



# Agenda Report

February 25, 2019

**TO:** Honorable Mayor and City Council

**FROM:** Planning and Community Development Department

**SUBJECT: AMENDING TITLE 5, CHAPTER 5.45 OF THE MUNICIPAL CODE TO UPDATE BUSINESS LICENSE AND REGULATIONS RELATING TO SEXUALLY ORIENTED BUSINESSES**

**RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the Municipal Code Amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines Section 15061(b)(3) - that there is no possibility that the amendments will have a significant effect on the environment.
2. Introduce and conduct the first reading of an ordinance amending Chapter 5.45 of the Pasadena Municipal Code (Sexually Oriented Businesses).

**ADVISORY COMMISSION/BOARD/CITY COUNCIL COMMITTEE RECOMMENDATION:**

The proposed amendments to Title 5 of the Pasadena Municipal Code are not subject to recommendation by any advisory commissions or City Council committees.

**BACKGROUND:**

The Pasadena Municipal Code includes regulations for various types of businesses under Title 5 – Business Licenses and Regulations, including sexually oriented businesses in Chapter 5.45. That chapter was last updated in 2006. To account for intervening judicial decisions and developments in the sexually oriented business industry, now is an appropriate time to consider updates to the definitions and regulations that govern these businesses.

Chapter 5.45 includes definitions of terms related to sexually oriented businesses, permit requirements and procedures for the businesses and their employees, hours of

operation requirements, regulations pertaining to business operations, lighting and monitoring requirements, penalties, prohibitions on specified conduct, and others.

Staff believes that amendments to the Municipal Code ("Amendments") are warranted, to update Chapter 5.45 to address various legal and industry developments and to modernize the definitions and regulation of sexually oriented businesses. The City Attorney has prepared an ordinance setting forth the Amendments. Staff is requesting that the Council introduce the ordinance at this meeting, and conduct first reading.

Staff is also preparing an Agenda Report recommending amendments to Title 17 Zoning Code provisions for consistency with the proposed Chapter 5.45 amendments. The proposed Title 17 amendments will be presented to the Planning Commission during a public hearing on February 27, 2019 for its review and recommendation. Those amendments and recommendation will be subsequently presented to Council for consideration at a future public hearing.

## **DISCUSSION:**

### **Secondary Effects Evidence and Findings**

The City has recognized that sexually oriented businesses, as a category of businesses, have negative secondary effects and that both licensing and zoning regulations are necessary to prevent or minimize these deleterious effects on the community. The City's 2006 licensing and zoning ordinances were supported by extensive secondary effects documentation regarding a wide variety of sexually oriented businesses.

The Amendments update the City's reliance on evidence of those adverse impacts, and adds new judicial decisions, reports, and studies that have emerged since 2006. These materials document the efforts of businesses specializing in erotica to avoid regulation as sexually oriented businesses while retaining their essentially "adult" nature. Newer reports also complement recognized secondary effects while explicating the harms associated with human and sexual trafficking. Updating the secondary effects evidence relied upon by the City supports the regulation of sexually oriented businesses and enhances the defensibility of the regulations. Attached hereto is an Index to Legislative Secondary Effects Documentation which sets forth the evidence relied on in drafting the Amendments. Council has been provided with the full set of documents on a thumb drive, and the documents are also available in the City Clerk's office.

### **Definitions**

The Amendments revise and add a number of definitions to update the terminology used for regulating adult uses. For example, the Amendments add additional objective thresholds for identifying a store as an adult bookstore and adds the defined term "floor space" for use with the definition. The Amendments also adjust definitions of "adult cabaret," "adult motion picture theater," "employee," "influential interest," and "nudity" to

strengthen those terms against arguments that have been addressed in other communities. The terms "sexual device" and "sexual device shop" are being updated to regulate establishments that maintain their sexually-oriented, adult nature by specializing in sexual devices.

### **Permitting Regulations**

Licensing requirements and processes for sexually oriented businesses have remained fairly static since 2006, so there are relatively few amendments proposed to those parts of Chapter 5.45. The revisions in the ordinance serve to modernize and clarify various aspects of those regulations.

### **Administrative Appeal Hearings**

Currently, a hearing before a hearing officer is scheduled automatically if the City denies, suspends, or revokes a sexually oriented business license. The draft amendments update the administrative appeal process so that aggrieved applicants may, but are not required, to have an administrative appeal hearing. The Amendments also clarify that when an existing business is entitled to operate under a provisional permit during a court challenge, the business must still comply with the operational regulations in Chapter 5.45.

### **Operating Regulations**

The Amendments update the regulations for adult arcades and adult motion picture theater operations, to more effectively target negative secondary effects connected with peep show booths and anonymous sexual activity at such establishments. The Amendments also update the section on prohibited conduct to better accomplish the City's regulatory purposes relative to adult cabarets and other sexually oriented businesses.

### **ENVIRONMENTAL ANALYSIS:**

The adoption of the proposed Amendments is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines, the general rule, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Here, the proposed Amendments would not change the locations in which these land uses may locate beyond what is currently allowed. Thus, there is no possibility that the amendments will have a significant effect on the environment.

**FISCAL IMPACT:**

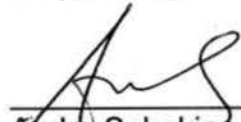
The Amendments do not change any licensing fees and thus should have no fiscal impact.

Respectfully submitted,



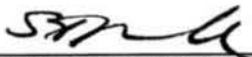
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Attachment: Pasadena, California, Sexually Oriented Business Regulations, Index to Legislative Secondary Effects Documentation (a complete record of these documents are available in the City Clerk's Office).