini-motion picture theater, adult-oriented recreational businesses, body painting studio, cabaret, coin-operated adult entertainment facility, sexual encounter studio and rap parlor, specified anatomical areas, and specified sexual activities.

Insert in Part 48 – Definitions, the following text:

Definitions.

a) *Adult Bookstore* means 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, DVDs, CD ROMs, 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 Areas. (See "Adult Business" for definition of regular and substantial portion of its business.)

(b) *Adult Business* means 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 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 Areas. "Adult Business" does not include those uses or activities, the regulation of which is preempted by state law.

For the purposes of this subsection, a business establishment or concern has established the provision of products, merchandise, services or entertainment

Ordinance No. 04-02
Adult Business Regulations

characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas as a regular and substantial course of conduct when one or more of the following conditions exist:

- (i). The area devoted to Adult Merchandise and/or Sexually Oriented Material exceeds 25 percent of the total display or floor space area open to the public;
 - (ii). The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on Specified Sexual Activity or Specified Anatomical Areas at least four times in any month in any given year;
 - (iii). 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 Areas.
- (c) *Adult Cabaret* means 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 Areas.
- (d) *Adult Hotel or Motel* means 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 Areas 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.
- (e) *Adult Model Studio* means 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 Areas 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.
- (f) *Adult Motion Picture Arcade* means any business establishment or concern containing currency, coin or slug operated or manually or electronically controlled still, motion picture or video machines, projectors, or other image-

Ordinance No. 04-02
Adult Business Regulations

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 Areas.

(g) *Adult Theater* means 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 Areas.

(h) *Body Painting Studio* means any establishment or business that provides the service of applying paint or any other substance, whether transparent or not, to or on the human body when such body is displaying whole or partial nudity of Specified Anatomical Areas.

(i) *Establish* means, with reference to an adult bookstore, adult motion picture theater, adult cabaret, or other adult business:

(1) Opening or commencement of operation as a new business.

(2) Conversion of an existing business to an adult business.

(3) Addition of an adult business to an existing business, whether or not adult, if the addition results in enlarging the place of business. For purposes of this paragraph, enlargement means an increase in the size of the building or area in which the business is conducted by either construction or use of an adjacent building or any portion thereof, whether located on the same or an adjacent lot.

(j) *G-string* means an article of clothing that opaquely covers the buttocks at least one inch on either side of the natal cleft and covers the entirety of the genitalia and pubis.

(k) *Individual Viewing Area* means any area used for viewing live performances, pictures, movies, videos or other presentations which has a potential maximum occupancy of ten (10) persons or less as determined by the Building Official under the adopted Uniform Building Code.

(l) *Live Art Class* means 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 Areas; instruction is offered in a series of at least two (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.

(m) *Live Entertainment* means any existent display by a human being which is characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities.

Ordinance No. 04-02
Adult Business Regulations

(n) *Nude, nudity, or state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering, the showing of the female breast with less than fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(o) *Pasties* means an article of clothing that opaquely covers the nipple and areola of the female breast.

(p) *Performer* means any dancer, entertainer, model, or other person who performs Specified Sexual Activities or displays Specified Anatomical Areas in an Adult Business.

(q) *Religious Institution* means a building which is used primarily for religious worship and related religious activities.

(r) *Residentially zoned properties* means property in the R-A, R-1, R-2, R-3, C-P-R-1, C-R-1, C-R-2, C-R-3, or M-H zones (with or without planned development overlay), within the City of Grover Beach.

(s) *School* means an institution of learning for minors, whether public or private which is maintained pursuant to standards set by the State Board of Education and made applicable to the particular type of school.³ This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning under the jurisdiction of the State Department of Education, but does not include a vocational or professional institution or an institution of higher education including a community or junior college, college, or university.

(t) *Sexually Oriented Material* means any element of any merchandise, including but not limited to any book, periodical, magazine, photograph, slides, drawing, sculpture, motion picture film, videos, DVDs, CD ROMs, compact disks, other types of photographic reproductions, 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 Specified Sexual Activities or Specified Anatomical Areas.

(u) *Sexually Oriented Merchandise* means sexually oriented implements and paraphernalia, including, 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 sadomasochistic activity.

³ For example, it is recognized that curriculum standards that are applicable to public schools are not applicable to private schools. Accordingly, a private school is not disqualified from being considered a "school" simply because it does not comply with curriculum standards applicable to public schools.

Ordinance No. 04-02
Adult Business Regulations

(v) *Specified Anatomical Areas* means:

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

(w) *Specified Sexual Activities* means:

- (1) actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of clothed or 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, zoocerastia; 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 clothed or unclothed 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) The presence of any person who performs, or appears in attire where specified anatomical parts are either not opaquely covered or minimally covered with devices commonly referred to as pasties and g-strings or any other opaque covering over the nipple and areola of the female breast, and, while covering the cleft between the buttocks and pubic area, covers less than one inch on either side of the entire length of the cleft between the buttocks and two inches across the pubic area.

Severability

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

Ordinance No. 04-02
Adult Business Regulations

have been prepared, proposed, approved, adopted and/or ratified respective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional including, but not limited to, the locational and operational requirements contained in this section.

This Ordinance shall become effective 30 days after the date of its adoption by the City Council or upon approval by the State Coastal Commission, whichever is later. Within 15 days after its adoption by the City Council, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

The foregoing Ordinance No. 04-02 was introduced at the Regular City Council Meeting of January 20, 2004, and was **PASSED, APPROVED and ADOPTED** at the Regular City Council Meeting of February 2, 2004 on the following roll call vote, to wit:

- AYES:** Council Members Arnoldsen, Mayor Pro Tem Shoals, and Mayor Santos.
- NOES:** Council Members Ekbom and Lieberman.
- ABSENT:** Council Members – None.
- ABSTAINED:** Council Members – None.



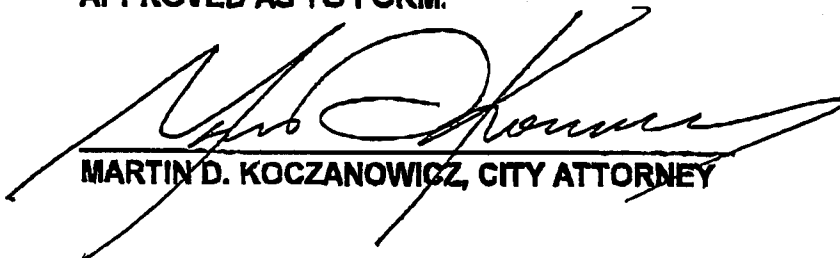
DEE SANTOS, MAYOR

ATTEST:



DONNA L. McMAHON, CITY CLERK

APPROVED AS TO FORM:



MARTIN D. KOCZANOWICZ, CITY ATTORNEY

