

ORDINANCE NO. 2453

AN URGENCY ORDINANCE OF THE CITY OF REDLANDS AMENDING
CHAPTER 8.76 OF THE REDLANDS MUNICIPAL CODE RELATING TO ADULT-
ORIENTED BUSINESSES

RECITALS

WHEREAS, this City Council recognizes that adult-oriented businesses require special supervision by the City to protect and preserve the health, safety, morals and welfare of the patrons of such businesses as well as the citizens of the City; and

WHEREAS, adult-oriented businesses are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature; and

WHEREAS, the concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of adult-oriented businesses to protect the health and well-being of its citizens; and

WHEREAS, registration and permitting are legitimate and reasonable means of accountability to ensure that operators of adult-oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation; and

WHEREAS, there is convincing, documented evidence that adult-oriented businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and their surrounding residential areas, causing increased crime and the downgrading of property values; and

WHEREAS, it is recognized that adult-oriented businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, this City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, it is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the adverse secondary effects of adult-oriented businesses; and

WHEREAS, it is not the intent of this City Council in adopting this ordinance to condone or legitimize the distribution of obscene material, and this City Council recognizes that State law prohibits distribution of certain materials and expects and encourages law enforcement officials to enforce state obscenity statutes against such illegal activities within the City; and

WHEREAS, this City Council finds with certainty that there is no possibility that this ordinance may have a significant effect on the environment because it imposes operational standards and timing limitations on adult-oriented businesses and that, as a result, the adoption of this ordinance is statutorily exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines § 15061(b)(3), and that a Notice of Exemption should be filed by City planning staff in accordance with CEQA Guidelines § 15062; and

WHEREAS, Government Code Section 36937(b) authorizes this City Council, by a four-fifths vote of its members, to adopt an urgency ordinance for the immediate preservation of the peace, health and safety for the reasons stated herein; and

WHEREAS, the City Council also recognizes and relies on the findings set forth in the 1986 Attorney General's Report on Pornography in support of this ordinance including, but not limited to, its recommendation that local governments ban certain features of peep show booths that facilitate sexual encounters. With respect to booths, these findings include the following: The inside walls of the booth are typically covered with graffiti and messages, usually of a sexual nature and consisting of telephone numbers, names, requests and offers for sex acts, anatomical descriptions, and sketches. Some booths also contain a chart used as an appointment schedule that is utilized to schedule appointments for sex acts that take place in that particular booth. In some instances, this arrangement has been used for the solicitation of prostitutes. Many of these booths are equipped with a hole in the side wall between the booths (also known as a "glory hole") to allow patrons to engage in anonymous sex. These holes are used for oral and anal sex acts. Inside the booths, the floors and walls are often wet and sticky with liquid or viscous substances, including semen, urine, feces, used prophylactics, gels, saliva, or alcoholic beverages. The City reasonably believes that the description of the illicit sexual activity as noted within the Attorney General's Report is a real problem and the presence of closed doors is likely to lead to the above described secondary effects; and

WHEREAS, likewise, the City Council recognizes and relies on the findings set forth in the May 1990 study conducted by the City of Tucson in support of this ordinance including, but not limited to, the following findings with respect to booths: Glory holes were present in the walls of adjoining booths of adult entertainment establishments. These glory holes were used by male patrons to facilitate sex acts with the occupant of the neighboring booth. Investigators found puddles of semen on the floors and/or hanging on the walls of these booths. Used tissues were also found in the booth and in the hallways outside the booth. In order to verify the accuracy of their observations, investigating officers collected samples on two separate occasions. Between April and August 1987, investigators collected 26 random samples at eight separate adult entertainment establishments. Of these 26 samples, the Tucson Police Department Crime Lab reported the 21

(81%) tested positive for semen. The second collection occurred between October and December 1988. At that time, investigators collected 27 random samples at ten separate adult entertainment establishments. Of these 27 samples, 26 (96%) tested positive for semen. This City Council reasonably believes that the Tucson experience, along with the Attorney General's Report, is relevant to the problems associated with closed doors on arcade booths within the Redlands community; and

WHEREAS, this City Council finds that requiring that adult booths be configured in such a manner so that there is an unobstructed view from the manager's station and prohibiting closed, concealed or unobstructed booths that are occupied by no more than one person at a time reduces the secondary effects associated with closed booths. Specifically, the provisions pertaining to booths are necessary to eliminate the masturbation and sexual activity that are known to occur in closed booths and which present significant health and safety concerns with respect to communicable diseases, including AIDS. This City Council takes further note of the Ninth Circuit's decision in *Ellwest Stereo Theatres, Inc., v. Wenner*, 681 F.2d 1243 (9th Cir. 1982) and its finding that there is no constitutional right to unobserved masturbation in a public place; and

WHEREAS, this ordinance is an urgency ordinance necessary for the immediate preservation of the public peace, health and safety, which is justified by the fact that the Ninth Circuit's decisions including *Baby Tam v. City of Las Vegas* could detrimentally impact the City's ability to regulate adult-oriented businesses, thereby prohibiting the City from furthering its substantial governmental interest in protecting the public from the pernicious secondary effects the unregulated operation of adult-oriented businesses has been found to create; and

WHEREAS, this City Council finds the following, in part based upon its understanding of the documents and judicial decisions in the public record:

1. Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as a location for engaging in unlawful sexual activity;
2. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, both of which are sexually transmitted diseases, the City has a substantial interest in adopting regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at adult businesses;
3. This City Council finds that enclosed or concealed booths and dimly-lit areas within adult-oriented businesses greatly increase the potential for misuse of the premises, including potential harm to patrons and performers and unlawful conduct of a type which facilitates transmission of disease. Requirements that all indoor areas be open to view by management at all times, and that adequate lighting be provided are necessary in order to reduce the opportunity for, and therefore, the incidence of illegal conduct and harm to patrons and performers within adult-oriented businesses, and to facilitate the inspection of the interior of the premises by law enforcement personnel;

4. This City Council finds that concern over sexually transmitted diseases is a legitimate health concern of the City which demands reasonable regulation of adult-oriented businesses in order to protect the health and well-being of the citizens. It is further found that there exists in Redlands certain commercial establishments or parts thereof which, by reason of their design and use, are conducive to the spread of communicable diseases found to be of danger to persons frequenting such premises and to the public health, safety, welfare and morals. The public health, safety, welfare and morals of all persons in the City must be protected by the establishment of standards for such premises to eliminate the possibility of infection of contagious diseases. Of specific danger is the sexually transmitted disease AIDS, which is currently found to be irreversible and fatal. The incidence of this disease is found to occur in discernible population groups, and the risk factors for obtaining or spreading the disease are associated with high-risk sexual conduct with multiple partners. The commercial premises, or parts thereof, which place persons at risk of infection from this disease, due to their design and use for high-risk sexual conduct, are necessarily subject to regulation and standards for the prevention of the spread of this disease and for the protection of public health, safety, and welfare.

5. This City Council takes notice of the facts recited in *Berg v. Health and Hosp. Corp. of Marion County, Ind.* 865 F.2. 797, 799 (7th Cir. 1989), allowing the removal of doors on booths as a valid response to a legitimate concern about multiple sexual encounters that facilitated the spread of AIDS. At the hearing, a professor of microbiology and immunology at the Indiana University School of Medicine, the State Health Commissioner for the Indiana State Board of Health, and the acting chief of the Health and Hospital Corporation of Marion County's Bureau of Disease Prevention/Health Promotion all testified in favor of that ordinance. Among other things, they testified about the fatal nature of AIDS, the rapid increase in the number of persons afflicted with the disease nationwide and the great risk of persons becoming infected with the disease by engaging in high-risk sexual activity (defined by the ordinance as fellatio and anal intercourse) with multiple partners. Indiana's State Health Commissioner also testified and explained that the State Board of Health's statewide AIDS prevention plan had recommended to each local health officer that, among other things, they identify those businesses or establishments operated wholly or in part to provide opportunities for high-risk sexual behavior and to eliminate the dangers these establishments presented to their communities. The Commissioner further testified that because high-risk sexual activity was thought to be the primary factor in the transmission of AIDS, those establishments where such high-risk sexual activity occurred were places where the likelihood of the disease's transmission was at its highest;

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. Section 8.76.010 of the Redlands Municipal Code relating to adult-oriented business permit regulations is amended to read as follows:

"8.76.010 Purpose. It is the purpose of this Chapter to regulate adult-oriented businesses to promote the health, safety and welfare of the citizens of Redlands and to prevent community-wide adverse economic impacts, increased crime, decreased property values and the deterioration of

neighborhoods which can be brought about by the concentration of adult-oriented businesses in close proximity to each other, or proximity to other incompatible uses such as schools for minors, churches and residentially zoned districts. The City Council of the City of Redlands finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area and an increase in crime, and in addition to the effects described above, can cause other businesses and residents to move elsewhere. The provisions of this Chapter have neither the purposes nor effect of imposing a limitation or prohibition on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to adult-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of adult-oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material. Rather it is, the purpose of this Chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses, or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas."

Section 2. 8.76.020 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.020 Definitions. For the purposes of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. Adult-Oriented Business. "Adult-oriented business" means any one of the following:

1. Adult Arcade. The term "adult arcade" as used in this Chapter means an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by an individual(s) are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions, a regular and substantial number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

2. Adult Bookstore. The term "adult bookstore" as used in this Chapter means an establishment that has, on a regular basis, a substantial amount of its stock in books, magazines, periodicals or other printed matter, or of photographs, films, motion pictures, video cassettes, slides, tapes, records or other form of visual or audio representations which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas.

3. Adult Cabaret. The term "adult cabaret" as used in this Chapter means a nightclub, restaurant or similar business establishment which: (a) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (b) which regularly features persons who appear semi-nude.

4. Adult Hotel/Motel. The term "adult hotel/ motel" as used in this eChapter means

a hotel or motel or similar business establishment offering public accommodations for any form of consideration which: (a) provides a patron or patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions, a regular and substantial number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (b) rents, leases or lets any room for less than a six-hour period, or rents, leases or lets any single room more than twice in a twenty-four-hour period.

5. Adult Motion Picture Theater. The term "adult motion picture theater" as used in this Chapter means a business establishment where, for any form of consideration, film, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, a regular and substantial number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

6. Adult Business

(a) A business establishment or concern that as a regular and substantial course of conduct operates as an adult bookstore, adult motion picture theater, adult arcade, adult cabaret, adult motel or hotel or

(b) A business establishment or concern which as a regular and substantial course of conduct offers, sells or distributes materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" but not including those uses or activities which are preempted by State law.

B. "Adult live entertainment" means any physical human body activity, whether performed or engaged in, alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which the performer (including but not limited to topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers or similar performers) exposes to public view, without opaque covering, "specified anatomical areas;" "or relates to "specified sexual activities" whether or not the specified anatomical areas are covered.

C. Adult-Oriented Business Operator. "Adult-oriented business operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, or controls the premises of an adult-oriented business or the conduct or activities occurring on the premises thereof.

D. Applicant. "Applicant" means a person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation or any other operator, manager, employee or agent of an adult-oriented business.

E. Bar. For the purposes of this Chapter a "bar" is defined as any commercial establishment licensed by the State Department of Alcoholic Beverage Control to serve any alcoholic

beverages on the premises.

F. Chief of Police. "Chief of Police" means the Chief of Police of the City or the authorized representatives thereof.

G. Church. The term "church" as used in this Chapter, means a structure which is used primarily for religious worship and related religious activities.

H. Establishment of an Adult-Oriented Business. As used in this Chapter, to "establish" an adult-oriented business shall mean and include any of the following:

1. The opening or commencement of any adult-oriented business as a new business;
2. The conversion of an existing business, whether or not an adult-oriented business, to any adult-oriented business defined in this Chapter;
3. The addition of any of the adult-oriented businesses defined in this Chapter to any other existing adult-oriented business; or
4. The relocation of any such adult-oriented business.

I. Health Officer. "Health Officer" means the Health Officer of the County of San Bernardino or his/her duly authorized representative.

J. "Notice" means written notice given by personal service upon the addressee, or given by the United States mail, postage prepaid, addressed to the person to be notified at his or her last known address. Service of such notice shall be effective upon the completion of personal service, or upon the placing the same in the custody of the United States Postal Service.

K. Nudity or a State of Nudity. "Nudity or a state of nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

L. Operate an Adult-Oriented Business. As used in this Chapter "operate an adult-oriented business" means the supervising, managing, inspecting, directing, or controlling the conduct of activities of an adult-oriented business or activities within an adult-oriented business.

M. "Performer" means a person who is an employee or independent contractor of an adult business or any other person who, with or without any compensation or other form of consideration, provides adult live entertainment for patrons of an adult business.

N. Permittee. "Permittee" means the person to whom an adult-oriented business permit is issued.

O. Person. "Person" means any individual, partnership, co-partnership, firm, association,

joint stock company, corporation or combination of the above in whatever form or character.

P. School. The term "school" as used in this Chapter, means 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 vocation or professional institution of higher education, including a community or junior college, college or university.

Q. Semi-Nude. "Semi-nude" means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

R. Specified Anatomical Areas. As used in this Chapter, "specified anatomical areas" means and includes any of the following:

1. Less than completely and opaquely covered human genitals or pubic region, buttocks, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered;
3. Any device, costume or covering that simulates any of the body parts included in subdivisions 1 or 2 of this definition.

S. Specified Sexual Activities. As used herein, "specified sexual activities" means and includes any of the following:

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

T. Substantial Enlargement of an Adult-Oriented Business. "Substantial enlargement of an Adult-oriented business" means an increase in the floor areas occupied by the business by more than fifteen percent, as the floor areas exist on the effective date of the ordinance establishing this Chapter."

Section 3. Section 8.76.030 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.030 Permits required.

A. It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City, the operation of an adult-oriented business unless the person first obtains and continues to maintain in full force and effect a permit from the City herein required (adult-oriented business regulatory permit).

B. It is unlawful for any person to engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an adult-oriented business unless the person first obtains and continues in full force and effect a permit from the City."

Section 4. Section 8.76.040 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.040 Adult-oriented business regulatory permit required.

Every person who proposes to maintain, operate or conduct an adult-oriented business in the City shall file an application with the Chief of Police upon a form provided by the City and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable. Upon receipt, the Chief of Police shall forward a copy of the application to the Community Development Department."

Section 5. Section 8.76.050 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.050 Applications.

A. Adult-oriented business regulatory permits are nontransferable, except in accordance with Section 8.76.080. All applications shall include the following information:

1. If the applicant is an individual, the individual shall state his or her legal name, including any aliases, address, and submit satisfactory written proof that he or she is at least eighteen years of age.
2. If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
3. If the applicant is a corporation, the corporation shall provide its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of California, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process;

B. If the applicant is an individual, he or she shall sign the application. If the applicant is other than an individual, an officer of the business entity or an individual with a ten percent or greater interest in the business entity shall sign the application;

C. If the applicant intends to operate the adult-oriented business under a name other than that of the applicant, the applicant shall file the fictitious name of the adult-oriented business and show proof of registration of the fictitious name;

D. A description of the type of adult-oriented business for which the permit is requested and the proposed address where the adult-oriented business will operate, plus the names and addresses of the owners and lessors of the adult-oriented business site;

E. The address to which notice of action on the application is to be mailed;

F. The names of all employees, independent contractors, and other persons who will perform at the adult-oriented business, who are required by Section 8.76.090 to obtain an adult-oriented business performer permit;

G. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the adult-oriented business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;

H. A certificate and straight-line drawing prepared within thirty days prior to application depicting the building and the portion thereof to be occupied by the adult-oriented business, and: (1) the property lines of any other adult-oriented business within five hundred feet of the primary entrance of the adult-oriented business for which a permit is requested; and (2) the property lines of any church, school, park, residential zone within one thousand feet of the primary entrance of the adult-oriented business;

I. A diagram of the off-street parking areas and premises entries of the adult-oriented business showing the location of the lighting system required by Section 8.76.130;

J. If the Chief of Police determines that the applicant has completed the application improperly, the Chief of Police shall, within two (2) business days of the filing of the application, notify the applicant of such fact.

K. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining an adult-oriented business regulatory permit"

Section 6. Section 8.76.060 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.060 Investigation and action on application.

A. Upon receipt of a completed application and payment of the application and permit fees, the Chief of Police shall immediately stamp the application as received and promptly investigate the information contained in the application to determine whether the applicant shall be issued an adult-oriented business regulatory permit.

B. Within ten (10) business days of receipt of the completed application, the Chief of Police shall complete the investigation, grant or deny the application in accordance with the provisions of this section, and so notify the applicant as follows:

1. The Chief of Police shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.
2. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
3. If the application is granted, the Chief of Police shall attach to the application an adult-oriented business regulatory permit.
4. The application as granted or denied and the permit, if any, shall be personally served or shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.

C. The Chief of Police shall grant the application and issue the adult-oriented business regulatory permit upon findings that the proposed business meets the locational criteria of Section 18.226.030; and that the applicant has met all of the development and performance standards and requirements of Section 8.76.130 of this Code, unless the application is denied for one or more of the reasons set forth in Section 8.76.070. The permittee shall post the permit conspicuously in the adult-oriented business premises.

D. If the Chief of Police grants the application or if the Chief of Police neither grants nor denies the application within ten business days after it is stamped as received (except as provided in Section 8.76.050), the applicant may begin operating the adult-oriented business for which the permit was sought, subject to strict compliance with the development and performance standards and requirements of Section 8.76.130."

Section 8. Section 8.76.100 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.100 Investigation and action on application for adult-oriented business performer permit.

A. Within two days after receipt of the properly completed application, the Chief of Police shall grant or deny the application and so notify the applicant as follows:

1. The Chief of Police shall write or stamp "Granted" or "Denied" on the application

and date and sign such notation.

2. If the application is denied, the Chief of Police shall attach to the application a statement of the reasons for denial.
3. If the application is granted, the Chief of Police shall attach to the application an adult-oriented business performer permit.
4. The application as granted or denied and the permit, if any, shall be placed in the United States mail, first class postage prepaid, addressed to the applicant at the residence address stated in the application.

B. The Chief of Police shall grant the application and issue the permit unless the application is denied for one or more of the reasons set forth in subsection (D) of this section.

C. If the Chief of Police grants the application or if the Chief of Police neither grants nor denies the application within two days after it is stamped as received (except as provided in Section 8.76.050), the applicant may begin performing in the capacity for which the license was sought.

D. The Chief of Police shall deny the application for any of the following reasons:

1. The applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the applications;
2. The applicant is under eighteen years of age;
3. The adult-oriented business employee permit is to be used for performing in a business prohibited by State or City law;
4. The applicant has been registered in any state as a prostitute;
5. The applicant has been convicted of any of the offenses enumerated in Section 8.76.090, or convicted of an offense outside the State of California that would have constituted any of the described offenses if committed within the State of California. A permit may be issued to any person convicted of the described crimes if the conviction occurred more than five years prior to the date of the application.

E. Each adult-oriented business performer permit shall expire one year from the date of issuance and may be renewed only by filing with the Chief of Police a written request for renewal, accompanied by the application fee and a copy of the permit to be renewed. The request for renewal shall be made at least thirty days before the expiration date of the permit. Applications for renewal shall be acted on as provided herein for applications for permits."

Section 9. Section 8.76.110 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.110 Suspension or revocation of adult-oriented business regulatory permits and adult-oriented business performer permits.

An adult-oriented business regulatory permit or adult-oriented business performer permit may be suspended or revoked in accordance with the procedures and standards of this section.

A. On determining that grounds for permit revocation exist, the Chief of Police shall furnish written notice of the proposed suspension or revocation to the permittee. Such notice shall set forth the time and place of a hearing, and the ground or grounds upon which the hearing is based, the pertinent code sections, and a brief statement of the factual matters in support thereof. The notice shall be mailed, postage prepaid, addressed to the last known address of the permittee, or shall be delivered to the permittee personally, at least ten days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Chief of Police, but at a minimum shall include the following:

1. All parties involved shall have a right to offer testimonial, documentary, and tangible evidence bearing on the issues; may be represented by counsel.

B. A permittee may be subject to suspension or revocation of a permit, or be subject to other appropriate disciplinary action, for any of the following causes arising from the acts or omissions of the permittee, or an employee, agent, partner, director, stockholder or manager of an adult-oriented business:

1. The permittee has knowingly made any false, misleading or fraudulent statement of material facts in the application for a permit, or in any report or record required to be filed with the City.
2. The adult-oriented business regulatory permittee, employee, agent, partner, director, stockholder, or manager of an adult-oriented business has knowingly allowed or permitted, and has failed to make a reasonable effort to prevent the occurrence of any of the following on the premises of the adult-oriented business, or in the case of an adult-oriented business performer, the permittee has engaged in one of the activities described below while on the premises of an adult-oriented business:
 - a. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation;
 - b. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur;
 - c. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code;
 - d. The occurrence of acts of lewdness, assignation, or prostitution, including any conduct constituting violations of Sections 315, 316, or 318 or Subdivision b of Section 647 of the California Penal Code;
 - e. Any act constituting a violation of provisions in the California Penal Code relating to obscene matter or distribution of harmful matter to minors, including but not limited to Sections 311 through 313.4;
 - f. Any conduct prohibited by this Chapter.

3. Failure to abide by an disciplinary action previously imposed by an appropriate City official.

C. After holding the hearing in accordance with the provisions of this section, if the Chief of Police finds and determines that there are grounds for disciplinary action, based upon the severity of the violation, the Chief of Police shall impose one of the following:

1. Suspension of the permit for a specified period not to exceed six months;
2. Revocation of the permit."

Section 10. Section 8.76.120 of the Redlands Municipal Code is hereby amended to read as follows:

"8.76.120 Appeal of denial of initial permit.

A. Appeal of Denial of Initial Permit.

1. Any decision of the Chief of Police to issue or deny, a permit may be appealed to the City Council. Any appeal shall be filed within ten business days following notice of denial, nonrenewal, suspension or revocation by the Chief of Police and shall state the grounds upon which review is sought. The appeal hearing will be scheduled for hearing and the City Council will render a decision all within fourteen days of the filing of the appeal with the City Clerk. At the hearing, all parties shall have a right to offer testimonial, documentation and tangible evidence on the issues; and may be represented by legal counsel. Any relevant evidence upon which reasonable persons are accustomed to rely on in the conduct of serious matters may be admitted.
2. All decisions made by the City Council to issue, deny, a permit subject to this Chapter, shall immediately become final. After any final denial, nonrenewal, suspension or revocation of a permit authorized by this Chapter, the applicant/permittee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law, pursuant to California Code of Civil Procedure Section 1094.5 et seq., and pursuant to the expedited judicial review set forth in California Code of Civil Procedure Section 1094.8.

B. Appeal of Renewal, Suspension or Revocation of Permit.

1. Any decision of the Chief of Police to deny, renew, suspend or revoke a permit may be appealed to the City Council. Any appeal shall be filed within ten business days following notice of denial, nonrenewal, suspension or revocation by the Chief of Police and shall state the grounds upon which review is sought. The appeal hearing will be scheduled for hearing and the City Council will render a decision all within fourteen days of the filing of the appeal with the City Clerk of the City. At the hearing, all parties shall have a right to offer testimonial, documentation and tangible

evidence on the issues; and may be represented by legal counsel. Any relevant evidence upon which reasonable persons are accustomed to rely on in the conduct of serious matters may be admitted.

2. If the Police Chief denies a renewal permit, or if a permit has been suspended or revoked, and the aggrieved applicant/permittee timely commences an appeal to review the validity of the denial, suspension or revocation, upon written request of the applicant/permittee, the City shall issue a temporary permit pending the final determination on the appeal. The temporary permit shall remain in effect throughout the administrative appeal process and for ninety days following the administrative determination. In the event the City Council upholds the Police Chief's decision, and the applicant/permittee fails or refuses to seek judicial review within such ninety days, the temporary permit shall thereon expire without further notice and the applicant/permittee shall cease all operations thereunder. Any temporary permit issued pursuant to this section shall not grant any vested rights to the holder of the temporary permit.
3. All decisions made by the City Council to issue, renew, nonrenew, suspend, revoke, or deny a permit subject to this Chapter, shall immediately become final. After any final denial, nonrenewal, suspension or revocation of a permit authorized by this Chapter, the applicant/permittee may seek prompt judicial review of such decision in any court of competent jurisdiction as provided by law, pursuant to California Code of Civil Procedure Section 1094.5 et seq., and pursuant to the expedited judicial review set forth in California Code of Civil Procedure Section 1094.8."

Section 12. Section 8.76.130 (D) of the Redlands Municipal Code is hereby deleted in its entirety and the remaining subsections of this section shall be appropriately renumbered.

Section 13. Section 8.76.130k, 13 of the Redlands Municipal Code is hereby deleted in its entirety.

Section 14. Section 8.76.130 L of the Redlands Municipal Code is hereby amended to read as follows:

"L. In order to maintain the public peace and safety, adult-oriented businesses featuring live entertainment shall provide at least one state licensed security guard at all times while the business is open. If the occupancy limit of the premises is greater than thirty-five persons, an additional state licensed security guard shall be on duty."

Section 15. Section 8.76.205 is hereby added to the Redlands Municipal Code to read as follows:

"8.76.205 Monitoring and Enforcement of Adult Requirements.

The Chief of Police shall be responsible for monitoring compliance with the provisions of this chapter and recommending enforcement alternatives to the City Council. Nothing in this chapter shall have the effect of limiting the remedies the City may pursue in enforcing the provisions of this Chapter."

Section 16. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect in accordance with law.



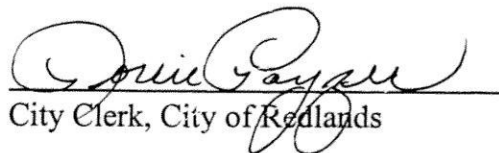
Mayor, City of Redlands

Attest:


City Clerk

I, Lorrie Poyzer, City Clerk of the City of Redlands, hereby certify that the foregoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 5th day of September, 2000 by the following vote:

AYES: Councilmembers George, Freedman, Peppler, Haws, Mayor Gilbreath
NOES: None
ABSTAIN: None
ABSENT: None


City Clerk, City of Redlands

CERTIFICATION

I, Lorrie Poyzer, City Clerk of the City of Redlands, California, do hereby certify that this is a true and correct copy of Ordinance No. 2453 which has been published in the local newspaper pursuant to law.


City Clerk
City of Redlands, California