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**Section 9.40.010 Legislative purpose.**

It is the purpose of this ordinance to regulate Adult-Oriented Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction in the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this ordinance 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 ordinance to condone or legitimize the distribution of obscene material, nor to circumvent the enforcement of California Penal Code Section 313 relating to the distribution or exhibition of harmful matter to minors. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.020 Definitions.**

For the purpose 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 Businesses" means any one of the

following:

1. Adult arcade. The term "adult arcade" as used in this chapter, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five (5) or fewer persons each, are used to show films, computer generated images, motion pictures, video cassettes, slides or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

2. Adult bookstore. The term "adult bookstore" as used in this chapter, is an establishment that has thirty (30) percent or more 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: (1) regularly features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or (2) which regularly features persons who appear semi-nude; and/or (3) shows films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

4. Adult hotel/motel. The term "adult hotel/motel" as used in this chapter, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer generated images, motion pictures, video cassettes, slides, or other photographic reproductions thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a six (6) hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

5. Adult motion picture theater. The term "adult motion picture theater" as used in this chapter, is a business establishment where, for any form of consideration, films, computer generated images, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and thirty (30) percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

6. Adult theater. The term "adult theater" as used in this chapter, means a theater, concert hall, auditorium, or similar establishment which, for any form of consideration regularly features live performances which are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities.

7. Modeling studio. The term "modeling studio" as used in this chapter, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, figure models who, for the purposes of sexual stimulation of patrons, display "specified anatomical areas" to be observed, sketched, photographed, painted, sculpted or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant to standards set by the State Board of Education. "Modeling studio" further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, permit, or make available "specified sexual activities."

B. Adult-Oriented Business Operator. "Adult-Oriented Business Operator" (hereinafter "operator") means a person who supervises, manages, inspects, directs, organizes, controls or

in any other way is responsible for or in charge of the premises of an Adult-Oriented Business or the conduct or activities occurring on the premises thereof.

C. Applicant. 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.

D. Bar. For the purposes of this ordinance [chapter], a bar is defined as any commercial establishment licensed by the State Department of Alcohol Beverage Control to serve any alcohol beverages on the premises.

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

F. Figure model. "Figure model" means any person who, for pecuniary compensation, consideration, hire or reward, poses in a modeling studio to be observed, sketched, painted, drawn, sculptured, photographed or otherwise depicted.

G. Health Officer. "Health Officer" means any Code Compliance Officer of the City of Riverside or his or her duly authorized representative.

H. 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.

I. Operate an Adult-Oriented Business. As used in this article "operate an Adult-Oriented Business" means the supervising, managing, inspecting, directing, organizing, controlling or in any way being responsible for or in charge of the conduct of activities of an Adult-Oriented Business or activities within an Adult-Oriented Business.

J. Permittee. "Permittee" means the person to whom an Adult-Oriented Business Permit is issued.

K. Person. Any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

L. Police Chief. The Police Chief of the City of Riverside or the authorized representative thereof.

M. Regularly Features. The term "regularly features" with respect to an adult theater or adult cabaret means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two (2) or more occasions within a thirty (30) calendar day period; three (3) or more occasions within a sixty (60) calendar day period; or four (4) or more occasions within a one hundred and eighty (180) calendar day period, shall to the extent permitted by law be deemed to be a regular and substantial course of conduct.

N. 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.

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

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

covered.

3. Any device, costume or covering that simulates any of the body parts included in subdivisions (1) or (2) above.

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

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast;

2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated;

4. Excretory functions as part of or in connection with any of the other activities described in subdivision (1) through (3) of this subsection. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.030 Permits required - Prohibitions.**

A. It shall be 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 of Riverside, 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 of Riverside as herein required. (Adult-Oriented Business Regulatory Permit)

B. It shall be unlawful for any persons 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 of Riverside as herein required. (Adult-Oriented Business Performer Permit) (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.040 Adult-oriented business regulatory permit required.**

A. Every person who proposes to maintain, operate or conduct an Adult-Oriented Business in the City of Riverside shall file an application with the Police Chief upon a form provided by the City of Riverside and shall pay a filing fee, as established by resolution adopted by the City Council from time to time, which shall not be refundable. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.050 Applications.**

A. Adult-Oriented Business Regulatory Permits are nontransferable, except in accordance with Section 9.40.080. Therefore, 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 (18) 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 (10) 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 owner 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, agents, partners, directors, officers, shareholders, managers, and persons who will perform at the Adult-Oriented Business, who are required by Section 9.40.090 to obtain an Adult-Oriented Business Performer License (for ongoing reporting requirements see Section 9.40.090).

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 (6) inches.

H. 1. A certificate and straight-line drawing prepared within thirty calendar days prior to application depicting the building the building and the portion thereof to be occupied by the Adult-Oriented Business.

2. The certificate and straight-line drawing shall also depict the following:

a. The property line within five hundred (500) feet of any other Adult-Oriented Business as measured from any point between the outside walls of the buildings or building lease spaces containing the business.

b. The property line within five hundred (500) feet of any existing residential zone as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the residentially zoned property.

c. The property line within one hundred (100) feet of any school or day care center as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the school or day care center.

d. The property line within five hundred (500) feet of any existing church or park as measured from any point upon the outside walls of the building or building lease space containing the business to the nearest property line of the church or park site.

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 9.40.130.

J. If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and, on request of the applicant, grant the applicant an extension of time of ten (10) calendar days or less to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) calendar days, of the time for the Police Chief to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time.

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. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.060 Investigation and action on application for business regulatory permit.**

A. Upon receipt of a completed application and payment of the application and Permit fees, the Police Chief 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 Police Chief shall issue a temporary forty-five day (45) permit, complete the investigation, grant or deny the annual permit within forty-five (45) calendar days in accordance with the provisions of this Section, and so notify the applicant as follows:

1. The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the Police Chief 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 placed in the United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.

C. The Police Chief shall grant the application and issue the Adult-Oriented Business Regulatory Permit upon findings that the proposed business meets the locational criteria of Chapter 19.61 of Title 19; and that the applicant has met all of the development and performance standards and requirements of Section 9.40.130, unless the application is denied for one or more of the reasons set forth in Section 9.40.070. The Permittee shall post the Permit conspicuously in the Adult-Oriented Business premises.

D. If the Police Chief grants the application or if the Police Chief neither grants nor denies the application within forty-five (45) calendar days after it is stamped as received (except as provided in Section 9.40.050 (j)), the application is deemed to be granted and 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 9.40.130. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.070 Permit denial.**

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

A. The building, structure, equipment, or location used by the business for which an Adult-Oriented Business Regulatory Permit is required do not comply with the requirements and standards of the health, zoning, fire and safety laws of the City and the State of California, or with the locational or development and performance standards and requirements of these regulations.

B. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for an Adult Business Regulatory Permit.

C. An applicant is under eighteen (18) years of age.

D. The required application fee has not been paid.

E. The Adult-Oriented Business does not comply with the zoning ordinance locational standards, Chapter 19.61 of Title 19.

F. The applicant or his or her agent, partner, director, officer, shareholder or manager has, within the previous twelve (12) month period, had a permit for an Adult-Oriented Business denied or revoked or is applying for a new permit within the period in which the existing permit has been suspended.

G. The applicant, his or her employee, agent, partner, director, officer, shareholder or manager has been convicted of any of the offenses set forth in Section 313, 315, 316, 266(a), 266(b), 266(c), 266(e), 266(f), 266(h), 266(i), 647(a), 647(b) and 674(d) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.

(1) For which: less than two (2) years have elapsed since the date of the conviction or

the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within a twenty-four (24) month period.

Each Adult-Oriented Business Regulatory Permit shall expire one (1) year from the date of issuance, and may be renewed only by filing with the Police Chief a written request for renewal, accompanied by the Annual Permit Fee and a copy of the Permit to be renewed. The request for renewal shall be made at least forty-five (45) calendar days before the expiration date of the Permit. When made less than forty-five (45) calendar days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for Permits. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.080 Transfer of adult-oriented business regulatory permits.**

A. A permittee shall not operate an Adult-Oriented Business under the authority of an Adult-Oriented Business Regulatory Permit at any place other than the address of the Adult-Oriented Business stated in the application for the Permit.

B. A permittee shall not transfer ownership or control of an Adult-Oriented Business or transfer an Adult-Oriented Business Regulatory Permit to another person unless and until the transferee obtains an amendment to the Permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with Sections 9.40.040 and 9.40.050, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines that the transferee would be entitled to the issuance of an original Permit.

C. No permit may be transferred when the Police Chief has notified the permittee that the Permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the Permit shall be deemed revoked. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.090 Adult-oriented business performer permit.**

A. No person shall engage in or participate in any live performance depicting specified anatomical areas or involving specified sexual activities in an Adult-Oriented Business, without a valid Adult-Oriented Business Performer Permit issued by the City. All persons who have been issued an Adult-Oriented Business Regulatory Permit shall promptly supplement the information provided as part of the application for the Permit required by Section 9.40.040, with the names of all Performers required to obtain an Adult-Oriented Business Performer Permit, within thirty (30) calendar days of any change in the information originally submitted. Failure to submit such changes shall be grounds for suspension of the Adult-Oriented Business Regulatory Permit.

B. The Police Chief shall grant, deny and renew Adult-Oriented Business Employee Permits.

C. The application for a Permit shall be made on a form provided by the Police Chief. An original and two (2) copies of the completed and sworn permit application shall be filed with the Police Chief.

D. The completed application shall contain the following information and be accompanied by the following documents:

1. The applicant's legal name and any other names (including "stage names" and aliases) used by the applicant;
  2. Age, date and place of birth;
  3. Height, weight, hair and eye color;
  4. Present residence address and telephone number;
  5. Whether the applicant has ever been convicted of:
    - i. Any of the offenses set forth in Section 313, 315, 316, 266a, 266b, 266c, 266e, 266f, 266h, 266i, 647(a), 647(b) and 647(d) of the California Penal Code as those sections now exist or may hereafter be amended or renumbered.
    - ii. The equivalent of the aforesaid offenses outside the State of California.
    - iii. For which: less than two years have elapsed since the date of the conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or a combination of misdemeanor offenses occurring within a twenty-four month period.
  6. Whether such person is or has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other jurisdiction to engage in prostitution in such other jurisdiction. If any person mentioned in this subsection has ever been licensed or registered as a prostitute, or otherwise authorized by the laws of any other state to engage in prostitution, a statement shall be submitted giving the place of such registration, licensing or legal authorization, and the inclusive dates during which such person was so licensed, registered, or authorized to engage in prostitution.
  7. State driver's license or identification number;
  8. Satisfactory written proof that the applicant is at least eighteen (18) years of age;
  9. The applicant's fingerprints on a form provided by the Police Department, and a color photograph clearly showing the applicant's face. Any fees for the photographs and fingerprints shall be paid by the applicant;
  10. If the application is made for the purpose of renewing a License, the applicant shall attach a copy of the License to be renewed.
- E. The completed application shall be accompanied by a non-refundable application fee. The amount of the fee shall be set by resolution of the City Council.
- F. Upon receipt of an application and payment of the application fees, the Police Chief shall immediately stamp the application as received and promptly investigate the application.
- G. If the Police Chief determines that the applicant has completed the application improperly, the Police Chief shall promptly notify the applicant of such fact and grant the applicant an extension of time of not more than ten (10) calendar days to complete the application properly. In addition, the applicant may request an extension, not to exceed ten (10) calendar days, of the time for the Police Chief to act on the application. The time period for granting or denying a Permit shall be stayed during the period in which the applicant is granted an extension of time. (Ord. 6747 § 1, 2004; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.100 Investigation and action on application for performer permit.**

- A. Within ten (10) business days after receipt of the properly completed application, the Police Chief shall issue a forty-five (45) day temporary permit. The Police Chief shall grant or deny the annual permit within forty-five (45) calendar days and so notify the applicant as follows:
1. The Police Chief shall write or stamp "Granted" or "Denied" on the application and date and sign such notation.

2. If the application is denied, the Police Chief shall attach to the application a statement of the reasons for denial.

3. If the application is granted, the Police Chief shall attach to the application an Adult-Oriented Business Employee 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 Police Chief shall grant the application and issue the Permit unless the application is denied for one (1) or more of the reasons set forth in subsection (d) of this section.

C. If additional time to complete the investigation is needed based on good cause, the Police Chief may take action on the application within an additional ten (10) business days, by giving notice to the applicant in writing before the end of the forty-five (45) calendar day period, with an indication of the additional ten (10) business day time period in which he must act. The temporary permit shall be extended by the same additional ten (10) business days.

D. The Police Chief 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 application.

2. The applicant is under eighteen (18) 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 9.40.090 (d)(5) 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 (5) years prior to the date of the application.

6. The applicant or his or her agent, partner, director, officer, shareholder or manager has, within the previous twelve (12) month period, had a permit for an Adult-Oriented Business denied or revoked or is applying for a new permit within the period in which the existing permit has been suspended.

E. Each Adult-Oriented Business Performer Permit shall expire one (1) year from the date of issuance and may be renewed only by filing with the Police Chief 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 (30) calendar days before the expiration date of the Permit. When made less than thirty (30) calendar days before the expiration date, the expiration of the Permit will not be stayed. Applications for renewal shall be acted on as provided herein for applications for Permits. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.110 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 Employee 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 Police Chief 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 or to the person effectively in control of the Adult-Oriented Business at the time of delivery, at least ten (10) calendar days prior to the hearing date. Hearings shall be conducted in accordance with procedures established by the Police Chief, 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; and shall have the right to confront and cross-examine witnesses. Any relevant evidence may be admitted that is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Any hearing under this Section may be continued for a reasonable time for the convenience of a party or a witness. The Police Chief's decision may be appealed in accordance with Section 9.40.120.

B. A Permittee may be subject to suspension or revocation of his 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 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 (1) of the activities described below while on the premises of an Adult-Oriented Business:

i. Any act of unlawful sexual intercourse, sodomy, oral copulation, or masturbation.

ii. Use of the establishment as a place where unlawful solicitations for sexual intercourse, sodomy, oral copulation, or masturbation openly occur.

iii. Any conduct constituting a criminal offense which requires registration under Section 290 of the California Penal Code.

iv. 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.

v. 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.

vi. Any conduct prohibited by this chapter, including, but not limited to, allowing 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, without a valid performer permit pursuant to Section 9.40.090.

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

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

1. A warning.

2. Suspension of the Permit for a specified period not to exceed six (6) months.

3. Revocation of the Permit. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.120 Appeal of denial. Suspension or revocation. Administrative appeal to the Public Safety Standing Committee. Expedited review of free speech claim. Automatic stay of enforcement.**

A. After denial of an application for an Adult-Oriented Business Regulatory Permit or an Adult-Oriented Business Performer Permit, or after denial of renewal of a Permit, or suspension or revocation of a Permit, the applicant or person to whom the Permit was granted may seek review of such administrative action by the Public Safety Standing Committee of the City of Riverside. An administrative appeal must be filed with the City Clerk within ten (10) calendar days of a denial, suspension or revocation of a Permit. The hearing before the Public Safety Standing Committee shall be held no less than five (5) business days from the date of the filing of the appeal or at the next regularly scheduled meeting of the Public Safety Standing Committee. The Committee shall issue its decision within ten (10) calendar days of the hearing. The decision of the Public Safety Standing Committee shall be final. If the denial, suspension or revocation is affirmed on review, the applicant, permittee may seek expedited judicial review of such administrative action pursuant to California Code of Civil Procedure Section 1094.8 because the permits regulate expressive conduct protected by the First Amendment to the United States Constitution. The petitioner shall be responsible for reimbursing the City for its actual costs for transcribing, copying, or otherwise preparing the administrative record.

B. There shall be an automatic stay of enforcement of a permit suspension or revocation throughout the administrative and/or judicial appeal process. (Ord 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.130 Adult-Oriented business development and performance standards.**

A. Maximum occupancy load, fire exits, aisles and fire equipment shall be regulated, designed and provided in accordance with the Fire Department and building regulations and standards adopted by the City of Riverside.

B. At no time shall any Adult-Oriented Business be open for private parties or other similar functions.

C. No Adult-Oriented Business shall be operated in any manner that permits the observation of any material or activities depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" from any public way or from any location outside the building or area of such establishment. This provision shall apply to any display, decoration, sign, show window or other opening. 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 shall be covered with opaque covering at all times.

D. All off-street parking area and premise entries of the sexually-oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. The required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually-oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises.

E. The premises within which the Adult-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 unit within the same building.

F. The building entrance to an Adult-Oriented Business shall be clearly and legibly posted with a notice indicating that persons under eighteen (18) years of age are precluded from entering the premises. Said notice shall be constructed and posted to the satisfaction of

the Community Development Director or designee. No person under the age of eighteen (18) years shall be permitted within the premises at any time.

G. All indoor areas of the Adult-Oriented Business within which patrons are permitted, except rest rooms, shall be open to view by the management at all times.

H. Any adult-oriented business which is also an "adult arcade", shall comply with the following provisions:

1. 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 restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) 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 from at least one (1) of the manager's stations. The view required in this subsection must be direct line of sight from the manager's station.

2. The view area specified in subsection (5) shall remain unobstructed by any doors, walls, merchandise, display racks, or other materials at all times. 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.

3. No viewing room may be occupied by more than one person at any one time.

4. The walls or partitions between viewing rooms or booths shall be maintained in good repair at all times, with no holes between any two such rooms such as would allow viewing from one booth into another or such as to allow physical contact of any kind between the occupants of any two such booths or rooms.

5. Customers, patrons or visitors shall not be allowed to stand idly by in the vicinity of any such video booths, or from remaining in the common area of such business, other than the restrooms, who are not actively engaged in shopping for or reviewing the products available on display for purchaser viewing. Signs prohibiting loitering shall be posted in prominent places in and near the video booths.

6. The floors, seats, walls and other interior portions of all video booths shall be maintained clean and free from waste and bodily secretions. Presence of human excrement, urine, semen or saliva in any such booths shall be evidence of improper maintenance and inadequate sanitary controls; repeated instances of such conditions may justify suspension or revocation of the owner and operator's license to conduct the Adult-Oriented establishment.

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

<u>Area</u>	<u>Foot-Candles</u>
Bookstore and other retail establishments	20
Theaters and cabarets	5 (except during performances, at which times lighting shall be at least 1.25 foot-candles)
Arcades	10
Motels/Hotels	20 (public areas)
Modeling studios	20

J. The Adult-Oriented Business shall provide and maintain separate restroom facilities for male patrons and employees, and female patrons and employees. Male patrons and employees shall be prohibited from using the restroom(s) for females, and female patrons and employees shall be prohibited from using the restroom(s) for males, except to carry out duties of repair, maintenance and cleaning of the restroom facilities. The restrooms shall be free from any adult material. Restrooms shall not contain television monitors or other motion picture or video projection, recording or reproduction equipment. The foregoing provisions of this paragraph shall not apply to an Adult-Oriented Business which deals exclusively with sale or rental of Adult Material which is not used or consumed on the premises, such as an Adult Bookstore or Adult Video Store, and which does not provide restroom facilities to its patrons or the general public.

K. The following additional requirements shall pertain to Adult-Oriented Businesses providing live entertainment depicting Specified Anatomical Areas or involving Specified Sexual Activities.

1. No person shall perform live entertainment for patrons of an Adult-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 ten (10) feet from the nearest area occupied by patrons, and no patron shall be permitted within ten (10) feet of the stage while the stage is occupied by an entertainer. "Entertainer" shall mean any person who is an employee or independent contractor of the Adult-Oriented Business, or any person who, with or without any compensation or other form of consideration, performs live entertainment for patrons of an Adult-Oriented Business.

2. The Adult-Oriented Business shall provide separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.

3. The Adult-Oriented Business shall provide an entrance/exit for entertainers which is separate from the entrance/exit used by patrons.

4. The Adult-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 Adult-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.

5. No entertainer, either before, during or after performances, shall have physical contact with any patron and no patron shall have physical contact with any entertainer either before, during or after performances by such entertainer. This subsection shall only apply to physical contact on the premises of the Adult-Oriented Business.

6. Fixed rail(s) at least thirty (30) inches in height shall be maintained establishing the separations between entertainers and patrons required by this subsection.

7. No patron shall directly pay or give any gratuity to any entertainer and no entertainer shall solicit any pay or gratuity from any patron.

8. No owner or other person with managerial control over an Adult-Oriented Business (as that term is defined herein) shall permit any person on the premises of the Adult-Oriented Business to engage in a live showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque coverage, and/or the female breast with less than a fully opaque coverage over any part of the nipple or areola and/or covered male genitals in a discernibly turgid state. This provision may not be complied with by applying an opaque covering simulating the appearance of the specified anatomical part required to be covered.

L. Adult-Oriented Businesses shall employ security guards in order to maintain the public peace and safety, based upon the following standards:

1. Adult-Oriented Businesses featuring live entertainment shall provide at least one (1) security guard at all times while the business is open. If the occupancy limit of the premises is greater than (35) thirty-five persons, an additional security guard shall be on duty.

2. Security guards for other Adult-Oriented Businesses may be required if it is determined by the Police Chief that their presence is necessary in order to prevent any of the conduct listed in Section 9.40.110(b) from occurring on the premises.

3. Security guard(s) shall be charged with preventing violations of law and enforcing compliance by patrons of the requirements of these regulations. Security guards 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 law. No security guard required pursuant to this subsection shall act as a door person, ticket seller, ticket taker, admittance person, or sole occupant of the manager's station while acting as a security guard.

The foregoing applicable requirements of this Section shall be deemed conditions of Adult-Oriented Business Regulatory Permit approvals, and failure to comply with every such requirement shall be grounds for revocation of the Permit issued pursuant to these regulations. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.140 Register and permit number of employees.**

A. Every Adult-Oriented Business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such Adult-Oriented Business in a conspicuous place so that the same may be readily seen by all persons entering the Adult-Oriented Business.

B. The Police Chief shall provide each Adult-Oriented Business Performer required to have a permit pursuant to the chapter, with an identification card containing the name, address, photograph and permit number of such performer.

C. An Adult-Oriented Business Performer shall have such card available for inspection at all times during which such person is on the premises of the Adult-Oriented Business. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.150 Employment of and services rendered to persons under the age of eighteen (18) years prohibited.**

A. It shall be unlawful for any permittee, operator, or other person in charge of any Adult-Oriented Business to employ, or provide any service for which it requires such permit, to any person who is not at least eighteen (18) years of age.

B. It shall be unlawful for any permittee, operator or other person in charge of any Adult-Oriented Business to permit to enter, or remain within the Adult-Oriented Business, any person who is not at least eighteen (18) years of age. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

#### **Section 9.40.160 Inspection.**

An applicant or Permittee shall permit representatives of the Police Department, Health Department, Fire Department, Planning Division, or other City departments or Agencies to inspect the premises of an Adult-Oriented Business for the purpose of insuring compliance with the law and the development and performance standards applicable to Adult-Oriented Businesses, at any time it is occupied or opened for business. This inspection shall cover the entirety of the premises, including areas not generally open to the public. A person who operates an Adult-Oriented Business or his or her agent or employee is in violation of the provisions of this section if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.170 Regulations nonexclusive.**

The provisions of this article regulating Adult-Oriented Businesses are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Riverside. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.180 Employment of persons without permits unlawful.**

It shall be unlawful for any owner, operator, manager, or permittee in charge of or in control of an Adult-Oriented Business which provides live entertainment depicting specified anatomical areas or involving specified sexual activities to allow any person to perform such entertainment who is not in possession of a valid, unrevoked Adult-Oriented Business Performer Permit. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.185 Public Nuisance.**

In addition to the remedies set forth in this Code, any Adult-Oriented Business that is operating in violation of these provisions regulating Adult Oriented Businesses is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation. (Ord. 6545 § 2, 2000)

**Section 9.40.190 Time limit for filing application for permit.**

All persons who possess an outstanding business license heretofore issued for the operation of an Adult-Oriented Business and all persons required by this chapter to obtain an Adult-Oriented Business Performer Permit must apply for and obtain such a permit within ninety (90) calendar days of the effective date of this chapter. Failure to do so and continued operation of an Adult-Oriented Business, or the continued performances depicting specified anatomical areas or specifies sexual activities in an Adult-Oriented Business after such time without a permit shall constitute a violation of this chapter. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)

**Section 9.40.200 Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective. (Ord. 6545 § 2, 2000; Ord. 6494 § 2, 1999; Ord. 6309 § 2, 1996)