

Introduced by: \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF PASADENA AMENDING THE PASADENA MUNICIPAL CODE, TITLE 17 (THE ZONING CODE), REGARDING THE REGULATION OF ADULT BUSINESSES**

WHEREAS, the City of Pasadena regulates the location and operation of adult businesses through its Zoning Code (Title 17); and

WHEREAS, the last update to those parts of the Zoning Code which deal with adult businesses was approximately nine years ago, when the City adopted Ordinance No. 6723; and

WHEREAS, in that intervening time, the law governing the regulation of adult businesses has continued to develop, and the City has recently undertaken a review of its adult business definitions and regulations in light of those developments in the law; and

WHEREAS, the City has found it necessary to revise and update the Zoning Code definition of “adult business” to maintain its Zoning Code definition in compliance with the law, while reducing the adverse secondary effects that adult businesses have upon the residents of the City; and

WHEREAS, the City has also found it necessary to revise and update the Zoning Code operational requirements regulating the distance between adult business performers and patrons, to include any performance of “specified sexual activities.” The City Council finds and determines that this revision is necessary to extend reasonable and uniform regulations to all adult businesses to reduce the adverse secondary effects that adult businesses have upon the residents of the City, and it is evident that this revision is necessary to preserve the integrity of commercial areas in which adult businesses may operate and of residential areas which are in close proximity to such commercial areas. The public health, safety and welfare of the City require this revision.

09/18/2006  
9.B.2.

WHEREAS, as specifically applicable to the revisions to the distance requirement between adult business performers and patrons, the City found, in Ordinance No. 6723 and the public record associated therewith, all of which are incorporated herein by reference, and continues to find:

1. Evidence indicates that some adult business performers who publicly perform specified sexual activities in adult businesses have been found to engage in sexual activities with patrons of adult business uses on the site of the adult business use;
2. Evidence indicates that some adult business performers have been found to engage in acts of prostitution with patrons of the adult business;
3. As a result of the above, and the increase in incidents of AIDS and Hepatitis B, which are both sexually transmitted diseases, the City has a substantial interest in extending to all adult businesses those regulations which will reduce, to the greatest extent possible, the possibility for the occurrence of prostitution and casual sex acts at adult businesses; and

WHEREAS, it is not the intent of the City Council in enacting this Ordinance to suppress any activities protected by the First Amendment, but rather to enact content neutral modifications to its adult business definition and regulations which address the secondary effects that adult businesses have on the City. In developing this Ordinance, the City Council has been mindful of legal principles relating to regulation of adult businesses and does not intend to suppress or infringe upon any expressive activities protected by the First Amendment of the United States and California Constitutions, but instead desires to enact reasonable time, place, and manner regulations that address the adverse secondary effects of adult businesses and which do not operate as an unconstitutional prior restraint. The Council desires to protect the rights conferred by the United States Constitution to adult business uses and other expressive uses in a manner that ensure the continued and orderly development of property within the City and diminishes the previously mentioned undesirable negative secondary effects; and

WHEREAS, pursuant to the California Environmental Quality Act, the Council has reviewed and considered the information contained in the Initial Study and Negative Declaration prepared for this Ordinance, and determines that the Negative Declaration adequately analyzes the environmental effects of this Ordinance. The City Council finds that there is no evidence from which it can be fairly argued that this Ordinance will have a significant adverse effect on the environment. The Council hereby certifies and approves the Negative Declaration.

NOW THEREFORE, the People of the City of Pasadena ordain as follows:

**SECTION 1.** This ordinance, due to its length and corresponding cost of publication will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

**“SUMMARY**

Ordinance No. \_\_\_\_\_ will amend Title 17 of the City of Pasadena’s Zoning Code to clarify the definition of “adult business” and to add distance requirements between any adult business performer and patron. Other minor clarifying and grammatical changes will also be made.

Ordinance No. \_\_\_\_\_ shall take effect 30 days from its publication.”

**SECTION 2.** Pasadena Municipal Code, Title 17, Article 5, Chapter 17.50, Section 17.50.030, Subsection C is amended as follows:

**“C. Standards for live entertainment.** An adult business with live entertainment shall comply with the requirements of Section 17.50.130 (Live Entertainment) in addition to the requirements of this Section.”

**SECTION 3.** Pasadena Municipal Code, Title 17, Article 5, Chapter 17.50, Section 17.50.030, Subsection D is amended by:

**a. Amending Paragraph 4 to read as follows:**

**“4. Minors’ access prohibited.** It shall be unlawful for any employee, owner, operator, responsible managing employee, manager, or permittee of an adult business to allow

any person below the age of 18 years upon the premises or within the confines of any adult business, either as a patron or employee, if no liquor is served, or under the age of 21 years if liquor is served.”

**b. Amending Paragraph 6 to read as follows:**

“6. **Distance requirements.** No person, association, partnership, or corporation shall engage in, conduct or carry on, or allow to be engaged in, conducted, or carried on, the operation of an adult business unless each and all of the following requirements are met:”

**c. Amending Paragraph 6, Subparagraph a as follows:**

“a. No employee, owner, operator, responsible managing employee, manager, or permittee of an adult business shall allow any person below the age of 18 years upon the premises or within the confines of any adult business if no liquor is served, or under the age of 21 years if liquor is served and the facility is not a restaurant as that land use classification is defined in Article 8 (Glossary of Specialized Terms and Land Use Types).”

**d. Amending Paragraph 6, Subparagraph b as follows:**

“b. No entertainer displaying specific anatomical areas or engaging in or performing specified sexual activities shall dance with or otherwise be within four feet of a patron while performing for compensation or while on the licensed premises. This four-foot separation shall be marked by a railing or other physical barrier designed to properly obstruct any contact between the entertainer and the patrons.”

**e. Amending Paragraph 6, Subparagraph c as follows:**

“c. No owner, operator, responsible managing employee, manager, or permittee shall allow at a licensed premises any patron to approach within four feet of an entertainer displaying specified anatomical areas or engaging in or performing specified sexual activities, or allow such an entertainer to approach within four feet of a patron.”

**f. Amending Paragraph 7 as follows:**

**“7. Adult dancing establishment.** A dancing establishment which operates as an adult business shall also, regardless of whether it holds an Expressive Use Permit, observe the following special requirements:”

**g. Amending Paragraph 7, Subparagraph a as follows:**

“a. It shall have a stage provided for the display or exposure of any specified anatomical area or for the performance of specified sexual activity by an employee to a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of 18 inches above the surrounding floor and encompassing an area of at least 100 square feet, separated by a distance of at least four feet from the nearest area occupied by patrons and surrounded with a three-foot high properly constructed barrier. No patron shall be allowed within four feet of the stage while the stage is occupied by a performer; and”

**h. Amending Paragraph 7, Subparagraph b as follows:**

“b. Any area in which a private performance occurs shall:

(1) Have a permanently open entranceway not less than two feet wide and not less than six feet high, which entranceway is not capable of being closed or partially closed by an curtain, door, or other partition which would be capable of wholly or partially obscuring any person situated in the area; and”

**i. Amending Paragraph 8 as follows:**

**“8. Theater and cinemas.** A theater or cinema which operates as an adult business shall also, regardless of whether it holds an Expressive Use Permit, observe the following special requirements:”

**j. Amending Paragraph 8, Subparagraph b as follows:**

“b. If the theater or cinema contains booths, each booth shall comply with each of the following provisions:”

**k. Deleting Paragraph 8, subparagraph c.**

**SECTION 4.** Pasadena Municipal Code, Title 17, Article 5, Chapter 17.61, Section 17.61.060, Subsection G, Paragraph 3 is amended as follows:

“3. The proposed use will provide and maintain solid waste services to establish and maintain a level of service consistent with the city’s approved source reduction and recycling element.”

**SECTION 5.** Pasadena Municipal Code, Title 17, Article 6, Table 6-1 is amended as shown in Exhibit 1, attached hereto and incorporated by this reference.

**SECTION 6.** Pasadena Municipal Code, Title 17, Article 8, is amended as follows:

**“Adult Businesses (land use).** A business establishment that, as a regular and substantial course of conduct, offers, sells or distributes materials or performances that depict, describe, or relate to "specified sexual activities" or "specified anatomical areas," as defined in this Zoning Code. The following terms and phrases are defined for the purposes of Section 17.50.030 (Adult Businesses).

**1. Specified Anatomical Areas.** Specified anatomical areas are and include any of the following:

a. Less than completely and opaquely covered, and/or simulated to be reasonably anatomically correct, human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolas; or

b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**2. Specified Sexual Activities.** Specified sexual activities are and include any of the following, whether performed directly or indirectly through clothing or other covering:

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

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

c. Masturbation, actual or simulated;

d. Masochism, erotic or sexually oriented torture, beating, or the infliction of pain, or bondage and/or restraints; or

e. Excretory functions as part of or in connection with any of the other activities described in 2.a through 2.d above.”

**SECTION 7.** Pasadena Municipal Code, Title 17, Article 5, Chapter 17.50, Section 17.50.130 is amended as follows:

**a. By amending Subsection A as follows:**

“**A. Applicability.** The following regulations apply to live entertainment when associated with a commercial entertainment, commercial recreational – indoor, a bar or tavern or adult business use.”

**b. By Amending Subsection B, Subparagraph 1 as follows:**

“1. The type of live entertainment provided shall only be that type approved under the Conditional Use Permit or Expressive Use Permit;”

**c. By Amending Subsection B, Subparagraph 2 as follows:**

“2. If another type of entertainment is proposed, a new Conditional Use Permit or Expressive Use Permit shall first be obtained.”

**SECTION 8.** The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

**SECTION 9.** This ordinance shall take effect 30 days from its publication.

Signed and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Bill Bogaard  
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held \_\_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

AYES:

NOES:

ABSENT:

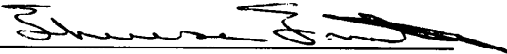
ABSTAIN:

Date Published:

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JANE L. RODRIGUEZ, CMC  
CITY CLERK

APPROVED AS TO FORM:



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Theresa E. Fuentes  
Deputy City Attorney



**TABLE 6-1 - REVIEW AUTHORITY**

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/Hearing Officer	DC (2)	BZA/Planning Commission (2)	City Council

**Administrative and Amendments**

General Plan amendments	17.74			Recommend	Decision
Interpretations	17.02	Decision (3)		(BZA) Appeal	CFR
Master Plans	17.61.050			Recommend	Decision
Planned Developments	17.61.110			Recommend	Decision
Specific Plans	17.68			Recommend	Decision
Zoning Code amendments	17.74			Recommend	Decision
Zoning Map amendments	17.74			Recommend	Decision

**Land Use Permits and other Development Approvals**

Adjustment Permits	17.61.070			Recommend	Decision
Certificate of Appropriateness	17.62.090	Decision (4)			Appeal/CFR
Code Compliance Certificates	17.61.020	Issued by Director			
Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Creative Sign Permits	17.48.070	Decision	Appeal		Appeal/CFR
Design Review - City Sponsored Projects	17.61.030	Recommend	Recommend		Decision
Design Review - Non-City Sponsored Projects (See Tables 6-2 & 6-3)	17.61.030	Decision	Decision/ Appeal		Appeal/CFR
Development Agreements	17.66			Recommend	Decision
Expressive Use Permits	17.61.060	(ZA) Decision (3)			Appeal/CFR
Expressive Use Permits	17.61.060	(HO) Decision (3)			Appeal/CFR

Type of Decision	Role of Review Authority (1)				
	See Section	Director/Zoning Administrator/Hearing Officer	DC (2)	BZA/Planning Commission (2)	City Council

**Land Use Permits and other Development Approvals {Continued}**

Long-term Film Permits	17.61.090	(HO) Decision		(BZA) Appeal	Appeal/CFR
Hillside Development Permit	17.29.010	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Lot Line Adjustments	Title 16	Advisory Agency (HO) Decisions		(BZA) Appeal	Appeal
Master Sign Plans	17.48.060	Decision	Appeal		Appeal/CFR
Minor Conditional Use Permits	17.61.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Minor Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Modifications for Persons with Disabilities	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Sign Exceptions	17.48.050	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)
Tentative Tract and Parcel Maps (Including Vesting Maps)	Title 16	Advisory Agency (HO) Decision		(BZA) Appeal	Appeal/CFR
Temporary Use Permits	17.61.040	(ZA) Decision (3)		(BZA) Appeal	CFR
Variances	17.61.080	(HO) Decision (3)		(BZA) Appeal	Appeal/CFR (6)

**Notes:**

- (1) "Recommend" means that the review authority makes a recommendation to a higher decision-making body; "Decision" means that the review authority makes the final decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of an earlier decision-making body, in compliance with Chapter 17.72 (Appeals); and "CFR" means Call for Review, in compliance with Chapter 17.72 (Appeals).
- (2) "DC" means the Design Commission and "BZA" means Board of Zoning Appeals.
- (3) The Hearing Officer may defer action on permit applications and refer the items to the Board of Zoning Appeals (BZA) for the final decision.
- (4) The Director's decision to issue a Certificate of Appropriateness may first be appealed to the Historic Preservation Commission (HPC) and then to the Council.
- (5) The City's Film Liaison is the applicable review authority for short-term Film Permits and Film Conditional Use Permits, in compliance with Section 17.61.090.
- (6) May be only appealed to the City Council if the decision includes certification of an EIR or approval of a Negative Declaration or Mitigated Negative Declaration.