

**ORDINANCE NO. 743
(AS AMENDED THROUGH 743.3)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 743
REGULATING SEX-ORIENTED BUSINESSES**

The Board of Supervisors of the County of Riverside Ordains as Follows:

Section 1. PREAMBLE.

Prior to the adoption of this ordinance, the Board of Supervisors reviewed detailed studies prepared by other jurisdictions regarding the detrimental social and economic effects on persons and properties immediately surrounding established sex-oriented businesses. The studies reviewed included those prepared by the cities of Austin, Texas; Taylor, Michigan; Detroit, Michigan; Indianapolis, Indiana; Garden Grove, California; Los Angeles, California; Phoenix, Arizona; and the Report of the Minnesota Attorney General's Working Group on the Regulation of Sexually Oriented Businesses.

Based on its review of such studies, the Board of Supervisors believes the following statements to be true:

- a. Sex-oriented businesses increase crime in general and sex-related crimes in particular;
- b. Crime rates are higher in residential areas surrounding sex-oriented businesses than in commercial or industrial areas surrounding sex-oriented businesses;
- c. Crime rates are higher in areas where sex-oriented businesses are closely situated to one another than in areas where sex-oriented businesses are separated from one another;
- d. The presence of sex-oriented businesses in close proximity to residential areas has been shown to reduce property values in those areas;
- e. The image of the County of Riverside as a pleasant and attractive place to reside and to conduct business will be adversely affected by the presence of sex-oriented businesses in close proximity to residential uses, religious institutions, parks and schools;
- f. Sex-oriented businesses should be regulated to prevent deterioration and/or degradation of the vitality of the community, but such regulations should give persons desiring to patronize such businesses an opportunity to do so; and
- g. Sex-oriented businesses should be regulated through zoning or other mechanisms that will separate such businesses from those land uses with which they are incompatible.

Section 2. INTENT. It is the intent of this ordinance to regulate sex-oriented businesses, to promote the health, safety and general welfare of the citizens of the County of Riverside and to establish reasonable and uniform regulations to prevent the deleterious effects of sex-oriented businesses from occurring within the County of Riverside.

It is neither the intent nor the effect of this ordinance to impose limitations or restrictions on the content of any communicative material. Similarly, it is neither the intent

nor the effect of this ordinance to restrict or deny access by adults to sex-oriented materials or to deny access by the distributors or exhibitors of sex-oriented businesses to their intended market.

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

Section 3. DEFINITIONS. For purposes of this ordinance, the following words and terms shall have the following meanings:

- a. **"Individual Viewing Area"** shall mean: A viewing area designed for occupancy by one person.
- b. **"Owner" or "Permittee"** shall mean:
 - 1. The sole proprietor of a sex-oriented business; or
 - 2. Any general partner of a partnership which owns and operates a sex-oriented business; or
 - 3. Any officer of, or person with a ten (10) percent or greater interest in, a corporation which owns or operates a sex-oriented business.
- c. **"Premises"** shall mean: The building occupied by a sex-oriented business, or the space in a building occupied by a sex-oriented business if the business does not occupy the entire building.
- d. **"Regular and Substantial Course of Conduct"** shall mean:
 - 1. Devoting more than 15 percent of total display area to the display of sex-oriented merchandise or sex-oriented material; or
 - 2. Presenting any type of live entertainment characterized by an emphasis on specified sexual activity or specified anatomical parts, or performers, models or employees appearing in public in lingerie on any four or more separate days within any thirty day period; or
 - 3. Deriving at least fifty percent (50%) of gross receipts from the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.
- e. **"School"** shall mean: Any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.
- f. **"Sheriff"** shall mean: The Sheriff of the County of Riverside, or his or her designated representative.
- g. **"Sex-Oriented Bookstore"** shall mean: Any establishment which as a

regular and substantial course of conduct displays or distributes sex-oriented merchandise, books, periodicals, magazines, photographs, drawings, sculptures, motion pictures, videos, films, or other visual representations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.

- h. "Sex-Oriented Business"** shall mean: Any establishment which as a regular and substantial course of conduct performs or operates as a sex-oriented bookstore, sex-oriented theater, sex-oriented motion picture arcade, sex-oriented cabaret, sex-oriented motel/hotel, or sells or distributes sex-oriented merchandise or sex-oriented material, or any other establishment which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts but not including those uses or activities, the regulation of which is preempted by state law. "Sex-oriented business" shall also mean any establishment which as a regular and substantial course of conduct provides or allows performers, models, or employees to appear in any public place in lingerie.
- i. "Sex-Oriented Cabaret"** shall mean: A nightclub, bar, restaurant or similar establishment which features any type of live entertainment which is distinguished or characterized by its emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.
- j. "Sex Oriented Hotel/Motel"** shall mean: A hotel or motel which:

 - 1.** As a regular and substantial course of conduct provides to its patrons, through the provision of rooms equipped with closed-circuit television, video recorders or players or other medium, material which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts; or
 - 2.** Rents, leases, or lets any room for less than a six-hour period, or rents, leases or lets any single room more than twice in a 24-hour period.
- k. "Sex-Oriented Material"** shall mean: Any sex-oriented merchandise, or any book, periodical, magazine, photograph, drawing, sculpture, motion picture film, video tape recording, or other visual representation which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.
- l. "Sex-Oriented Merchandise"** shall mean: Sex-oriented implements or paraphernalia, such as, but not limited to: dildos, auto sucks, sex-oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated or battery operated vaginas, and similar sex-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sadomasochistic activity.

- m. **"Sex-Oriented Motion Picture Arcade"** shall mean: Any establishment containing any manually operated, coin or slug operated, or electrically or electronically operated or controlled, still or motion picture or video tape machines, projectors, players or other image producing devices that are maintained to display images to five or fewer persons per machine or per viewing room at any one time when those images are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.
- n. **"Sex-Oriented Motion Picture Theater"** shall mean: Any business establishment which projects and presents motion pictures, video tape recordings, slide photographs, or other motion or still pictures which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical parts.
- o. **"Sex-Oriented Theater"** shall mean: A theater, concert hall, dance hall, auditorium, or similar establishment which features live performances which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical parts.
- p. **"Specified Anatomical Parts"** shall mean:
1. Less than completely and opaquely covered human genitals, pubic hair, buttocks, natal cleft, perineum, anal region, pubic hair region, or female breast below a point immediately above the top of the areola; or
 2. Human male genitals in a discernably turgid state, even if completely and opaquely covered.
- q. **"Specified Sexual Activities"** shall mean:
1. Actual or simulated: sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, masturbation, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory function in the context of a sexual relationship; or any of the following depicted sexually-oriented acts or conduct, whether actual or simulated: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, pediophilia, sapphism, urophilia, zooerastia, zoophilia; or
 2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
 3. Use of human or animal ejaculation; or
 4. Fondling or erotic or sexually-oriented touching of human genitals, pubic region, buttocks, natal cleft, anal region or female breast; or
 5. Masochism; erotic or sexually-oriented torture, beating or the infliction of pain; or
 6. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
 7. Human excretion, urination, menstruation, vaginal or anal irrigation; or

8. Striptease, or the removal of clothing, or the wearing of transparent or diaphanous clothing, including models appearing in lingerie, to the point where specified anatomical parts are exposed.

Section 4. PERMIT PREREQUISITE; APPLICATION PROCESS.

- a. It shall be unlawful for any person or entity to operate, engage in, conduct or carry on any sex-oriented business within the County of Riverside unless the owner of said business first obtains, and continues to maintain in full force and effect, a sex-oriented business permit.
- b. The owner of the proposed sex-oriented business shall be the only person eligible to obtain a sex-oriented business permit.
- c. The following information and items shall be submitted to the Sheriff by the owner at the time of applying for a sex-oriented business permit:
 1. A completed sex-oriented business permit application form signed by each of the following: the owner of the proposed sex-oriented business; the record owner of the property; and the sublessor, if the proposed sex-oriented business is a sublessee; all such signatures shall be notarized.
 2. A statement signed by the record owner of the property and the sublessor, if any, attesting under penalty of perjury that they were aware the proposed business was sex-oriented in nature during lease or sublease negotiations; all such signatures shall be notarized.
 3. A site plan designating the building and/or unit proposed for the sex-oriented business and a dimensional interior floor plan depicting how the business will comply with all applicable requirements of this ordinance.
 4. The information specified in Section 7. hereof if the sex-oriented business in question is a sex-oriented motion picture arcade.
 5. Any additional information the Sheriff deems necessary.
 6. A statement signed by the owner of the proposed sex-oriented business attesting under penalty of perjury to the truth and accuracy of the application and the information submitted therewith.
 7. The appropriate non-refundable processing fee which shall be one of the following amounts as determined by the Planning Director **\$3,802.81** in the case of a new application whereby approval is sought to operate in a building not yet constructed or in an existing building that does not appear at the time of application to meet the policies, standards and regulations referenced in subsection b.9. of Section 5. hereof; **\$730.40** in the case of a new application whereby approval is sought to operate in an existing building that does appear at the time of application to meet the policies, standards and regulations referenced in subsection b.9. of Section 5. hereof; and **\$276.00** in the case of a renewal application. When a new application fee is paid the Sheriff shall retain **\$510.00** to cover its processing costs plus such sum as is currently charged by the Department of Justice of the State of California for a fingerprint check of an individual

and shall forward the remainder to the Planning Department. When a renewal application fee is paid, the Sheriff shall retain the entire amount.

- d. Notwithstanding the above, no application for a sex-oriented business permit shall be accepted or processed for any business that has had a sex-oriented business permit revoked pursuant to Section 13. hereof within the preceding three (3) year period.

Section 5. PERMIT APPROVAL; STANDARDS.

- a. The Sheriff shall, within forty-five (45) business days of the filing of a complete permit application, approve and issue the sex-oriented business permit if the standards and requirements of this ordinance have been met; otherwise, the permit shall be denied. Notice of the approval or denial of the permit shall be given to the owner in writing by first class mail, postage prepaid, deposited in the course of transmission with the United States Postal Service within three (3) business days of the date of such decision. The times set forth in this subsection shall not be extended except upon the written consent of the applicant. The decision of the Sheriff shall be final.
- b. The Sheriff shall approve and issue a sex-oriented business permit if:
 - 1. The sex-oriented business will be located in a zone permitting sex-oriented businesses as a use; and
 - 2. The sex-oriented business will not be located within five hundred (500) feet of any existing residence, whether such residence is within or outside the boundaries of the County of Riverside; and
 - 3. The sex-oriented business will not be located within five hundred (500) feet of another sex-oriented business not located within the same premises and under the same ownership and control, whether such other business is within or outside the boundaries of the County of Riverside; and
 - 4. The sex-oriented business will not be located within one thousand (1,000) feet of any lot upon which there is located any religious institution, public park or school, whether such use is within or outside the boundaries of the County of Riverside; and
 - 5. For the purposes of this subsection all distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point of the premises where said sex-oriented business is conducted to the nearest existing residence, to the nearest point of the premises of any other sex-oriented business or to the nearest property line of any lot upon which is located a religious institution, public park or school; and
 - 6. The sex-oriented business will not be located, in whole or in part, within any portable structure; and
 - 7. The sex-oriented business will comply with the development standards of the applicable zone and with all applicable transportation, flood control, health, fire protection, grading, building, mechanical, plumbing and electrical policies, standards

and regulations.

8. The sex-oriented business will not conduct or sponsor any special events, promotions, festivals, concerts or similar activities which would increase the demand for parking spaces beyond the approved number of spaces for the business; and
9. The sex-oriented business will not conduct any massage, acupuncture, figure modeling, tattooing, acupressure or escort services and will not allow such activities on the premises; and
10. The owner, manager or any other employee of the sex-oriented business has not, within the five (5) year period preceding the application date, been convicted of a felony or misdemeanor which is classified by the state as an offense involving a sexual crime against children, sexual abuse, rape, distribution of obscene material or material harmful to minors, prostitution or pandering, including, but not necessarily limited to the violation of any crime requiring registration under California Penal Code Section 290, or any violation of Penal Code Sections 234.3, 261, 261.35, 264.1, 266, 266a through 266K, inclusive, 267, 286, 286.5, 288, 288a, 311 through 311.10, inclusive, 314, 315, 316 or 647; and
11. The owner or manager of the sex-oriented business is at least eighteen (18) years of age; and
12. The application and evidence submitted in support thereof are accurate and do not contain incorrect, false or misleading information.

Section 6. PERMIT REQUIREMENTS; GENERAL.

Any sex-oriented business which allows customers to remain on the premises while viewing any live, filmed or recorded entertainment, or to use or consume the products or services supplied on the premises, shall conform to the following requirements:

- a. At least one security guard shall be on duty outside the premises, patrolling the grounds and parking areas, at all times while the business is open. If the occupancy limit of the premises is greater than fifty (50) persons, an additional security guard shall be on duty inside the premises. The security guard(s) shall be charged with preventing violations of law, with enforcing compliance by patrons with the requirements of this ordinance, and with notifying the Sheriff of any violations of law observed. Security guard(s) required by this subsection shall be uniformed in such a manner so as to be readily identifiable as a security guard by the public and shall be duly licensed as a security guard as required by applicable provisions of state or local law. No security guard required pursuant to this subsection shall act as a doorperson, ticket seller, ticket taker, or admittance person while acting as a security guard hereunder.
- b. Landscaping shall conform to the standards established for the zone, except that, if the sex-oriented business is the sole use on a lot, no planting shall exceed thirty (30) inches in height, except trees with foliage not less than six (6) feet above the ground.

- c. The entire exterior grounds, including the parking lot, shall be lighted in accordance with standards promulgated by the Planning Director.
- d. The premises within which the sex-oriented business is located shall provide sufficient sound-absorbing insulation so that noise generated inside said premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate space within the same building.
- e. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.
- f. Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance/exit to the business.
- g. Signage shall conform to the standards established for the zone except that such signage shall be limited to the business name, the street address and the notice required by subsection k. of this section.
- h. All indoor areas of the sex-oriented business within which patrons are permitted, except rest rooms, shall be open to view at all times.
- i. Except as specifically provided in this ordinance, the sex-oriented business shall comply with the parking, development and design standards established for the zone in which the business is located.
- j. No sex-oriented material or sex-oriented merchandise shall be displayed in such a manner as to be visible from any location other than within the premises occupied by the sex-oriented business.
- k. No person under the age of eighteen (18) years and no person obviously intoxicated shall be permitted within the premises at any time. A sign giving notice of this provision shall be prominently posted at each entrance to the premises of the sex-oriented business.
- l. The sex-oriented business shall not operate or be open between the hours of 2:00 a.m. and 9:00 a.m.
- m. The sex-oriented business shall provide and maintain separate rest room facilities for male patrons and employees and female patrons and employees. Male patrons and employees shall be prohibited from using the rest room(s) for females, and female patrons and employees shall be prohibited from using the rest room(s) for males, except to carry out duties of repair, maintenance and cleaning of the rest room facilities. The rest rooms shall be free from all sex-oriented materials and sex-oriented merchandise. Rest rooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this subsection shall not be applicable to a sex-oriented business which deals exclusively with sale or rental of merchandise which is not used or consumed on the premises, such as a sex-oriented bookstore, and which does not provide rest room facilities to its patrons or the general public.
- n. Except as otherwise required by law or provided herein, all areas of the sex-oriented business accessible to patrons shall be illuminated at least to the

extent of a twenty (20) foot candle, minimally maintained and evenly distributed at ground level.

- o. Individual viewing areas of the sex-oriented business shall be operated and maintained without any hole or other opening or means of direct communication or visual or physical access between the interior space of two or more individual viewing areas.

Section 7. PERMIT REQUIREMENTS; MOTION PICTURE ARCADES.

Sex-oriented motion picture arcades which provide more than one viewing area shall conform to all the requirements previously set forth in this ordinance and shall also conform to the following additional requirements:

- a. Upon application for a sex-oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, specifying the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight (8) feet. The diagram shall also designate the place at which the sex-oriented business permit will be conspicuously posted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Sheriff shall waive the foregoing diagram for renewal applications if the owner adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- b. No alteration in the configuration of the diagram may be made without the prior approval of the Sheriff.
- c. It is the duty of the owner(s) to insure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.
- d. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose, excluding rest rooms, from at least one of the managers's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- e. It shall be the duty of the owner(s) and it shall also be the duty of all employees present on the premises to insure that the view area specified in subsection d. of this section remains unobstructed by any doors, walls, persons, merchandise, display racks or other materials at all times and to

insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection a. of this section.

- f. No individual viewing area may be occupied by more than one person at any one time.
- g. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted to access with an illumination of not less than a ten (10) foot candle as measured at the floor level.
- h. It shall be the duty of the owner(s) and it shall also be the duty of all employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present on the premises.

Section 8. PERMIT REQUIREMENTS; LIVE ENTERTAINMENT.

Sex-oriented businesses providing live entertainment depicting specified anatomical parts or involving specified sexual activities shall conform to all the requirements previously set forth in this ordinance and shall also conform to the following additional requirements:

- a. No person shall perform live entertainment for patrons of a sex-oriented business except upon a stage at least eighteen (18) inches above the level of the floor which is separated by a distance of at least six (6) feet from the nearest area occupied by patrons, and no patron shall be permitted within six (6) feet of the stage while the stage is occupied by an entertainer.
- b. The sex-oriented business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
- c. The sex-oriented business shall provide an entrance/exit to the premises for entertainers which is separate from the entrance/exit used by patrons.
- d. The sex-oriented business shall provide access for entertainers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the sex-oriented business shall provide a minimum three (3) foot wide walk aisle for entertainers between the dressing room area and the stage, with a railing, fence or other barrier separating the patrons and the entertainers capable of (and which actually results in) preventing any physical contact between patrons and entertainers.
- e. No entertainer shall have physical contact with any patron and no patron shall have physical contact with any entertainer while on the premises.
- f. No waiter, waitress, entertainer or other person employed on the premises shall violate the provisions of Ordinance No. 543 transferability while on the premises.
- g. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons.
- h. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access with an illumination of not less than a twenty (20) foot candle as measured at the floor level.

Section 9. PERMIT REQUIREMENTS; EFFECT OF NON-COMPLIANCE.

The requirements described in Sections 5., 6., 7., and 8. of this ordinance shall be deemed conditions of permit approval, and failure to comply with any such requirement shall be grounds for revocation of any sex-oriented business permit issued pursuant to this ordinance.

Section 10. PERMIT DURATION.

A sex-oriented business permit shall be valid for a period of one year from the date of permit approval.

Section 11. PERMIT RENEWAL.

A sex-oriented business permit shall be renewed on a year-to-year basis, provided that the permittee continues to meet all applicable requirements. A request for permit renewal must be accompanied by a sex-oriented business permit application, completed in full detail with current information. If the application conforms to the previously approved application and the sex-oriented business has not changed, the permit shall be renewed by the Sheriff for another year. Notice of such renewal, or denial, shall be given, in writing, to the permittee within twenty (20) business days following the date of receipt of the completed renewal application. Any change or alteration in the location, nature or operation of the sex-oriented business will require a new application to be processed in the same manner as the original application.

Section 12. PERMIT TRANSFERABILITY.

No sex-oriented business permit shall be sold, transferred, or assigned by any permittee, or by operation of law, to any other person, group, partnership, corporation or entity, and 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 thereafter be null and void. A sex-oriented business permit held by an individual in a corporation or partnership is subject to the same rules of transferability described above. Any change in the nature or composition of the sex-oriented business from one type of sex-oriented business use to another type of sex-oriented business use shall also render the permit null and void. A sex-oriented business permit shall be valid only for the exact location specified in the permit.

Section 13. PERMIT REVOCATION.

- a. The permittee shall allow the Sheriff to conduct unscheduled inspections of the premises of the sex-oriented business for the purpose of ensuring compliance with the law at any time the sex-oriented business is open for business or is occupied.
- b. The Sheriff shall revoke a sex-oriented business permit when:
 1. Any of the applicable requirements set forth herein ceases to be satisfied; or
 2. The application is discovered to contain incorrect, false or misleading information; or
 3. The permittee is convicted of a felony or misdemeanor occurring upon, or relating to the premises or lot upon which the sex-oriented

business is located, which offense is classified by the state as an offense involving a sexual crime against children, sexual abuse, rape, distribution of obscene material or material harmful to minors, prostitution or pandering, including, but not necessarily limited to the violation of any crime requiring registration under California Penal Code Section 290, or any violation of Penal Code Sections 234.3, 261, 261.35, 264.1, 266, 266a through 266k, inclusive, 267, 286, 286.5, 288, 288a, 311 through 311.10, inclusive, 314, 315, 316 or 647; or

4. An employee, agent or contractor of the permittee is convicted on two or more occasions within a twelve (12) month period of a felony or misdemeanor occurring upon, or relating to the premises or lot upon which the sex-oriented business is located, which offense is one of those listed in subsection b.3. of this section; or
5. The permittee or an employee has knowingly allowed prostitution, or solicitation for prostitution, on the premises; or
6. The sex-oriented business has been operated in violation of any of the requirements of this ordinance and:
 - (a) If the violation is of a continuous nature, the business continues to be operated in violation of such provision for more than ten (10) days following the date written notice of such violation is mailed or delivered to the owner, or
 - (b) If the violation is of a noncontinuous nature, two (2) or more additional violations of the same provision, or four (4) or more violations of any other of the provisions, of this ordinance occur (regardless of whether notice of each individual violation is given to the owner) within any twelve (12) month period.

Section 14. PERMIT REVOCATION PROCEDURE.

- a. Upon determining that grounds for permit revocation exist, the Sheriff 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 hearing with 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 sex-oriented business and by sending the notice by certified mail, postage prepaid, addressed to the permittee as the name and address appear on the permit. Within fifteen (15) calendar days after the date of the mailing or posting of the notice, the permittee may file a written request for hearing with the Sheriff.
- b. Upon receipt of a hearing request, a hearing shall be conducted by a County Hearing Officer pursuant to and in accordance with Ordinance No. 643. Such hearing shall be conducted within forty-five (45) calendar days of the hearing request filing date.
- c. If no hearing is requested by the permittee or if the hearing officer determines that grounds for revocation exist, and the Sheriff accepts such

determination, the Sheriff shall revoke the sex-oriented business permit.

Section 15. EXISTING SEX-ORIENTED BUSINESSES.

Any sex-oriented business lawfully operating on the effective date of this ordinance in violation hereof shall be deemed a non-conforming use. A non-conforming use will be permitted to continue for a two-year period, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. A nonconforming use shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more sex-oriented businesses are within five hundred (500) feet of one another and otherwise in a permissible location, the sex-oriented business which was first established and continually operating at the particular location shall be deemed to conform to the locational standards hereof and the later established business shall be deemed non-conforming to said locational requirements.

A sex-oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location of a residence or other sex-oriented business within five hundred (500) feet of the sex-oriented business or the location of a religious institution, public park or public or private school within one thousand (1,000) feet of the sex-oriented business. This provision does not apply to permit applications submitted after a permit has expired or has been revoked.

Section 16. VIOLATIONS - MISDEMEANOR/INJUNCTION.

In addition to any other remedies provided by law, any violation of the provisions of this ordinance shall be a misdemeanor punishable by a fine not to exceed one-thousand dollars (\$1,000.00) or six (6) months in jail, or both. Any person who violates the provisions of this ordinance is subject to a suit for injunction as well as prosecution for the criminal violation.

Section 17. SEVERABILITY.

If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

Section 18. SAVINGS CLAUSE.

Neither the adoption of this ordinance or the repeal of any other ordinance of this County shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any permit or license or penalty or the penal provisions applicable to any violation thereof. The provisions of this ordinance, insofar as they are substantially the same as ordinance provisions previously adopted by this County relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

Section 19. RETROACTIVITY.

Any application for a land use permit not finally approved on or before the effective date of this ordinance shall be treated as an application for a sex-oriented business permit when the underlying use proposed is a sex-oriented business.

Section 20. REPEAL.

Ordinance Nos. 627 and 627.1-627.2, inclusive, are hereby repealed in their entirety.

Section 21. EFFECTIVE DATE.

This ordinance shall take effect 30 days after its adoption.

Adopted: 743 Item 3.2 of 03/01/1994 (Eff: 03/31/1994)

Amended: 743.1 Item 3.2 of 10/10/1995 (Eff: 11/09/1995)

743.2 Item 3.4 of 07/02/1996 (Eff: 08/01/1996)

743.3 Item 9.12 of 07/13/2010 (Eff: 08/12/2010)